

**DENTON TOWN CODE**

**CHAPTER 128**

**ZONING**

**ORDINANCE NO. 759**

**EXHIBIT A**

**Introduced May 1, 2025**

**Adopted June 5, 2025**

# Denton Zoning Ordinance

## Table of Contents

<b>Article I - Title, Authority, Jurisdiction, Purpose, Official Maps.....</b>	<b>1</b>
§ 128-1. Title.....	1
§ 128-2. Legislative authority. ....	1
§ 128-3. Jurisdiction.....	1
§ 128-4. Purpose and intent. ....	1
§ 128-5. Conflict with other regulations. ....	1
§ 128-6. Compliance required.....	2
§ 128-7. Interpretation and Conflict - Minimum requirements. ....	2
§ 128-8. Severability.....	2
§ 128-9. When effective.....	2
§ 128-10. Official Zoning Maps. ....	3
§ 128-11. Replacement of Official Zoning Maps. ....	3
§ 128-12. Interpretation of Zoning District Map. ....	4
§ 128-13. Reserved. ....	4
<b>Article II - Definitions and Word Usage. ....</b>	<b>4</b>
§ 128-14. Word usage. ....	4
§ 128-15. Terms defined. ....	5
<b>Article III - Zoning Districts and Zoning District Maps. ....</b>	<b>53</b>
§ 128-16. Zoning Districts Established.....	53
§ 128-17. District Purpose. ....	53
<b>Article IV - Special Districts. ....</b>	<b>60</b>
<b>Part A - CA - Critical Area Overlay District. ....</b>	<b>60</b>
§ 128-18. Regulation and applicability; general requirements; accommodations.....	60
§ 128-19. Intensely Developed Areas (IDA). ....	64
§ 128-20. Limited Development Areas (LDA). ....	64
§ 128-21. Resource Conservation Areas (RCA). ....	69
§ 128-22. Land use.....	70
§ 128-23. Supplemental use standards.....	72
§ 128-24. Growth allocation. ....	81

§ 128-25. Grandfathering.....	86
§ 128-26. Variances.....	87
§ 128-27. Lot consolidation and reconfiguration.....	90
§ 128-28. Amendments. ....	91
§ 128-29. Enforcement; violations and penalties.....	92
§ 128-30. Buffer standards.....	96
§ 128-31. Modified Buffer Area (MBA) provisions. ....	101
§ 128-32. Other Habitat Protection Areas.....	104
§ 128-33. Water-dependent facilities. ....	105
§ 128-34. Reserved. ....	106
<b>Part B – Historic Overlay Zone. ....</b>	<b>106</b>
§ 128-35. Definitions. ....	106
§ 128-36. Statutory authority. ....	108
§ 128-37. Structural and site standards specifications.....	108
§ 128-38. Permitted uses.....	108
§ 128-39. Historic and Architectural Review Commission. ....	109
§ 128-40. Designation of Historic Overlay Zones.....	110
§ 128-41. Procedures for petition for designation or removal. ....	111
§ 128-42. Outside consultation permitted.....	113
§ 128-43. Duties of Town Council.....	113
§ 128-44. Powers and duties of the Historic and Architectural Review Commission.....	114
§ 128-45. Historic area work certificates of approval.....	115
§ 128-46. Criteria for review of application and permits for alterations to designated Historic Overlay Zones. ....	116
§ 128-47. Action on applications for historic area work permits.....	117
§ 128-48. Adaptive reuse of historic structures. ....	119
§ 128-49. Applicability.....	119
§ 128-50. Demolition by neglect. ....	119
§ 128-51. Violations.....	120
§ 128-52. Administrative Approvals. ....	120
<b>Part C – IRD Infill and Redevelopment Overlay Zone. ....</b>	<b>120</b>
§ 128-53 General.....	120
§ 128-54. Applicability.....	121

§ 128-55. Permitted Uses.....	121
§ 128-56. Development standards.....	121
§ 128-57. Findings requirement.....	122
§ 128-58. Application process.....	122
§ 128-59. Remedies. ....	123
<b>Part D - FP Floodplain District.....</b>	<b>124</b>
§ 128-60. Purpose. ....	124
§ 128-61. Higher standards to control.....	124
§ 128-62. Delineation and Regulations.....	124
<b>Part E – PN Planned Neighborhood Floating Zone.....</b>	<b>124</b>
§ 128-63. PN Planned Neighborhood District.....	124
§ 128-64. Procedure for approval of PN District floating zone amendment and PUD plan approval.....	130
<b>Part F – AE Arts and Entertainment Floating Zone. ....</b>	<b>137</b>
§ 128-65. Definitions. ....	137
§ 128-66. Applicability.....	138
§ 128-67. Permitted uses.....	138
§ 128-68. Development Standards.....	138
§ 128-69. AE District Procedure.....	140
<b>Part G - PUD Planned Unit Development Floating Zone. ....</b>	<b>143</b>
§ 128-70. Planned unit development (PUD) Procedures.....	143
§ 128-71. PUD requirements. ....	143
§ 128-72. Administrative procedures.....	145
<b>Article V - Permitted Uses.....</b>	<b>148</b>
§ 128-73. Applicability of regulations. ....	148
§ 128-74. Designations P, SE, and IRD in the table of permissible uses.....	148
§ 128-75. No more than one principal structure on a lot. ....	148
§ 128-76. Use categories.....	149
§ 128-77. Residential use category. ....	151
§ 128-78. Public, civic, and institutional use categories.....	154
§ 128-79. Commercial use category.....	157
§ 128-80. Wholesale, distribution, and storage use categories. ....	162
§ 128-81. Industrial use category. ....	163

§ 128-82. Recycling use category. ....	165
§ 128-83. Agricultural use category. ....	165
§ 128-84. Other use category. ....	166
§ 128-85. Accessory use category. ....	166
§ 128-86. Special exceptions sometimes required. ....	166
§ 128-87. Permitted Uses Table. ....	167
<b>Article VI - Supplementary Use Regulations. ....</b>	<b>174</b>
§ 128-88. Purpose. ....	174
§ 128-89. Accessory dwelling units (ADUs) ....	174
§ 128-90. Accessory Structures. ....	175
§ 128-91. Accessory uses. ....	182
§ 128-92. Industrial uses. ....	184
§ 128-93. Industrial parks. ....	184
§ 128-94. Temporary emergency, construction, or repair residences. ....	185
§ 128-95. Manufactured Homes. ....	185
§ 128-96. Manufactured home parks. ....	186
§ 128-97. Manufactured home subdivisions. ....	189
§ 128-98. Townhouses. ....	192
§ 128-99. Outdoor storage. ....	193
§ 128-100. Farm animals. ....	194
§ 128-101. Commercial greenhouses and nurseries. ....	196
§ 128-102. Hospitals or clinics for large or small animals. ....	196
§ 128-103. Home occupations. ....	196
§ 128-104. Childcare establishments. ....	198
§ 128-105. Health Clinics. ....	198
§ 128-106. Farm caretaker home. ....	198
§ 128-107. Neighborhood centers. ....	199
§ 128-108. Multifamily housing and apartments. ....	200
§ 128-109. Adult-oriented businesses. ....	200
§ 128-110. Farmers' markets. ....	201
§ 128-111. Cottage Housing Development (CHD). ....	202
§ 128-112. Drive-through and drive-in facilities. ....	207

§ 128-113. Cannabis Enterprises.....	208
§ 128-114. Qualified Projects Developed by Nonprofits.....	208
§ 128-115. Multifamily Units in the UR District.....	210
§ 128-116. Urgent Care Facilities. ....	211
§ 128-117. Reserved.....	213
<b>Article VII - Density and Dimensional Regulations.....</b>	<b>213</b>
§ 128-118. Minimum lot size.....	213
§ 128-119. Residential density and minimum lot area. ....	214
§ 128-120. Minimum lot widths. ....	214
§ 128-121. Building setback requirements.....	214
§ 128-122. Building height limitations. ....	216
§ 128-123. Modification of area regulations. ....	217
§ 128-124. Density on lots where portion dedicated to Town.....	221
§ 128-125. Corner visibility.....	221
§ 128-126. Fencing, walls, and hedges. ....	222
§ 128-127. Table of Density and Dimensional Regulations.....	225
<b>Article VIII - Parking, Loading, and Unloading Area Requirements.....</b>	<b>229</b>
§ 128-128. Definitions. ....	229
§ 128-129. Number of parking spaces required.....	229
§ 128-130. Unlisted uses and establishment of other parking ratios. ....	233
§ 128-131. Flexibility in administration required. ....	233
§ 128-132. Parking space dimensions.....	234
§ 128-133. Required widths of parking area aisles and driveways.....	234
§ 128-134. General design requirements. ....	235
§ 128-135. Vehicle accommodation area surfaces. ....	235
§ 128-136. Joint use of required parking spaces.....	236
§ 128-137. Satellite parking.....	237
§ 128-138. Special provisions for lots with existing buildings.....	237
§ 128-139. Loading and unloading areas.....	238
§ 128-140. Bicycle parking facilities. ....	239
<b>Article IX – Signs. ....</b>	<b>240</b>
§ 128-141. Purpose and Intent. ....	240

§ 128-142. General sign regulations. ....	240
§ 128-143. The Official Tables of Sign Types and Dimensional Regulations. ....	246
§ 128-144. Variances. ....	246
§ 128-145. Master Sign Plans. ....	246
§ 128-146. Fees. ....	248
<b>Article X Environmental Standards, Landscaping, Shading and Buffers. ....</b>	<b>248</b>
§ 128-147. Shading. ....	248
§ 128-148. Landscape plans. ....	248
§ 128-149. Alternative compliance. ....	249
§ 128-150. Required trees along dedicated streets. ....	250
§ 128-151. Parking area screening and landscaping. ....	250
§ 128-152. Bufferyards. ....	251
§ 128-153. Environmental standards for all subdivisions and development that require site plan approval. ....	254
<b>Article XI - Outdoor Lighting. ....</b>	<b>256</b>
§ 128-154. Purpose and intent. ....	256
§ 128-155. Applicability and requirements. ....	256
§ 128-156. Definitions. ....	257
§ 128-157. Light fixtures prohibited. ....	261
§ 128-158. Light fixtures permitted. ....	262
§ 128-159. Replacement of non-dark sky fixtures. ....	264
§ 128-160. Installation of new light fixtures. ....	264
§ 128-161. Exemptions. ....	264
§ 128-162. Liability. ....	265
§ 128-163. Enforcement. ....	265
§ 128-164. Disclaimer. ....	265
<b>Article XII - Common Open Space. ....</b>	<b>265</b>
§ 128-165. Purpose and intent; applicability. ....	265
§ 128-166. Requirements for approval. ....	266
§ 128-167. Flexibility in administration authorized. ....	268
<b>Article XIII - Nonconforming Uses, Structures, and Buildings. ....</b>	<b>268</b>
§ 128-168 Purpose. ....	268
§ 128-169. Nonconforming lots of record. ....	269

§ 128-170. Nonconforming uses of unimproved land. ....	269
§ 128-171. Nonconforming structures. ....	270
§ 128-172. Nonconforming uses of land and structures. ....	270
§ 128-173. Nonconforming development in Critical Area District. ....	272
§ 128-174. Consolidation or reconfiguration of existing lots of record in Critical Area....	273
§ 128-175. Repair and maintenance.....	275
§ 128-176. Special exception uses considered conforming. ....	275
<b>Article XIV - Citizen Boards.....</b>	<b>275</b>
§ 128-177. Planning Commission.....	275
§ 128-178. Board of Appeals. ....	277
§ 128-179. Board of Appeals - Appeals. ....	280
§ 128-180. Board of Appeals - Special exception.....	280
§ 128-181. Board of Appeals - Variances. ....	281
§ 128-182. Standards for granting a variance within the Critical Area District. ....	282
§ 128-183. General restrictions on the Board. ....	284
§ 128-184. Administrative variance.....	285
<b>Article XV Amendments.....</b>	<b>286</b>
§ 128-185. Provisions for amendment. ....	286
§ 128-186. Who may initiate amendments. ....	286
§ 128-187. Procedure for amendment.....	286
§ 128-188. Site visit. ....	287
§ 128-189. Findings for reclassification. ....	287
§ 128-190. Application for reclassification.....	288
§ 128-191. Filing fee for reclassification.....	288
§ 128-192. Repeated application for reclassification.....	288
§ 128-193. Changing of Official Zoning Maps. ....	289
§ 128-194. Amendments in Critical Area District. ....	289
§ 128-195. GA Growth Allocation Floating Zone. ....	290
§ 128-196. Amendments for floating zones.....	292
<b>Article XVI – Administration. ....</b>	<b>293</b>
§ 128-197. Purpose. ....	293
§ 128-198. Director of Planning and Codes.....	293



§ 128-199. Permits Required. ....	293
§ 128-200. Change in use.....	295
§ 128-201. Development types or land uses requiring site plan approval. ....	296
§ 128-202. Procedures for processing.....	296
§ 128-203. Simplified site plans and concept plans.....	297
§ 128-204. Site Plan Review.....	298
§ 128-205. Required information to be shown. ....	299
§ 128-206. Specific standards and conditions on site plan approval. ....	299
§ 128-207. Required improvements.....	300
§ 128-208. Agreement bond for improvements. ....	301
§ 128-209. Approval and extension. ....	301
§ 128-210. Modification, revision, and waiver. ....	302
§ 128-211. Building permit.....	302
§ 128-212. Construction and Use.....	302
§ 128-213. Administration approvals, accessory structures.....	303
<b>Article XVII Requirements for public hearing and public notice.....</b>	<b>303</b>
§ 128-214. Posting. ....	303
§ 128-215. Public hearing. ....	304
§ 128-216. Public notice. ....	305
<b>Article XVIII Enforcement .....</b>	<b>305</b>
§ 128-217. Duties of Director of Planning and Codes, officers, and employees.....	305
§ 128-218. Instituting action to end violation.....	306
§ 128-219. Violations and penalties.....	306
§ 128-220. Banner enforcement.....	306
 <b>Appendix I - Basic Information Required on Site Plans .....</b>	 <b>1</b>
<b>Appendix II - Bufferyard Requirements .....</b>	<b>1</b>
<b>Appendix III - Design Guidelines .....</b>	<b>1</b>
<b>Appendix IV - Lot Types and Yard Requirements, Corner Visibility, and Fence Height Illustrations.....</b>	<b>1</b>
<b>Appendix V - Sign Types and Dimensional Regulations by Zoning Districts .....</b>	<b>1</b>

## **Article I - Title, Authority, Jurisdiction, Purpose, Official Maps.**

### **§ 128-1. Title.**

This chapter shall be known as the Denton "Zoning Ordinance." The chapter includes both the text, and the Official Zoning Maps herein adopted.

### **§ 128-2. Legislative authority.**

This chapter is established in accordance with the provisions of Title 4 Land Use Article, Annotated Code of Maryland.

### **§ 128-3. Jurisdiction.**

The provisions of this chapter shall apply to the incorporated territory of Denton, Maryland.

### **§ 128-4. Purpose and intent.**

- A. This chapter is adopted in accordance with the Denton Comprehensive Plan for the purpose of controlling congestion in the streets, securing public safety, promoting health and the general welfare, providing adequate light and air, promoting the conservation of natural resources, preventing environmental pollution; avoiding undue concentration of population; facilitating the adequate provision of transportation, water, sewerage, schools, recreation, parks, and other public requirements. Such regulations are made with reasonable consideration, among other things, to the character of the district and its suitability for particular uses and with a view to conserving the value of buildings and encouraging the orderly development and the most appropriate use of land throughout the jurisdiction. These zoning regulations also have the purpose of preserving, improving, or protecting the general character and design of the lands and improvements being zoned or rezoned through the power and authority to approve or disapprove the design of buildings, construction, landscaping, or other improvements, alterations, and changes made or to be made on subject land or lands to assure conformity with the intent and purpose of this chapter.
- B. It is also the intent of this chapter to implement the provisions of the Economic Growth, Resource Protection, and Planning Act of 1992, where applicable.

### **§ 128-5. Conflict with other regulations.**

The terms of this chapter shall be deemed to control and to have superseded the terms of any prior, conflicting ordinance.

#### **§ 128-6. Compliance required.**

No building, structure, land, or part thereof shall hereafter be used, occupied, altered, erected, demolished, constructed, or reconstructed unless in conformity with this chapter.

#### **§ 128-7. Interpretation and Conflict - Minimum requirements.**

- A. In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of public safety, health, convenience, comfort, prosperity, or general welfare.
- B. This chapter does not intend to interfere with, or abrogate or annul, any easement, covenants, or other agreement between parties; provided, however, that where this chapter imposes a greater restriction or higher standard upon the use of buildings or premises or the height of buildings or requires larger open spaces than are imposed or required by other resolutions, ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this chapter shall govern.
- C. If, because of error or omission in the Official Zoning Map, any property in the jurisdiction of this chapter is not shown as being in a zoning district, the classification of such property shall be classified SR Suburban Residential until changed by map amendment.

#### **§ 128-8. Severability.**

If any section, paragraph, subdivision, clause, phrase, or provision of this chapter shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this chapter, as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

#### **§ 128-9. When effective.**

- A. This chapter shall take effect and become enforceable immediately upon its adoption by the Town Council of the Town of Denton. Nothing in this chapter shall impair or invalidate any work begun under any permit issued before the effective date hereof, nor shall it impair or invalidate any unexpired permit for work not yet begun, provided that such work must conform to all terms of the permit and the Zoning under which such permit was issued.
- B. All applications receiving preliminary site plan approval before the effective date hereof shall be processed and decided in accordance with the Zoning in effect when the particular application was approved.

#### **§ 128-10. Official Zoning Maps.**

- A. The incorporated areas of the Town are hereby divided into zones (zoning districts), as shown on the Official Zoning Maps, which, together with all explanatory matter thereon, are now adopted by reference and declared to be a part of this chapter.
- B. The Official Zoning Maps shall be identified by the signature of the Town Councilpersons, attested by the Town Administrator, and bearing the seal of the Town under the following words: "This is to certify that this is the Official Zoning Maps referred to in § 128-10 of the Zoning Ordinance of the Town of Denton, Maryland," together with the date of the adoption of this chapter.
- C. Regardless of the existence of purported copies of the Official Zoning Maps, which may from time to time be made or published, the Official Zoning Maps, which shall be in the Department of Planning and Codes Administration office, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Town. Copies of the Official Zoning Maps shall also be in the Town Administrator's or Town Clerk's Office.
- D. Official Critical Area Overlay District Maps. An Official Critical Area Overlay Map has been prepared for the Town of Denton and shall be maintained in force as part of the Official Zoning Maps of the Town of Denton. This map shall delineate the extent of the Critical Area Overlay District and the Land Use classification of properties, i.e., RCA, LDA, or IDA. It shall correspond to the Chesapeake Bay Critical Area.

#### **§ 128-11. Replacement of Official Zoning Maps.**

- A. If the Official Zoning Maps become damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Town Council may, by resolution, adopt new Official Zoning Maps, which shall supersede the prior Official Zoning Maps.
- B. The new Official Zoning Maps may correct drafting or other errors or omissions in the prior Official Zoning Maps. Still, no such corrections shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The Director of Planning shall certify as to the accuracy of the new Official Zoning Maps. The maps shall be identified by the signature of the Town Councilpersons, attested by the Town Administrator, and bearing the seal of the Town under the following words: "This is to certify that these Official Zoning Maps supersede and replace the Official Zoning Maps adopted (date of adoption of maps being replaced) as part of the Zoning Ordinance of the Town of Denton, Maryland."

## **§ 128-12. Interpretation of Zoning District Map.**

- A. The location of zoning districts as determined from the Official Zoning Map is subject to the following rules of interpretation:
  - (1) The regulations pertaining to a zoning district shall extend throughout the whole area bounded by the zoning district lines.
  - (2) Where a boundary line is shown to be located within a street, alley, railroad track, or other physical feature, it shall be deemed to be in the actual center of the feature.
  - (3) Where a boundary line is shown as being a specific distance from a street or other physical feature, this distance shall be controlled and shall be measured from the center of the feature.
  - (4) Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
- B. Where physical or cultural features existing on the ground are at variance with those shown on the Zoning District Map or under circumstances not covered under this section, the Planning Commission shall interpret the location of the zoning district boundaries.
- C. The Official Critical Area Overlay Map shall not be used for actual determination of the Critical Area, buffer lines of 1,000 feet, 100 feet, and 200 feet for subdivision, site plan, and permit applications. Such determinations shall be made by a professional land surveyor, at the applicant's expense, certified to and noted on plats provided by the applicant.

## **§ 128-13. Reserved.**

## **Article II - Definitions and Word Usage.**

### **§ 128-14. Word usage.**

The following rules shall apply to this chapter:

- A. The words "shall" and "will" are mandatory.
- B. Unless the context otherwise specifies, words used in the present tense shall include the future; words used in the singular number include the plural; and words in the plural number include the singular.
- C. The word "building" or "structure" includes the other and any part thereof.
- D. The word "person" includes an individual, a corporation, a partnership, a limited-liability company, an incorporated association, or any other similar entity.

- E. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."
- F. Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either/or," the conjunction shall be interpreted as follows:
  - (1) "And" indicates that all the connected items, conditions, provisions, or events shall apply.
  - (2) "Or" indicates that the connected items, conditions, provisions, or events may apply separately or in combination.
  - (3) "Either/or" indicates that the connected items, conditions, provisions, or events shall apply separately but not in combination.
- G. The word "includes" shall not limit a term to the specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.
- H. Words and terms not defined herein shall be interpreted in accordance with their normal dictionary meaning.

#### **§ 128-15. Terms defined.**

As used in this chapter, the following terms shall have the meanings indicated:

**ABATEMENT** — The act of putting an end to a land alteration or development activity or reducing the degree or intensity of the alteration or activity.

**ACCESSORY APARTMENT** — A dwelling unit located above the first floor of the principal structure on a lot or parcel of land, which dwelling is an accessory use to commercial or office use, which is the principal use located on the first floor of the same structure.

**ACCESSORY DWELLING UNIT (ADU)** — A smaller, independent residential dwelling unit located on the same lot as a stand-alone, detached single-family home. Accessory dwelling units may be contained within the principal structure, be a separate stand-alone structure, or be in a separate accessory structure.

**ACCESSORY STRUCTURE** — A structure that is detached from the principal structure, located on the same lot, and clearly incidental and subordinate to a principal structure, or if there is no principal structure on the lot, a structure that is customarily incidental and subordinate to a principal structure.

**ACCESSORY USE OR STRUCTURE** — A structure or use that:

- A. Is clearly incidental to and customarily found in connection with a principal building or use;
- B. Is subordinate to and serves a principal building or a principal use;

- C. Is subordinate in area, extent, or purpose to the principal building or principal use served;
- D. Contributes to the comfort, convenience, or necessity of occupants, business, or industry in the principal building or principal use served; and
- E. Is located on the same lot as the principal building or use served.

ACRE — A commonly referred to measure of an area, which equals 43,560 square feet.

ACREAGE — An amount of land, regardless of area, described by metes and bounds, which is not a numbered lot on any recorded subdivision.

ACTIVE ADULT COMMUNITY — An active adult community comprised of people 55 years of age or older, which provides maintenance-free living, proximity to desirable attractions, and a range of on-site activities and amenities. Active adult communities may include single-family homes, condominiums, townhomes, or multifamily dwellings. Such communities may offer designated dining areas and clubhouses.

ACTIVITY — Any business, industry, trade, occupation, vocation, profession, or other use conducted or carried on either within a building or covered area or outdoors on any tract or parcel of land. For zoning purposes, an activity shall be considered separately from any building or structure in which such activity may be conducted.

ADDITION — A newly constructed area that increases the size of a structure.

ADULT BOOK OR VIDEO STORE — Shall have the meaning set forth in § 30-1 of the Denton Town Code.

ADULT DAY-CARE CENTER — An establishment that offers social, recreational, and health-related services to individuals in a protective setting who cannot be left alone during the day because of health care and social needs, confusion, or disability.

ADULT ENTERTAINMENT OR MATERIAL — Shall have the meaning set forth in § 30-1 of the Denton Town Code.

ADULT-ORIENTED BUSINESS —

- A. Any business, operation, or activity, a significant amount of which consists of:
  - (1) The conduct, promotion, delivery, provision, or performance of adult entertainment or material, including, but not limited to, that occurring in, at, or in connection with a cabaret, lounge, nightclub, modeling studio, bar restaurant, club or lodge, or other establishment; or
  - (2) The sale, provision, rental, or promotion of adult entertainment or material in any format, form, or medium, including, but not limited to, books, magazines, videos, DVDs, CDs, sexual devices, movies, photographs, and/or coin-operated or pay-per-view viewing devices, including, but not limited to, the operation of an adult book or video store or viewing booth.

B. For this definition, the term "significant" shall have the meaning set forth in § 30-1 of the Denton Town Code.

**AFFORESTATION** — The establishment of a tree crop in an area from which it has always or very long been absent or the planting of open areas that are not presently in forest cover.

**AGRICULTURAL EASEMENT** — A nonpossessory interest in land that restricts the conversion of use of the land, preventing nonagricultural uses.

**AGRICULTURE** — All methods of production and management of livestock, crops, vegetation, orchards, groves, nurseries, and soil. Methods include, but are not limited to, the related activities of tillage, fertilization, pest control, harvesting, and marketing. It also includes, but is not limited to, the activities of keeping or raising for sale of large or small animals, reptiles, fish, or birds, and feeding, housing, and maintaining animals such as cattle, dairy cows, sheep, goats, hogs, horses, and poultry and handling their by-products.

**ALLEY** — A public or private right-of-way primarily designated to serve as secondary access to the side or rear of those properties whose principal frontage is on some other public way.

**ALTERATION** — Any change in the total floor area, use adaptability, or external appearance of an existing structure.

**AMEND or AMENDMENTS** — Any repeal, modification, or addition to a regulation; any new regulation; any change in the number, shape, boundary, or area of a zone; or any repeal or abolition of any map, part thereof, or addition to that.

**ANADROMOUS FISH** — Fish that travel upstream (from their primary habitat in the ocean) to freshwater to spawn.

**ANADROMOUS FISH PROPAGATION WATERS** — Those streams that are tributary to the Chesapeake Bay and Atlantic Coastal bays in which the spawning of anadromous species of fish (e.g., rockfish, striped bass, yellow perch, white perch, shad, and river herring) occurs or has occurred. The Department of Natural Resources identifies the streams.

**ANTENNA** — Equipment designed to transmit or receive electronic signals.

**APARTMENT** — A part of a building containing cooking facilities consisting of a room or group of rooms intended, designed, and used as a residence by an individual or a single family.

**APARTMENT HOUSE** — Same as "dwelling, multifamily."

**AQUACULTURE** — The farming or culturing of finfish, shellfish, other aquatic plants or animals, or both, in lakes, streams, inlets, estuaries, and other natural or artificial water bodies or impoundments. Activities include the hatching, cultivating, planting, feeding, raising, and harvesting of aquatic plants and animals and the maintenance and construction of necessary equipment, buildings, and growing areas. Cultivation methods include, but are not limited to, seed or larvae development and grow-out facilities, fish pens, shellfish rafts, racks and longlines, seaweed floats, and the culture of clams and oysters on tidelands and subtidal areas. For this



definition, related activities such as wholesale and retail sales, processing, and product storage facilities are not considered aquacultural practices.

**ARBORIST** — An expert in the cultivation and care of trees.

**AREA, GROSS, or GROSS SITE AREA** — All the areas within a development plan or plat, including areas intended for residential use, local access streets or alleys, off-street parking spaces, open spaces, recreation areas, or floodplains.

**AREA, NET or NET SITE AREA** — Remaining area, after deducting from gross area any area associated with a one-hundred-year nontidal floodplain, steep slopes, certain forest stands, FIDs habitat, tidal and nontidal wetlands, stream buffers, threatened or endangered species habitat, hydric soils where septic systems are necessary, Critical Area buffer or any other environmental constraint, important historic or archaeological site or structure, preexisting or required easement of any kind, or any public access as identified in the Comprehensive Plan transportation chapter.

**ASSISTED LIVING** — A residential or facility-based provider that provides housing and supportive services, supervision, personalized assistance, health-related services, or a combination of these services to meet the needs of residents who are unable to perform or who need assistance in performing the activities of daily living or instrumental activities of daily living in a way that promotes optimum dignity and independence for the residents.

**AUCTION HOUSE** — An establishment where goods are received for public sale to the highest bidder.

**BARREN LAND** — Unmanaged land having little or no vegetation.

**BASE FLOOD** — The flood having a one-percent chance of being equaled or exceeded in any given year. It is also known as the "one-hundred-year flood."

**BASEMENT** — That portion of a building between the floor and ceiling which is wholly or partly below grade and having more than 1/2 of its height below grade.

**BED-AND-BREAKFAST FACILITY** — A private owner-occupied home in which bedrooms are rented to tourists or travelers and in which breakfast is provided and included in the room rate.

**BEST MANAGEMENT PRACTICES (BMPs)** — Conservation practices or systems of practices and management measures that control soil loss and reduce water quality degradation caused by nutrients, animal waste, toxic substances, and sediment. Agricultural BMPs include, but are not limited to, strip cropping, terracing, contour stripping, grass waterways, animal waste structures, ponds, minimal tillage, grass and naturally vegetated filter strips, and proper nutrient application measures.

**BIG BOX STORE** (also: "supercenter," "superstore," or "megastore") — Large, freestanding, rectangular, generally single-floor, flat-roof structure built on a concrete slab with floor space several times greater than traditional retailers (generally more than 50,000 square feet and sometimes approaching 200,000 square feet) and providing a large amount of merchandise. Examples include Walmart, Target, Best Buy, and Barnes & Noble.

**BLIGHTED AREA** — Any area that endangers the public health, safety, or welfare, or an area that is detrimental to the public health, safety, or welfare because commercial, industrial, or residential structures or improvements are dilapidated, deteriorated, or because such structures or improvements violate the minimum health and safety standards as determined by the Director of Planning and Codes, Building Official, or designee.

**BLIGHTED PROPERTY** — Any individual commercial, industrial, or residential structure, improvement, or lot that is an endangerment to the public health, safety, or welfare because the structure, improvement, or lot is dilapidated, deteriorated, or violates the minimum health and safety standards.

**BOARD** — The Board of Appeals of the Town of Denton which is authorized to grant special exceptions and variances and to hear appeals from administrative decisions as provided in this chapter.

**BOARDINGHOUSE** — A building other than a hotel or apartment hotel where, for compensation and by prearrangement for definite periods, meals or lodging are provided for three or more persons but not exceeding 15 persons.

**BOARDING SCHOOL** — A school at which meals and overnight lodging are provided on site.

**BONA FIDE INTRAFAMILY TRANSFER** — A transfer to a member of the owner's immediate family of a portion of the owner's property for the purpose of establishing a residence for that family member.

**BREEZEWAY** — A structure extensively open, except for a roof and supporting columns, which connects a residence and an accessory building on the same lot.

**BREW PUB** — A restaurant and/or bar that possesses a State of Maryland Class 6 pub-brewery license or a Class 7 microbrewery license.

**BUFFER** —

- A. An area that, based on conditions present at the time of development, is immediately landward from mean high water of tidal waters, the edge of each bank of a tributary stream, or the landward boundary of a tidal wetland, and
- B. Exists or may be established in natural vegetation to protect a stream, tidal wetland, tidal waters, or terrestrial environment from human disturbance.
- C. Buffer includes an area of:
  - (1) At least 100 feet, even if that area was previously disturbed by human activity; and
  - (2) Expansion for contiguous areas, including a steep slope, hydric soil, highly erodible soil, nontidal wetland, or a Nontidal Wetland of Special State Concern as defined in COMAR 26.23.01.01.

**BUFFER MANAGEMENT AREA (BMA)** — An area officially mapped by the Town and approved by the Critical Area Commission as a BMA, where it has been sufficiently demonstrated that the existing pattern of residential, industrial, commercial, institutional, or recreational development prevents the buffer from fulfilling its water quality and habitat functions, and where development in accordance with specific BMA provisions can be permitted in the buffer without a variance.

**BUFFER MANAGEMENT PLAN** — A plan designed and intended to describe methods and means used to protect and enhance the buffer to provide multiple benefits that are necessary when a development activity will affect a portion of the buffer, alter buffer vegetation, or require the establishment of a portion of the buffer in vegetation. The definition includes a major buffer management plan, a minor buffer management plan, and a simplified buffer management plan.

**BUFFERYARD** — An area within a Buffer Management Area that is at least 25 feet wide, located between development activity and tidal waters, tidal wetlands, or a tributary stream that is planted with vegetation consisting of native canopy trees, understory trees, shrubs, and perennial herbaceous plants in order to provide water quality and habitat benefits. This area is to be managed and maintained in a manner that optimizes these benefits.

**BUILDABLE WIDTH** — The width of that part of a lot that is not included within the side setbacks herein required.

**BUILDING** — Any structure having a roof supported by columns or walls for the housing or enclosure of persons or property of any kind.

**BUILDING, DETACHED** — A building surrounded by unimproved space on the same lot.

**BUILDING ENVELOPE** — The area formed by the front, side, and rear building restriction or setback lines of a lot within which the principal buildings must be located.

**BUILDING, HEIGHT OF** — The vertical distance from the highest point of a structure, except the chimney, antenna, or satellite dish on a building, to the average ground level of the grade where the walls or other structural elements intersect the ground.

**BUILDING OFFICIAL** — The governmental official of the Town of Denton that is charged with administering the Town's Building Code and issuing building permits or his or her designee.

**BUILDING LINE** — A line beyond which the foundation wall and/or any porch, vestibule, or other portion of a building shall not project unless otherwise provided for in this chapter.

**BUILDING, MAIN** — Any building that is not an accessory building.

**BUILDING PERMIT** — A formal approval of building plans issued by the Building Official as meeting the applicable zoning and code requirements and authorizing construction or reconfiguration of a specific structure on a site in accordance with the approved drawings and specifications.

**BUILDING, PRINCIPAL** — The primary building on a lot or a building that houses a principal use.

CALIPER — The diameter of a tree measured at two inches above the root collar.

CANNABIS – All parts of any plant of the genus cannabis, whether growing or not, including:

- A. The seeds of the plant;
- B. The resin extracted from any part of the plant and
- C. Any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction.

CANNABIS DISPENSARY — an entity licensed by the Maryland Cannabis Administration that acquires, possesses, repackages, processes, transfers, transports, sells, distributes, or dispenses products containing cannabis, related supplies, related products including tinctures, aerosols, oils, or ointments, or educational materials for use by a qualifying patient or caregiver.

CANNABIS ENTERPRISE –

- A. An entity licensed by the State of Maryland to acquire, possess, repackage, process, transfer, transport, sell, distribute, dispense, or dispose of products containing cannabis, related supplies, related products, including tinctures, aerosols, oils or ointments, or educational materials. This definition includes medical marijuana dispensaries.
- B. All other relevant terms are defined in Title 14 Independent Agencies, Subtitle 17 Maryland Cannabis Administration, 14.17.01 Definitions.

CANNABIS GROWING FACILITY — an entity that cultivates, manufactures, packages, or distributes cannabis to licensed processors, licensed dispensaries, or registered independent testing laboratories.

CANNABIS PROCESSING FACILITY — an entity licensed by the Maryland Cannabis Administration that (a) transforms the cannabis into another product or extract and (b) packages and labels cannabis.

CANOPY — A roof-like structure of a permanent nature that may be freestanding or projected from a wall of a building or its supports.

CANOPY TREE — A tree that, when mature, commonly reaches a height of at least 35 feet.

CERTIFY — Whenever this chapter requires that some agency certify the existence of some fact or circumstance to the Town, the Town may require that such certification be made in any manner that provides reasonable assurance of the accuracy of the certification. By way of illustration, and without limiting the preceding, the Town may accept certification by telephone from some agency when the circumstances warrant it, or the Town may require that the certification be in the form of a letter or other document.

CHILD-CARE INSTITUTION — An institutional facility housing more than nine orphaned, abandoned, dependent, abused, or neglected children.

**CHILD-CARE CENTER** — An agency, institution, or establishment that provides nonparental care for children for part of a twenty-four-hour day, not in the child's own home, in a group setting such as a child-care center, preschool, child development center, nursery school, before-school and after-school program, school-age child-care, or early learning center, by whatever name known, under private, nonprofit, proprietary, public, or religious auspices except as otherwise provided for in law or regulation, and is regulated by the requirements of Title 13A Maryland State Department of Education Child Care Centers under the Code of Maryland Regulations (COMAR).

**CHILD-CARE, FAMILY** — A residence other than the child's home used by the owner or tenant to provide paid care, on a regular basis, for one or more children who are not related to the owner or tenant, on a regular basis and which is regulated by the requirements of Title 13A Maryland State Department of Education under the Code of Maryland Regulations (COMAR).

**CIRCULATION AREA** — That portion of the vehicle accommodation area that is used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

**CLEAR-CUTTING** — The removal of the entire stand of trees in one cutting with tree reproduction obtained by natural seeding from adjacent stands or from trees that were cut from advanced regeneration or stump sprouts or planting of seeds or seedlings by man.

**CLIMATE RESILIENCY** - The capacity of a natural system to maintain function in the face of stresses imposed by climate change. Climate Resiliency includes adapting a natural system to be better prepared for future climate impacts, including sea level rise, saltwater intrusion, wetland migration, storm surge, precipitation—induced flooding, and other extreme weather events.

**CLINIC, HEALTH, AND DENTAL CARE** — An office building or a group of offices for one or more physicians, surgeons, dentists, or other health or dental care practitioners engaged in the treatment of physically ill or injured patients, patients in need of routine dental or orthodontic care, or patients in need of outpatient mental health care, but not including rooms for overnight patients.

**CLINIC, SUBSTANCE ABUSE** — An office building or a group of offices for one or more physicians, psychologists, social workers, or substance abuse counselors engaged in the treatment of chronic substance abuse that may include the dispensing of prescribed substitutes for illegal controlled substances.

**CLUB, PRIVATE** — Buildings and facilities owned or operated by a corporation, limited-liability company, association, person, or persons for social, educational, or recreational purposes, but not primarily for profit which accrues to any individual and not primarily to render a service which is customarily carried on by a business.

**CLUSTER DEVELOPMENT** — A residential development in which dwelling units are concentrated in a selected area or selected areas of the development tract so as to provide more natural habitat or other open space uses on the remainder.

COFFEE ROASTING — A facility in which unprocessed, green coffee may be sorted, roasted, processed, or packaged for use and consumption.

COLONIAL NESTING WATER BIRDS — Herons, egrets, terns, and glossy ibis. For nesting, these birds congregate (that is, "colonize") in relatively few areas, at which time the regional populations of these species are highly susceptible to local disturbances.

COMAR — The Code of Maryland Regulations, as from time to time amended, including any successor provisions.

COMBINATION USE — A use consisting of a combination of one lot of two or more principal uses separately listed in the Official Permitted Uses Table. (Under some circumstances, a second principal use may be regarded as an accessory to the first, and thus, a combination use is not established. In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.)

COMMERCIAL — A type of activity where goods or services are sold or traded with the expectation of profit or gain.

COMMERCIAL SHOPPING CENTER or SHOPPING CENTER — A group of retail and other commercial establishments that are planned, developed, owned, and managed as a single property. The two main configurations are malls and open-air strip centers.

COMMISSION — The Planning Commission of the Town of Denton.

COMMON AREA — Any open space, private road, or other land, structure, or improvement that is designed or reserved for the common use or benefit of the owners of two or more lots.

"Common area" does not include any public road or other lands, structure, or improvement owned by the Town, the State of Maryland, or any other governmental agency.

COMMON OPEN SPACE or OPEN SPACE — A parcel or parcels of land, an area of water, or a combination of land and water, including floodplain and wetland areas, within a development site, designed and intended for the use and enjoyment of residents of the development and, where designated, the community at large. The area of parking facilities serving the activities in the common open space may be included in the required area computations. Common open space shall not include:

- A. The land area of lots allocated for single-family detached dwellings, single-family semidetached dwellings, and duplex dwellings, including front yards, side yards, and rear yards, whether or not the dwellings are sold or rented.
- B. The land area of lots allocated for apartment and townhouse dwelling construction, including front yards, side yards, rear yards, interior yards, and off-street parking facilities, whether or not the dwellings are sold or rented.

- C. The land area of lots allocated for total commercial use, including front yards, side yards, rear yards, and parking facilities, whether or not the commercial facilities are sold or rented.
- D. The land area of lots allocated for public and semipublic uses, community clubs, and community facilities, including open space for playgrounds and athletic fields which are a part of the principal use (e.g., a school or church site) and front yards, side yards, rear yards, and other open space around the buildings; and parking facilities, whether or not the public or semipublic use sites are sold or rented.
- E. Street rights-of-way, parkways, driveways, off-street parking, and service areas, except the landscaped central median of boulevards.
- F. Rights-of-way easement areas, such as electric transmission lines, whether above or below ground or propane or natural gas lines.
- G. Stormwater management facilities.

COMMUNITY PIERS — Boat-docking facilities associated with subdivisions and other similar residential areas, condominiums, and apartments. Private piers are excluded from this definition.

COMPREHENSIVE or MASTER PLAN — A compilation of policy statements, goals, standards, maps, and pertinent data relative to the past, present, and future trends of the local jurisdiction, including, but not limited to, its population, housing, economics, social patterns, land uses, water resources and their use, transportation facilities and public facilities, prepared by or for the planning board, agency or office adopted by the Planning Commission and Town Council.

CONDOMINIUM — A form of ownership consisting of an undivided interest in common with other owners in a portion of a parcel of real property, together with a separate interest in space in a building, such as a townhouse, apartment, or office, established pursuant to Maryland law. A condominium may include, in addition, a separate interest in other portions of such real property.

CONSERVATION EASEMENT — A nonpossessory interest in land that restricts the manner in which the land may be developed in an effort to conserve natural resources for future use.

CONSOLIDATION — A combination of any legal parcels of land or recorded, legally buildable lots into fewer parcels or lots.

CONVALESCENT, NURSING, OR REST HOME — Any institution, whether conducted for charity or profit, which is advertised, announced, or maintained for the express or implied purpose of caring for two or more nonrelated persons admitted to it for nursing care given because of prolonged illness or defect or during the recovery from injury or disease, and includes any of the procedures commonly employed in waiting on the sick, such as administration of medicine, preparation of special diets, giving of bedside care, application of dressing and bandages, and the carrying out of treatments prescribed by a duly licensed practitioner of medicine.

**CONVENIENCE SERVICE AREA** — An area of services offered to persons living within a particular development, e.g., a coin-operated laundry, to be confined inside of a building within a particular development, limited to an area not to exceed 1% of the total gross floor space within the said building, and for the sole use of the particular development.

**CONVENIENCE STORE** — A one-story retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"). It is designed to attract and depend upon a large volume of stop-and-go traffic. Illustrative examples of convenience stores are those operated by the Fast Fare, 7-11, and Pantry chains.

**COOP** — A small house where female chickens are kept safe and secure with perches and nesting boxes.

**COURT** — An unoccupied open space, other than a yard, on the same lot as a building, which is bounded on two or more sides by the walls of such a building.

**COVENANT** — A written undertaking by an owner that is required by this chapter or imposed by the Planning Commission in accordance with authorization contained in this chapter.

**COVENANTOR** — A person who owns legal or equitable title to any land that is affected in any manner by a covenant and includes a person who holds any mortgage, deed of trust, or other lien or encumbrance on any such land.

**COVERAGE** — The percentage of the lot covered by buildings and structures. In the Critical Area, see Lot Coverage.

**COVER CROP** — The establishment of a vegetative cover to protect soils from erosion and to restrict pollutants and sediments from entering the waterways. Cover crops can be dense, planted crops of grasses or legumes or crop residues such as corn, wheat, or soybean stubble, which maximize infiltration and prevent runoff from reaching erosive velocities.

**CRITICAL AREA** — All lands and waters defined in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

A. They include:

- (1) All waters of and lands under the Chesapeake Bay and Atlantic Coastal Bays and their tributaries to the head of tide as indicated on state wetland maps;
- (2) All state and private wetlands designated under Title 16 of the Environment Article, Annotated Code of Maryland;
- (3) All land and water areas within 1,000 feet beyond the landward boundaries of state or private wetlands and the heads of tides designated under Title 16 of the Environment Article, Annotated Code of Maryland; and



- (4) Modification to these areas through inclusions or exclusions proposed by local jurisdictions and approved by the Commission as specified in § 8-1807 of the Natural Resources Article, Annotated Code of Maryland.

B. Official maps delineating Critical Areas within the Town of Denton are available for inspection at the Denton Town office.

**CRITICAL AREA COMMISSION (CAC)** — Critical Area Commission for the Chesapeake and Atlantic Coastal Bays, the body created as per § 8-1803 of the Annotated Code of Maryland and appointed by the governor whose responsibility includes the adoption of regulations and criteria for implementation of the State of Maryland's Critical Area policies.

**CRITICAL AREA PROGRAM** — The Denton Critical Area Program consists of Chapter 128, Zoning, Chapter 73, Subdivision Regulations, and any other development regulation in the Town of Denton Code intended to implement the Critical Area Law and Regulations.

**DEDICATION** — The transfer of property from private to public ownership as may be required to provide for the public health, safety, or welfare.

**DEED RESTRICTION** — A private legal restriction and/or covenant on the use of land contained within a deed of property or otherwise formally recorded in the Land Records of Caroline County, Maryland. These restrictions or covenants are designed to control the use of specific property, and enforcement of these is through private civil action. The Town of Denton does not enforce deed restrictions unless it is the Town of Denton, Maryland, that records said deed restrictions.

**DENSITY** — The number of principal dwelling units allowed per acre of net area of a development.

**DERELICT STRUCTURE** — Any residential, commercial or industrial structure which is no longer being used for a place of habitation, business, or industry and which is in such poor condition as to cause blight upon the neighborhood in which any such structure is located.

**DEVELOPED WOODLANDS** — Areas one acre or more in size that predominantly contain trees and natural vegetation and that also include residential, commercial, or industrial structures and uses.

**DEVELOPER** — A person who undertakes development activity as defined in the Critical Area Program or a person who undertakes development activity that requires a zoning permit, conditional use permit, sign permit, site plan, or subdivision approval.

**DEVELOPMENT ENVELOPE** — Developed portion of a parcel or tract of land that encompasses all lots, structures, required buffers exclusive of the tidewater buffer if it is at least 300 feet deep, impervious surfaces, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use as active recreation areas, and any additional acreage needed to meet the development requirements of the Denton Critical Area Program.

**DEVELOPMENT or DEVELOPMENT ACTIVITIES** (includes the term "develop") — Any construction, modification, extension, or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land or action that results in construction, modification, extension or expansion of buildings or structures; placement of fill or dumping; storage of materials; land excavation; land clearing; land improvement; or any combination thereof, including the subdivision of land. Excavation or clearing in buffers is not permissible, even if a grading permit is not required.

**DIMENSIONAL NONCONFORMITY** — A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

**DIRECTOR OF PLANNING** — The Director of Planning and Codes Administration, who is also the zoning administrative officer or an authorized representative designated by the Town Council to carry out duties as specified in this chapter.

**DISABLED OR INFIRM HOME** — A residence within a single dwelling unit for at least six but not more than nine persons who are physically or mentally disabled, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

**DISABLED PEOPLE** — People possessing physical or mental impairments that are expected to be of long-continued and indefinite duration, substantially impede the ability to live independently and are of such a nature that more suitable housing conditions could improve the ability to live independently.

**DISTRICT** — Any section of the Town of Denton within which the zoning regulations are uniform.

**DISTURBANCE** — An alteration or change to the land. It includes any amount of clearing, grading, or construction activity. "Disturbance" does not include gardening or maintaining an existing grass lawn.

**DOCUMENTED BREEDING BIRD AREAS** — Forested areas where the occurrence of interior dwelling birds during the breeding season has been demonstrated as a result of on-site surveys using standard biological survey techniques.

**DRIVE-IN ESTABLISHMENT** — A place of business being operated for the retail sale of food and other goods, services, or entertainment. It is designed to allow its patrons to be served or accommodated while remaining in their automobiles or allow the consumption of any food or beverage obtained from a carry-out window in automobiles or elsewhere on the premises.

**DRIVEWAY** — That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

DUPLEX — A building that is divided into two dwelling units.

DWELLING, ATTACHED — A dwelling or dwelling unit that is joined to another dwelling or dwelling unit at one or more sides by a party wall or walls.

DWELLING, MULTIFAMILY — A structure containing three or more dwelling units on a single parcel or contiguous parcels under the same ownership.

DWELLING, SINGLE-FAMILY — A building designed for or occupied exclusively by one family.

DWELLING, TWO-FAMILY — A building containing two dwelling units. Examples are a detached dwelling containing two dwelling units or a duplex.

DWELLING UNIT — A single unit providing complete, independent living facilities for at least one person, including permanent provisions for sanitation, cooking, eating, sleeping, and other activities routinely associated with daily life. The dwelling unit may include an in-law or accessory apartment.

EARTH SATELLITE ANTENNA (also called "satellite dish" or "dish") — A parabolic dish antenna or other device or equipment of whatever nature or kind, including its structural supports, the primary use of which is to send and/or receive television, radio, microwave, or other electronic signals from space satellites.

ECOSYSTEM — A more or less self-contained biological community, together with the physical environment in which the community's organisms occur.

ELDERLY PEOPLE — People who are 66 years of age or over or families where either the husband or wife is 66 years of age or older.

EMERGENCY SERVICES — Fire, rescue, ambulance, police, or CERT (Community Emergency Response Team) services, including related structures and activities.

ENCLOSURE — An area inside a fence where chickens are kept and allowed to walk around, including stationary or moveable enclosures known as "chicken tractors."

ENDANGERED SPECIES — Any species of fish, wildlife, or plants that have been designated as such by regulation by the Secretary of the Department of Natural Resources. Designation occurs when the continued existence of these species as viable components of the state's resources is determined to be in jeopardy. This definition includes any species determined to be endangered species pursuant to the federal Endangered Species Act, 16 U.S.C. § 1531 et seq., as amended.

ENGINEER — An expert in civil engineering hired by the Town of Denton.

ENVIRONMENTAL ASSESSMENT — A comprehensive report that describes the natural features and characteristics of a proposed development site, the changes that will occur as the result of proposed development activities on the site, the anticipated environmental impacts and

consequences of the proposed development, and mitigation measures to be taken to minimize undesirable impacts to the environment.

**ENVIRONMENTAL JUSTICE** — The term has the meaning stated in § 1-701 of the Environment Article Annotated Code of Maryland.

**EQUITY** — Promotion of justice, impartiality, and fairness within the procedures, processes, and distribution of resources by institutions or systems. Equity includes consideration of environmental burdens and benefits, identification of impacts and mitigation opportunities, increased representation in public participation, and provisions for public access to waterways.

**ENVIRONMENTAL CONSTRAINTS** — Features, natural resources, or land characteristics that are susceptible to improvements and may require protection, preservation, and conservation measures or the application of creative development techniques to prevent degradation of the environment, or may require limited development, or in certain instances may preclude development.

**EROSION AND SEDIMENT CONTROL (E&SC)** — Any structural or nonstructural practice or measure that protects soil particles from detaching by rain or wind and trapping any soil particles after having been detached and moved by rain or wind.

**ESSENTIAL SERVICES** — Facilities such as wires, lines, cables, or pipes located in public ways or easements, provided for or on a customer's premises. Such essential services do not require a private right-of-way. They may be reasonably necessary for the furnishing of adequate water, sewer, gas, electric, telecommunications, or similar services to adjacent customers. They do not include any cross-country electric transmission lines, including microwave or any aboveground pipeline.

**ESTABLISHMENT** — The planting or regeneration of native vegetation throughout the buffer.

**EXCESS STORMWATER RUN-OFF** — All increases in stormwater resulting from:

- A. An increase in the imperviousness or lot coverage of the site, including all additions to buildings, roads, and parking lots;
- B. Changes in permeability caused by compaction during construction or modifications in contours, including the filling or drainage of small depression areas;
- C. Alteration of drainage ways or regrading of slopes;
- D. Destruction of a forest or
- E. Installation of collection systems to intercept street flows or to replace swales or other drainage ways.

**FAMILY** — An individual; two or more persons related by blood, marriage, civil union, or adoption living together in a dwelling unit, and (unless the dwelling contains an accessory dwelling unit) may also include not more than two unrelated persons; or a group of not more than four persons who need not be related by blood, marriage, or adoption living together in a

dwelling unit. A family may include five or fewer foster children placed in a family foster home licensed by the state.

FARM — A parcel of land not less than 20 acres in size used for agriculture as defined in this subsection.

FARM ANIMAL — For this chapter, shall include, but not be limited to: cows, horses, mules, donkeys, goats, sheep, hogs, llamas, chickens, turkeys, ducks, geese, and pigeons, or similar fowl or hooved animals.

FARMERS' MARKET — An outdoor commercial establishment sponsored, organized, and/or operated under the auspices of a unit of government wherein one or more operators sell agricultural products.

FEEDLOT — Any tract of land or structure, pen or corral wherein cattle, sheep, goats, and swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

FENCE or WALL — A barrier, other than natural vegetation, intended to mark a boundary or to enclose an area to provide screening or privacy.

FILLING STATION — Any building, structure, or area of land used for the retail sale of automobile fuels, oils, and accessories and where repair service, if any, is incidental.

FINANCIAL ASSURANCE — A performance bond, letter of credit, cash deposit, insurance policy, or other instrument of security acceptable to the Town of Denton.

FISHERIES ACTIVITIES — Commercial water-dependent fisheries facilities, including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, amphibians, and reptiles, and also including related activities such as wholesale and retail sales, product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations.

FISHERY — A parcel or building where commercial water-dependent fishery facilities are located, including structures for the packing, processing, canning, or freezing of finfish, crustaceans, mollusks, amphibians, and reptiles, including related activities such as wholesale and retail sales, product storage facilities, crab shedding, off-loading docks, shellfish culture operations, and shore-based facilities necessary for aquaculture operations.

FLAG — Any cloth, bunting, or similar material containing distinctive colors, patterns, or symbols used as a symbol of patriotism, national, state, or local government or a religious group.

FLOODPLAIN — Any land area susceptible to being inundated by water from any source.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to pass the base flood discharge such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height.

FLOOR AREA —

- A. For commercial business and industrial buildings or buildings containing mixed uses: the sum of the gross horizontal area of the several floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, but not including attic space providing headroom of less than seven feet; basement space not used for retailing; uncovered steps or fire escapes; accessory water towers or cooling towers; accessory off-street parking spaces; and accessory off-street loading berths.
- B. For residential buildings: the sum of the gross horizontal areas, with a clear height of more than six feet, of all floors of a dwelling, exclusive of garages, basements, and open porches, measured from the exterior faces of the exterior walls.

FOREST — For purposes of the Critical Area, the biological community dominated by trees and other woody plants covering a land area of one acre or more. This definition also includes forests that have been cut but not cleared. For purposes of the forest conservation provisions of this chapter, a forest is defined as:

- A. A biological community dominated by trees and other woody plants covering a land area of 10,000 square feet or greater.
- B. "Forest" includes:
  - (1) Areas that have at least 100 live trees per acre with at least 50% of those trees having a two-inch-or-greater diameter (caliper) at 4.5 feet above the ground and larger; and
  - (2) Areas that have been cut but not cleared.
- C. "Forest" does not include orchards that have not been abandoned.

FOREST INTERIOR DWELLING SPECIES (FIDS) — Species of birds that require relatively large, forested tracts in order to breed successfully (for example, various species of flycatchers, warblers, vireos, and woodpeckers).

FOREST MANAGEMENT — The protection, manipulation, and utilization of the forest to provide multiple benefits, such as timber harvesting, wildlife habitat, etc.

FOREST PRACTICE — The alteration of the forest either through tree removal or replacement in order to improve the timber, wildlife, recreational, or water quality values.

FRONTAGE —

- A. STREET FRONTAGE — All of the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.
- B. LOT FRONTAGE — The distance for which the front boundary line of the lot and the street line are coincident.

FULLY ESTABLISHED — The buffer contains as much diverse, native vegetation as necessary to support a firm and stable riparian habitat capable of self-sustaining growth and regeneration.

GARAGE OR YARD SALE — A public sale conducted by an individual on their premises for the purpose of selling their personal property.

GARAGE, PRIVATE — A garage used primarily for motor-driven vehicle storage purposes only and has a capacity of not more than four vehicles.

GARAGE, SERVICE — A building, or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor-driven vehicles.

GARAGE, STORAGE — A building, or portion thereof, designed or used exclusively for storage of motor-driven vehicles and where motor-driven vehicles are not equipped, hired, or sold.

GARDEN APARTMENTS — Multifamily housing units that may share a common outside access. Ownership is not a factor in this type of unit, which may be either rental or condominium.

GAS SALES — Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail and where, in addition, minor repair work may be performed, such as ignition service, tire repair or replacement, repair, and replacement of minor parts, such as pumps and filters, brake service, and the like. "Gas sales" does not include a repair or body shop but shall include self-service filling stations and any convenience store accessory to or associated with such gas sales.

GOLF COURSE — An area, publicly or privately owned, on which the game of golf is played, containing at least nine holes, together with such necessary and usual accessory uses as a clubhouse, caretakers' dwellings, dining and refreshment facilities, and other such uses, provided that the operation of such facilities is incidental and subordinate to the operation of a golf course.

GRADE —

- A. For buildings having a wall or walls adjoining one street only, the elevation of the sidewalk at the center of the wall adjoining the street.
- B. For buildings having a wall or walls adjoining more than one street, the average elevation of the sidewalk at the centers of all walls adjoining the streets.
- C. For buildings having no wall adjoining the street, the average level of the finished surface of the ground adjacent to the exterior walls of the building.
- D. Any wall parallel to or within 10° of being parallel to, and not more than 15 feet from, a street line is to be considered as adjoining the street.

**GRANDFATHERED** — Describes the status accorded certain properties and development uses that are of record prior to the date of adoption of this chapter or must comply with provisions of this chapter.

**GRANDFATHERED PARCEL OR GRANDFATHERED LOT** — A parcel of land that was created or a lot created through the subdivision process and recorded as a legally buildable lot prior to December 1, 1985.

**GRAND OPENING** — A grand opening or grand reopening is defined as the period when a business first opens or undergoes major remodeling or new ownership.

**GROCERY STORE** — Store established primarily for the sale of food items; could also stock personal care and household cleaning products (smaller in size than a supermarket).

**GROUP HOME/DEVELOPMENTALLY DISABLED HOME** — A residence within a single dwelling unit for at least four but not more than eight people who are physically or mentally disabled, together with not more than two persons providing care or assistance to such persons, all living together as a single housekeeping unit. Persons residing in such homes, including the aged and disabled, principally need residential care rather than medical treatment.

**GROUP HOME/HALFWAY HOUSE** — A home for not more than eight (8) people who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with not more than two (2) people providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

**GROUP HOME, PRIVATE** — A residence used to provide assisted community living for persons (including battered or abused individuals with children) with mental, emotional, familial, or social difficulties in a home-like environment. A large private group home admits at least nine but not more than sixteen (16) individuals total; a small private group home admits at least four but not more than a total of eight individuals.

**GROWTH ALLOCATION** — The number of acres of land in the Critical Area that the Town of Denton may use, or the county may allocate to municipal jurisdictions to use, to create new Intensely Developed Areas and new Limited Development Areas. The growth allocation acreage is 5% of the total Resource Conservation Area acreage in Denton at the time the Critical Area Commission approved Denton's original Critical Area Program, not including tidal wetlands, plus additional acres included from the county's calculated amount (5%) of Resource Conservation Area that existed when the Critical Area Commission approved Caroline County's original Critical Area Program (that the Town may request and the County may allocate).

**GUESTHOUSE** — Living quarters within a detached accessory building located on the same premises as the main building for use by temporary guests of the occupants of the premises, such quarters having no kitchen facilities or separate utility meters and not rented or otherwise used as a separate dwelling.

**HABITAT PROTECTION AREA (HPA)** - The buffer, nontidal wetlands, threatened and endangered species, plant and wildlife habitats, anadromous fish propagation waters, and species



in need of conservation that are designated for protection by the Secretary of Natural Resources or under Natural Resources Article, § 8-1806, Annotated Code of Maryland, or by regulations adopted under that authority.

**HABITAT PROTECTION PLAN** - A plan that provides for the protection and conservation of the species and habitats identified as Habitat Protection Areas in the Critical Area. The plan shall be specific to the site or area where the species or its habitat is located. It shall address all aspects of a proposed development activity that may affect the continued presence of the species. These include, but are not limited to, cutting, clearing, alterations of natural hydrology, and increases in lot coverage. In developing the plan, an applicant shall coordinate with the Department of Natural Resources to ensure that the plan is adequate to provide for long-term conservation and can be effectively implemented on the specific site.

**HAZARDOUS TREE** - A tree with a structural defect, such as a crack, canker, weak branch union, decay, dead wood, root damage, or root disease, that decreases the structural integrity of the tree and which, because of its location, is likely to fall and cause personal injury or property damage, including acceleration of soil erosion; or based on its location in the landscape, a healthy tree that, with continued normal growth, will damage an existing permanent structure or significantly increase the likelihood of soil erosion. "Hazardous tree" does not include a tree for which the likelihood of personal injury, property damage, or soil erosion can reasonably be eliminated or significantly diminished with routine and proper arboricultural practices, such as regular watering, application of fertilizer or mulch, and pruning; or by relocation of property that is likely to be damaged.

**HEIGHT OF BUILDING** — The vertical distance from the average finished grade to the highest point of the coping of a flat roof, the deck line of a mansard roof, to the mean height level between eaves and ridge for gable, hip, and gambrel roofs.

**HIGHLY ERODIBLE SOILS AND ERODIBLE SOILS** — Soils with a slope greater than 15% or soils with a K value greater than 0.35 and slopes greater than 5%. "K value" means the soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

**HISTORIC WATERFOWL STAGING AND CONCENTRATION AREA** — An area of open water and adjacent marshes where waterfowl gather during migration and throughout the winter season. These areas are historic in the sense that their location is common knowledge and because these areas have been used regularly in recent times.

**HOME OCCUPATION** — A home occupation is an activity carried out for financial gain by the occupant in a residential dwelling and is subordinate to the residential use of the property.

**HOSPITAL** — A building or group of buildings having room facilities for one or more overnight patients, used for providing services for the inpatient medical or surgical care of sick or injured humans, and which may include related facilities such as laboratories, outpatient department, training facilities, central service facilities, and staff offices; provided, however, that such related

facility must be incidental and subordinate to the main use and must be an integral part of the hospital operation.

**HOTEL** — A building in which lodging or boarding and lodging are provided for more than 20 persons, primarily transient, and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public as opposed to a boardinghouse, a lodging house, or an apartment house, which are herein separately defined. A hotel may include restaurants, taverns, club rooms, banquet halls, ballrooms, and meeting rooms.

**HYDRIC SOILS** — Soils that are wet frequently enough to periodically produce anaerobic conditions, thereby influencing the species composition or growth, or both, of plants on those soils.

**HYDROPHYTIC VEGETATION** — Those plants cited in "Vascular Plant Species Occurring in Maryland Wetlands" (Dawson, F. et al., 1985) which are described as growing in water or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content (plants typically found in water habitats).

**HYDROPONICS** — The science of growing plants in solution or moist inert material containing the necessary minerals instead of soil frequently within a controlled environment.

**ILLUMINATION** — Direct artificial lighting or indirect artificial lighting that is designed to reflect light from light sources erected for the purpose of providing light to the sign or other structure.

**IMMEDIATE FAMILY MEMBER** — Spouse or civil union partner, father, mother, son, daughter, grandfather, grandmother, grandson, or granddaughter.

**IMPERVIOUS SURFACE** — Any constructed surface that prevents or retards the penetration of water into the soil.

**INDUSTRIAL CENTER** — A group of industrial or similar establishments that are planned, developed, owned, and managed as a single property.

**INDUSTRIAL PARK** — A planned, coordinated development of a tract of land with two or more separate industrial buildings. Such development is planned, designed, constructed, and managed on an integrated and coordinated basis, with special attention given to on-site vehicular circulation, parking, utility needs, building design and orientation, and open spaces and screening.

**INFILL** — The development of vacant, abandoned, passed over, or underutilized land areas of Denton.

**IN-KIND REPLACEMENT** — The replacement of a structure with another structure that is smaller than or identical to the original structure in footprint area, width, length, and use.

**INTENSELY DEVELOPED AREAS (IDAs)** — Areas of at least 20 adjacent acres or the entire upland portion of the Critical Area within the boundary of a municipality, whichever is less,

where residential, commercial, institutional, and/or industrial developed land uses predominate, and where relatively little natural habitat occurs. These areas shall have had at least one of the following features as of December 1, 1985:

- A. Housing density equal to or greater than four dwelling units per acre;
- B. Industrial, institutional, or commercial uses are concentrated in the area or
- C. Public sewer and water collection and distribution systems are currently serving the area, and housing density is greater than three dwelling units per acre.

**INTERMEDIATE-CARE HOME** — A facility maintained for the purpose of providing accommodations for not more than seven occupants needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the disabled or infirm.

**INTERMEDIATE-CARE INSTITUTION** — An institutional facility maintained for the purpose of providing accommodations for more than seven persons needing medical care and supervision at a lower level than that provided in a nursing care institution but at a higher level than that provided in institutions for the disabled or infirm.

**INTERMITTENT STREAM** — A stream in which surface water is absent during part of the year. Intermittent streams may be found on the most recent U.S.G.S. 7.5-minute quadrangle published by the United States and shall be identified in the field and accurately drawn on all development plans.

**INVASIVE SPECIES** — A species that is non-native or alien to the ecosystem under consideration, whose introduction causes or is likely to cause economic or environmental harm or harm to human health.

**JUNK (OR SALVAGE) YARDS** — A lot, land, or structure, or part thereof, used primarily for the collecting, storage, and sale of wastepaper, rags, scrap metal or discarded material, or for the collecting, dismantling, storage, and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

**KENNEL** — A commercial operation that provides food, shelter, and care of animals for purposes not primarily related to medical care (A kennel may or may not be run by or associated with a veterinarian) or engages in the breeding of animals for sale or any place where more than two adult animals (over six months) are kept for a boarding or other fee, or any place where more than five adult animals are kept for any purpose.

**K VALUE** — The soil erodibility factor in the Universal Soil Loss Equation. It is a quantitative value that is experimentally determined.

**LAND-BASED AQUACULTURE** — The raising of fish or shellfish in any natural or man-made, enclosed, or impounded water body.

**LAND CLEARING** — Any activity that removes the vegetative ground cover.

**LANDWARD EDGE** — The limit of a site feature that is furthest away from a tidal water, tidal wetland, or a tributary stream.

**LARGE SHRUB** — A shrub that, when mature, reaches a height of at least six (6) feet.

**LEGALLY DEVELOPED** — All physical improvements to a property that existed before Critical Area Commission approval of a local program or were properly permitted in accordance with the provisions of the local program in effect at the time of construction.

**LIMITED DEVELOPMENT AREAS (LDAs)** — Areas that are currently developed in low- or moderate-intensity uses, which contain areas of natural plant and animal habitats, and in which the quality of runoff has not been substantially altered or impaired. These areas shall have had at least one of the following features as of December 1, 1985:

- A. Housing density ranging from one dwelling unit per five acres up to four dwelling units per acre;
- B. Areas not dominated by agriculture, wetland, forest, barren land, surface water, or open space;
- C. Areas having public sewer or public water, or both;
- D. Areas meeting the definition of "intensely developed areas" above, less than 20 acres in size.

**LIMIT OF DISTURBANCE** — The area of a development or redevelopment activity that includes temporary disturbance and permanent disturbance.

**LIQUOR STORE** — A business that sells alcoholic beverages for consumption off-premises. For this chapter, the term "liquor store" does not include grocery stores, supermarkets, or convenience stores in which beer and/or wine is offered for sale as a minor part of an overall larger inventory of goods. It shall also not include a restaurant that is otherwise operating in accordance with its approved liquor license and all other provisions of this chapter.

**LIVE VIEWING BOOTH** — Any booth, cubicle, stall, or room of less than 600 square feet of floor space or area to which patrons may gain admittance, wherein the following are regularly featured:

- A. Persons who appear in a state of semi-nudity and/or
- B. Live entertainment that is characterized by the depiction or description of specified anatomical areas or specified sexual activities.

**LIVING SHORELINE** — A suite of stabilization and erosion control measures that preserve the natural shoreline and are designed to minimize shoreline erosion, maintain coastal processes, and provide aquatic habitat. Measures must include marsh plantings and may include the use of sills, sand containment structures, breakwaters, or other natural components.

**LOADING SPACE or LOADING BERTH** — A space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks, having a minimum dimension of twelve (12) feet by thirty-five (35) feet and a vertical clearance of at least fourteen (14) feet.

**LOCAL SIGNIFICANCE** — Development of a minor scale, which causes environmental or economic consequences that are largely confined to the immediate area of the parcel of land on which it is located; does not substantially affect the Critical Area Program of the Town of Denton; and is not considered to be a major development as defined in this program.

**LODGING HOUSE** — Same as "boardinghouse."

**LOT** — A plot or parcel of land having at least the minimum area required by this chapter for a plat or parcel of land in the district in which such lot is situated and having its principal frontage on a public road or private road.

**LOT, AREA** — The total horizontal area within the lot lines of the lot.

**LOT, CORNER** — A lot located at the intersection of two or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135°.

**LOT COVERAGE** — The percentage of a total lot or parcel that is occupied by a structure, accessory structure, parking area, driveway, walkway, or roadway or covered with gravel, stone, shell, impermeable decking, a paver, permeable pavement, or any man-made material. Lot coverage includes the ground area covered or occupied by a stairway or impermeable deck. Lot coverage does not include a fence or wall that is less than one foot in width that has not been constructed with a footer; a walkway in the buffer or expanded buffer, including a stairway, that provides direct access to a community or private pier; a wood mulch pathway; or a deck with gaps to allow water to pass freely.

**LOT, DEPTH** — The mean horizontal distance between the front and rear lot lines.

**LOT, FLAG** — A lot with access provided to the bulk of the lot by means of a narrow corridor.

**LOT, INTERIOR** — A lot other than a corner lot.

**LOT LINE** — The boundary line of a lot.

**LOT OF RECORD** — A parcel of land that has been legally recorded in the land records of Caroline County.

**LOT, REVERSED FRONTAGE** — A lot in which the frontage is at right angles to the general pattern in the area involved. A reversed frontage lot may also be a corner lot or an interior lot.

**LOT, THROUGH** — An interior lot having frontage on two streets.

**LOT WIDTH** — The distance between the side lot lines measured at the required front yard line.

**MAJOR DEVELOPMENT** — Development of a scale that may cause statewide, regional, or inter-jurisdictional environmental or economic effects in the Critical Area or which may cause substantial impacts on the critical area program of a local jurisdiction. This development includes, but is not limited to, airports, power plants, wastewater treatment plants, highways, regional utility transmission facilities, prisons, hospitals, public housing projects, public beaches, and intensely developed park and recreation facilities.

**MAJOR SITE PLAN** — Any site plan that would include the extension of public water or sewer lines, placement of roads, or installation of any stormwater management device.

**MAJOR SUBDIVISION** — Subdivision that involves any of the following: the creation of more than three lots; the creation of any new public streets; the extension of a public water or sewer system; or the installation of drainage improvements through one or more lots to serve one or more other lots.

**MALL** — A large, enclosed collection of independent retail stores and services, with associated shared parking areas, constructed and maintained by a management firm as a unit.

**MANUFACTURED HOME** — A transportable structure that is more than 320 square feet, designed to be used as a dwelling, and includes the plumbing, heating, air-conditioning, and electrical system.

**MANUFACTURED HOME PARK** — A lot, parcel, or tract of land that is being used, designed, or held out to accommodate parking for manufactured homes for continuing occupancy, including all accessory buildings, vehicles, and appurtenances used or intended as equipment for such manufactured home park. A manufactured home park does not include an automobile or sales lot on which unoccupied mobile homes may be parked for inspection and sale.

**MANUFACTURED HOME STAND** — That part of an individual manufactured home lot that has been reserved for the placement of the manufactured home.

**MANUFACTURE, MANUFACTURING** — The process of converting raw, unfinished materials or products, or either of them, into articles or substances of different character or for use for different purposes.

**MARINA** — A place for docking four or more pleasure boats or providing services to pleasure boats and the occupants thereof, including minor servicing and repair to boats while in the water, sale of fuel and supplies, and provisions of lodging, goods, beverages, and entertainment as accessory uses. A yacht or boat club shall be considered a marina.

**MEAN HIGH-WATER LINE** — The average level of high tides at a given location.

**MICROBREWERY, MICROWINERY, MICRODISTILLERY** — A facility in which beer, wine, or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption and which possesses the appropriate license from the State of Maryland. Tasting rooms for the consumption of on-site produced beer, wine, or distilled products are permitted on the premises.

**MICROBUSINESS** – A small business operated by less than ten (10) people that generates less than \$500,000 in net revenue a year and involves less than 10,000 square feet of gross floor area.

**MINOR BOUNDARY LINE ADJUSTMENT** — A boundary line adjustment not resulting in a change that would allow increased development or density rights otherwise regulated by applicable land use codes.

**MITIGATION** — An action taken to compensate for adverse impacts to the environment resulting from development, development activity, or a change in land use or intensity.

**MIXED-USE** — A real estate development that combines multiple uses or purposes into a single building or area. These projects can include a variety of components, such as housing, retail, office, medical, recreational, commercial, or industrial.

**MOBILE HOME** — A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in it, except that this term shall include any structure which meets all the requirements of this subsection except the size requirements and for which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Federal Act.

**MODULAR HOME** — Sectional, prefabricated structure that consists of one or more modules or sections manufactured in a remote facility, delivered to their intended site, and designed to be used with a permanent foundation.

**MOTEL, MOTOR COURT, MOTOR HOTEL, LODGE, or INN** — Same as "hotel," except that the building or buildings are designed primarily to serve tourists traveling by automobile and that ingress and egress to rooms need not be through a lobby or offices.

**MOTOR VEHICLE DEALER** — A building, structure, or area of land used for the storage or display for the sale of motor vehicles but not used for the storage of dismantled or wrecked motor vehicles.

**NATIVE PLANT** — A species that is indigenous to the physiographic area in Maryland where the planting is proposed.

**NATURAL FEATURES** — Components and processes present in or produced by nature, including but not limited to soil types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, recharge areas, climate, floodplains, aquatic life, and wildlife.

**NATURAL HERITAGE AREA** — Any communities of plants or animals that are considered to be among the best statewide examples of their kind and are designated by regulation by the Secretary of the Department of Natural Resources.

**NATURAL REGENERATION** — The natural establishment of trees and other vegetation with at least 400 free-to-grow seedlings per acre, which are capable of reaching a height of at least 20 feet at maturity.

**NATURAL VEGETATION** — Plant communities that develop in the absence of human activities.

**NATURE-BASED FEATURES** - Those small-scale nonstructural features that mimic characteristics of natural features and are created by human design, engineering, and construction to provide specific services, including coastal risk reduction. Nature-based features include living shorelines, oyster reefs, marsh restoration, and buffers.

**NATURE DOMINATED** — A condition where the landforms, biological communities, or both have developed by natural processes in the absence of human interaction.

**NEIGHBORHOOD CENTER** — Permitted through a special exception in those districts where allowed in the Table of Uses, developments within existing neighborhoods that are limited to businesses that primarily cater to neighborhood residents, such as small grocery stores, personal and professional services, dry cleaners, video shops, cafes, tea rooms, small bakeries, and other uses that are deemed appropriate by the Planning Commission and Board of Appeals.

**NEIGHBORHOOD ESSENTIAL SERVICES** — Any utility facility needed to provide basic services such as water, sewer, telephone, and cable television to individual users.

**NEW DEVELOPMENT** — For purposes of implementing specific provisions of this program, new developments (as opposed to redevelopment) means a development activity that takes place on a property with pre-development imperviousness (in IDA) or lot coverage (LDA and RCA) of less than 15% as of December 1, 1985.

**NONCONFORMING LOT** — A lot existing at the effective date of this chapter (and not created for the purposes of evading the restrictions of this chapter) that does not meet the minimum area requirement of the district in which the lot is located.

**NONCONFORMING PROJECT** — Any structure, development, or undertaking that is incomplete at the effective date of this chapter and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

**NONCONFORMING USE** — Any building or land lawfully occupied by a use at the time of passage of this chapter or amendment to it which does not conform to the use regulations of the district in which it is located.

**NONPOINT SOURCE POLLUTION** — Pollution generated by diffuse land use activities rather than from an identifiable or discrete facility. It is conveyed to waterways through natural processes, such as rainfall, storm runoff, or groundwater seepage, rather than by deliberate discharge. Nonpoint source pollution is not generally corrected by end-of-pipe treatment but rather by changes in land management practices.



**NONPROFIT ORGANIZATION** — Any organization engaging primarily in civic or community services, including Lions, Kiwanis, Rotary, Optimists, and organizations of a similar nature that are not operated for profit (e.g., having 501(c)3 status).

**NONRENEWABLE RESOURCES** — Resources that are not naturally regenerated or renewed.

**NONTIDAL WETLANDS** — Those areas regulated under Subtitle 9 of the Environment Article that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation." The determination of whether an area is a nontidal wetland shall be made in accordance with the publication known as the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands," published in 1989 and as may be amended. Nontidal wetlands do not include tidal wetlands regulated under Title 16 of the Environment Article of the Annotated Code of Maryland.

**NONWATER-DEPENDENT PROJECT** —

- A. Nonwater-dependent project means a temporary or permanent structure that, by reason of its intrinsic nature, use, or operation, does not require location in, on, or over State or private wetlands.
- B. Nonwater-dependent projects include:
  - (1) A dwelling unit on a pier;
  - (2) A restaurant, a shop, an office, or any other commercial building or use on a pier;
  - (3) A temporary or permanent roof or covering on a pier;
  - (4) A pier used to support a nonwater-dependent use; and
  - (5) A small-scale renewable energy system on a pier, including:
    - (a) A solar energy system and its photovoltaic cells, solar panels, or other necessary equipment;
    - (b) A geothermal energy system and its geothermal heat exchanger or other necessary equipment; and
    - (c) A wind energy system and its wind turbine, tower, base, or other necessary equipment.
- C. Nonwater-dependent project does not include:
  - (1) A fuel pump or other fuel-dispensing equipment on a pier;
  - (2) A sanitary sewage pump or other wastewater removal equipment on a pier;

- (3) An office on a pier for managing marina operations, including monitoring vessel traffic, registering vessels, providing docking services, and housing electrical or emergency equipment related to marina operations; or
- (4) A water-dependent facility or activity.

**NURSING CARE HOME** — A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to not more than eight persons.

**NURSING CARE INSTITUTION** — An institutional facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital to more than eight persons.

**NURSING HOME** — A place devoted primarily to the maintenance and operation of facilities for the treatment and care of any persons suffering from illnesses, diseases, deformities, or injuries who do not require extensive or intensive care such as is normally provided in a general or other specialized hospital; includes rest homes, convalescent homes, and homes for the aged. A nursing home does provide medical, nursing, convalescent, or chronic care in addition to room and board.

**OCCUPANCY, CERTIFICATE OF** — The certificate issued by the Building Official, or designee, which permits the use of a building in accordance with the approved plans and specifications and which certifies compliance with the provisions of the law for the use and occupancy of the building as specified in the Town Code. See Chapter 38, Building Construction, Article II, Building Code, and this chapter.

**OFFICE, GENERAL** — An office for the use of professional people such as doctors, lawyers, accountants, etc., or general business offices such as insurance companies, trade associations, manufacturing companies, investment concerns, banks, trust companies, real estate companies, etc., but not including any retail or wholesale store or warehouse, except as otherwise provided herein.

**OFFICE PARK** — A development on a tract of land that contains a number of separate office buildings, supporting uses, and open space designated, planned, constructed, and managed on an integrated and coordinated basis.

**OFFICE, PROFESSIONAL NONRESIDENTIAL** — A single-family structure used for professional office purposes by any member of a recognized profession, such as, but not limited to, doctors, lawyers, architects, accountants, veterinarians, and engineers, but not including medical or dental clinics or veterinarian clinics. Professional offices do not include general business offices, such as the offices of insurance companies, trade associations, manufacturing companies, investment concerns, banks, or real estate companies.

**OFFICE, PROFESSIONAL RESIDENTIAL** — Rooms and/or buildings used for office purposes by not more than one member of any recognized profession, including doctors, dentists, lawyers, accountants, engineers, veterinarians, etc., but not including medical or dental clinics or

veterinary clinics, provided that such use shall be incidental to and subordinate to residential use and not one involving a commercial enterprise. Such use shall preclude the manufacturing or sale of any hardware product, except those remedial devices that are prescribed as a direct result of the specific service rendered on the premises, and those devices cannot be obtained by the client from any commercial establishment.

OFFSETS — Structures or actions that compensate for undesirable impacts. (See also "BMPs.")

OFF-STREET PARKING AREA — Space provided for vehicular parking, not on a street or roadway.

ON-SITE CONSUMPTION ESTABLISHMENTS, CANNABIS — an entity licensed pursuant to Section 36-401(c)(4) of the Alcoholic Beverages Article of the Maryland Annotated Code that allows cannabis to be consumed, smoked, vaped, or otherwise ingested on-premises.

OPEN WATER — Tidal waters of the state that do not contain tidal wetlands and/or submerged aquatic vegetation.

OPEN SPACE — Land and water areas retained in an essentially undeveloped state.

OUTBUILDING — A separate accessory building or structure not physically connected to the principal building.

OVERBURDENED COMMUNITY — This term has the meaning stated in § 1-701 of the Environment Article Annotated Code of Maryland.

OWNER — The person, partnership, corporation, company, or other legal entity holding current legal title to a lot, tract, or parcel of land.

PARAPET — The extension of the main walls of a building above the roof.

PARKING AREA AISLES — A portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

PARKING AREA (LOT or STRUCTURE) — A structure or an off-street area for parking or loading and unloading, whether required or permitted by this chapter, including driveways, accessways, aisles, and maneuvering areas, but not including any public or private street right-of-way.

PARKING FLOOR AREA — The floor area of a structure as defined herein, less storage and warehouse areas used principally for nonpublic purposes of said structure. Any basement or cellar space used for retailing shall be included in the parking floor area for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.

PARKING SPACE, OFF-STREET — An all-weather surfaced area not in a street or alley, exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by an all-weather surfaced driveway which affords satisfactory

ingress and egress for automobiles. At a minimum, each parking space shall measure nine (9) feet by 20 feet.

**PEDDLING** (peddlers' activity) — The act of offering for sale and simultaneous delivery of goods, wares, or merchandise, including, but not limited to, magazines, books, periodicals, foodstuffs, and personal property of every nature, from house to house or from place to place or on the public streets or in any other public or private place, including offering any of the above-mentioned items for sale and simultaneous delivery from any wagon, vehicle, boat or other movable structure.

**PERENNIAL STREAM** — A stream containing surface water throughout an average rainfall year. Perennial streams may be found on the most recent U.S.G.S. 7.5-minute quadrangle published by the United States and shall be identified in the field and accurately drawn on all development plans.

**PERMANENT DISTURBANCE** —

- A. A material, enduring change in the topography, landscape, or structure that occurs as part of a development or redevelopment activity. Permanent disturbance includes the construction or installation of any material that will result in lot coverage; construction of a deck; grading that does not otherwise qualify as temporary disturbance; and clearing of a tree, forest, or developed woodland that does not otherwise qualify as a temporary disturbance.
- B. Permanent disturbance does not include a septic system on a lot created before local program approval if the septic system is located in existing grass or clearing is not required.

**PERSON** — An individual, trustee, executor, other fiduciary, corporation firm, partnership, limited-liability company, association, organization, or other entity acting as a unit.

**PET** — Any animal kept for pleasure rather than utility.

**PHARMACY** — A place where legal drugs and medicines are prepared and dispensed.

**PHYSIOGRAPHIC FEATURES** — The soils, topography, land slope and aspect, and local climate that influence the form and species composition of plant communities.

**PIER** — Any pier, wharf, dock, walkway, bulkhead, breakwater, piles, or other similar structure. "Pier" does not include any structure on pilings or stilts that was originally constructed beyond the landward boundaries of state or private wetlands.

**PLACE** — An open, unoccupied space other than a street or alley, permanently established or dedicated in the principal means of access to property abutting thereof.

**PLACE OF WORSHIP OR RELIGIOUS ASSEMBLY** — A building or premises where persons regularly assemble for religious worship and those accessory activities customarily associated in addition to that and where the buildings and premises are maintained and controlled by a religious body organized to sustain public worship.

**PLANNED UNIT DEVELOPMENT (PUD)** — A subdivision of varied land uses, residential structural types, and densities developed so as to integrate all the features into a harmonious whole.

**PLANNING COMMISSION** — The Denton Planning Commission.

**PLANT HABITAT AND WILDLIFE HABITAT** — "Plant habitat" means a community of plants commonly identified by the composition of its vegetation and its physiographic characteristics. "Wildlife habitat" means those plant communities and physiographic features that provide food, water and cover, nesting and foraging or feeding conditions necessary to maintain populations of animals in the Critical Area.

**PLOT** — A parcel of land which may include one or more platted lots occupied or intended for occupancy by a use permitted in this chapter, including one main building, together with its accessory buildings, the yard areas, and parking spaces required by this chapter and having its principal frontage upon a street or an officially approved place.

**PORT** — A facility or area established or designated by the state or local jurisdictions for purposes of waterborne commerce.

**PREMISES** — A lot, together with all buildings and structures thereon.

**PRIMARY HIGHWAY** — A highway designated as a state primary highway or United States highway by the Maryland Department of Transportation.

**PRINCIPAL STRUCTURE** — The primary or predominant structure on any lot or parcel. For residential parcels or lots, the principal structure is the primary dwelling.

**PRIVATE HARVESTING** — The cutting and removal of trees for personal use.

**PRIVATE PIER** — A privately owned pier that is no more than six feet wide.

**PRIVATE TIDAL WETLANDS** — Includes:

- A. Land not considered state wetland bordering on or lying beneath tidal waters, which is subject to regular or periodic tidal action and supports aquatic growth;
- B. Tidal wetlands transferred by the state by a valid lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights are considered "private tidal wetlands" to the extent of the interest transferred and
- C. Tidal waters created by the excavation of upland unless conveyed to the state.

**PROGRAM AMENDMENT** — Any change or proposed change to an adopted program that is not determined by the Chairman of the Critical Area Commission to be a program refinement.

**PROGRAM REFINEMENT** — Any change or proposed change to an adopted program that the Chairman of the Critical Area Commission determines will result in a use of land or water in the Chesapeake Bay Critical Area or Atlantic Coastal Bays Critical Area in a manner consistent with

the adopted program, or that will not significantly affect the use of land or water in the Critical Area. Program refinement may include:

- A. A change to an adopted program that results from state law;
- B. A change to an adopted program that affects local processes and procedures;
- C. A change to a local ordinance or code that clarifies an existing provision and
- D. A minor change to an element of an adopted program that is clearly consistent with the provisions of State Critical Area Law and all the criteria of the Commission.

**PROJECT APPROVALS** — The approval of development, other than development by the state or local government, in the Chesapeake Bay Critical Area by the appropriate local approval authority. The term includes approval of subdivision plats and site plans; inclusion of areas within floating zones; issuance of variances, special exceptions, and conditional use permits; and issuance of zoning permits. The term does not include building permits.

**PROPERTY LINES** — The lines bounding a zoning lot, as defined herein.

**PROPERTY OWNER** — A person holding title to a property or two or more persons holding title to a property under any form of joint ownership.

**PUBLIC PROJECT** — Any project undertaken by a governmental entity or a public utility for the benefit of the community, including but not limited to parks, schools, infrastructure, and public facilities.

**PUBLIC UTILITIES** — Uses or structures for the public purpose of power transmission and distribution (but not power generation); fuel transmission and distribution (but not manufacturing or storage); water treatment and distribution; sewage collection and treatment; telephone service facilities (but not utility truck terminal facilities); radio and television facilities (not including broadcasting studios); and rail or highway rights-of-way (not including stations or terminals).

**PUBLIC WATER AND SEWERAGE SYSTEMS** — A water or sewerage system owned and operated by a municipality, county, or authority or owned and operated by the governing body and permitted by the State of Maryland, and subject to special regulations.

**PUBLIC WATER-ORIENTED RECREATION** — Shore-dependent recreation facilities or activities provided by public agencies that are available to the general public.

**PUBLIC WAY** — Any sidewalk, pedestrian path, street, alley, highway, or other public thoroughfare.

**PUBLIC WORKS AGREEMENT** — An agreement between the developer and the Town setting forth the improvements which the developer will be responsible for and the conditions for the construction and acceptance of such improvements by the Town.

**RECLAMATION** — The reasonable rehabilitation of disturbed land for useful purposes and the protection of the natural resources of adjacent areas, including water bodies.

**RECLASSIFICATION** — The changing of the zoning classification that applies to a particular area of land.

**RECONFIGURATION** — A change of the arrangement of the existing lot or parcel lines of any legal parcel of land or recorded legally buildable lots.

**RECREATION, ACTIVE** — Leisure-time activities, usually of a formal nature and often performed with others, requiring equipment and taking place at prescribed places, sites, or fields. Examples include playgrounds, playing fields, and team participation such as baseball, soccer, lacrosse, and basketball. Outdoor lighting of playing fields may be permitted.

**RECREATION FACILITY** — A place designated and equipped for the conduct of sports, leisure-time activities, and other customary and usual recreational activities.

**RECREATION, PASSIVE** — Generally an undeveloped space or environmentally sensitive area that requires minimal development. Activities involve relatively inactive or less energetic activities, such as walking and picnicking. Examples include walking/biking paths, trails, and picnic areas. Outdoor lighting is prohibited except for safety requirements.

**RECREATION VEHICLE or RV** — A motorized or towable vehicle that combines transportation and temporary living quarters for travel, recreation, and camping. RVs do not include manufactured homes, off-road vehicles, or snowmobiles. RVs are classified into two groups: towable and motorized. Towables are designed to be towed by a motorized vehicle (auto, van, or pickup truck) and are of such size and weight as not to require a special highway movement permit. Towables are designed to provide temporary living quarters for recreational camping or travel use and do not require permanent on-site hookups. The towables include conventional travel trailers, fifth-wheel travel trailers, folding camping trailers, and truck campers. A motorized RV is a recreational camping and travel vehicle built on or as an integral part of a self-propelled motor vehicle chassis. It may provide kitchen, sleeping, and bathroom facilities and be equipped with the ability to store and carry fresh water and sewage. Motorized RVs include motor homes (Class A), van campers (Class B), motor homes (Class C), and conversion vehicles.

**REDEVELOPMENT** — The act or process of redeveloping land, buildings, and structures in any zoning district. Redevelopment includes rehabilitation, the removal of blighted buildings, structures, and vegetation, and the replacement remodeling or reuse of existing buildings and structures to accommodate new development.

**REDEVELOPMENT, CRITICAL AREA** — The process of developing land that is or has been developed. For purposes of implementing specific provisions of this program, "redevelopment" (as opposed to new development) means a development activity that takes place on property with predevelopment imperviousness (in IDA) or lot coverage (in LDA and RCA) of 15% or greater.

**REFORESTATION** — The establishment of a forest through artificial reproduction or natural regeneration.

REGULATIONS — The whole body of regulations, text, charts, tables, diagrams, maps, notations, references, and symbols contained or referred to in this chapter.

RENEWABLE RESOURCE — A resource that can renew or replace itself and, therefore, with proper management, can be harvested indefinitely.

RESIDENCE, COMMERCIAL APARTMENT — A multifamily residence located above the principal commercial use.

RESIDENCE, MULTIFAMILY — A residential use consisting of a building containing three or more dwelling units. For purposes of this definition, a building includes all dwelling units that are enclosed within that building or attached to it by a common floor or wall (even the wall of an attached garage or porch) (e.g., townhouses and apartments).

RESIDENCE, MULTIFAMILY CONVERSION — A multifamily residence containing not more than four dwelling units and results from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed and occupied as a single-family residence.

RESIDENCE, PRIMARY WITH ACCESSORY APARTMENT — A residential use having the external appearance of a single-family residence but in which there is located a second dwelling unit that comprises not more than 25% of the gross floor area of the building nor more than a total of 750 square feet.

RESIDENCE, TWO-FAMILY CONVERSION — A two-family residence resulting from the conversion of a single building containing at least 2,000 square feet of gross floor area that was in existence on the effective date of this provision and that was originally designed, constructed, and occupied as a single-family residence.

RESOURCE CONSERVATION AREAS (RCA) — Areas characterized by nature-dominated environments (that is, wetlands, forests, abandoned fields) and resource-utilization activities (that is, agriculture, forestry, fisheries activities, or aquaculture). These areas shall have had at least one of the following features as of December 1, 1985:

- A. Density is less than one dwelling unit per five acres or
- B. Dominant land use is in agriculture, wetlands, forest, barren land, surface water, or open space.

RESOURCE UTILIZATION ACTIVITIES — Any activities associated with the utilization of natural resources, such as agriculture, forestry, surface mining, aquaculture, and fisheries activities.

RESTAURANT, RIVERFRONT — An establishment that conforms to the definition of a "restaurant, standard" and is located within the Modified Buffer Area (MBA) of the Critical Area.

RESTAURANTS —



- A. RESTAURANT, STANDARD — A food-serving establishment whose principal business is the sale of food, and the principal method of operation is its service when ordered from a menu to seated customers at a table, booth, or counter inside the establishment. A snack bar or refreshment stand at a public or nonprofit community swimming pool, playground, or park, operated solely for the convenience of its patrons, shall not be considered a restaurant.
- B. RESTAURANT, FAST-FOOD — An establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and wrapped or presented so that it can readily be eaten outside or inside the premises.
- C. RESTAURANT, FAST-FOOD CAFETERIA — Any establishment where ready-to-eat food is available upon a short waiting time and served to customers on a tray through a cafeteria line for consumption at a table, booth, or counter inside the establishment.
- D. RESTAURANT, FAST-FOOD CARRY-OUT — Any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so it can readily be eaten away from the premises as there are no facilities for on-premises consumption of food.
- E. RESTAURANT, DRIVE-IN OR DRIVE-THROUGH — Any establishment where ready-to-eat food primarily intended for immediate consumption is available upon a short waiting time and packaged or presented so that it can be readily eaten inside the premises and whose method of operation is also to serve customers in motor vehicles either at a drive-through window or while parked.

RESTORATION — The act of returning a site or area to an original state or any action that reestablishes all or a portion of the ecological structure and functions of a site or area.

RETAIL STORE — Stores selling one kind or various kinds of goods, as distinct from services, such as, but not limited to, drugstores, grocery stores, department stores, camera shops, bookstores, and record shops.

RIGHT-OF-WAY — A strip of land designated for the use of a road, highway, driveway, alley, walkway, or any drainage or public utility purpose or other similar uses.

RIPARIAN HABITAT — A habitat that is strongly influenced by water and which occurs adjacent to streams, shorelines, and wetlands.

ROAD — A public thoroughfare under the jurisdiction of the state, a county, a municipal corporation, or any other public body. "Road" does not include a drive aisle or a driveway.

ROOMING HOUSE — Same as "boardinghouse."

SATELLITE DISH (RECEIVE-ONLY) — A device or instrument designed or used for the reception of television or other electronic communications signal broadcast or relayed from an earth satellite, typically up to 12 feet in diameter, in the shape of a shallow dish or parabola.

**SEASONALLY FLOODED WATER REGIME** — A condition where surface water is present for extended periods, especially early in the growing season, and when surface water is absent, the water table is often near the land surface.

**SEAT** — For the purpose of determining the number of off-street parking spaces for certain uses, the number of seats is the number of seating units installed or indicated or every 24 linear inches of benches, pews, or space for loose chairs.

**SECONDARY HIGHWAY** — A highway designated as a state secondary highway by the Maryland Department of Transportation.

**SELECTION** — The removal of single, scattered, mature trees or other trees from uneven-aged stands by frequent and periodic cutting operations.

**SEMIPUBLIC** — A use owned or operated by a nonprofit, religious, or philanthropic institution and providing education, cultural, recreational, religious, or similar types of public programs.

**SENIOR CENTER** — An establishment that may function as a meal site, screening clinic, recreational clinic, recreational center, social service agency branch office, mental health counseling clinic, older worker employment agency, volunteer coordinating center, and community meeting hall.

**SENSITIVE AREAS** — Environmental protection areas identified in the Economic Growth, Resource Protection, and Planning Act of 1992 (See § 5-7A-01 et seq. of the Annotated Code of Maryland.) for which special standards designed to protect these areas from the adverse effects of development have been included in this chapter. (See § 128-153.) These areas include the following:

- A. Streams and their buffers;
- B. One-hundred-year floodplain;
- C. Habitats of threatened and endangered species;
- D. Steep slopes; and
- E. Any other areas determined by the Town.

**SETBACK** — The minimum required distance between the point where any structure on a lot meets the ground surface and any lot line or boundary of a Town or state road right-of-way.

**SEXUAL DEVICE** — Shall have the meaning set forth in § 30-1 of the Denton Town Code.

**SHORE STABILIZATION** — Any number of structural and nonstructural methods or techniques used to control the erosion of shoreline areas.

**SHORE STABILIZATION PROTECTION WORKS** — Those structures or measures constructed or installed to prevent or minimize erosion of the shoreline in the Critical Area.

**SIGN** — A sign is any structure or part thereof, or any device attached to, painted on, or represented on a building, fence, or other structure, upon which is displayed or included any letter, work, model, banner, flag, pennant, symbol, decoration, device, or representation used as, or which is in the nature of, an announcement, direction, advertisement, or other attention-directing device. A sign shall not include a similar structure or device located within a building except illuminated boards but does not include the flag, pennant, or symbol of any nation or association of nations, or any state, city, or another political unit, or of any political, charitable, educational, philanthropic, civic, or like campaign, drive, movement, or event.

**SIGN, ABANDONED OR OBSOLETE** — A sign, either on-premises or off-premises, which identifies, describes, directs attention to, or gives directions for locating any business or establishment no longer in operation or advertises any product no longer being marketed or any sign structure in disrepair.

**SIGN, A-FRAME** — A freestanding sign usually hinged at the top or attached in a manner and widened at the bottom to form a shape similar to the letter "A." Such signs are usually designed to be portable and not considered to be permanent signs.

**SIGN AREA** — That area enclosed by the periphery connecting the extreme points or edges of a sign. The area shall be determined using the largest sign area or silhouette visible at any one time from any one point. This area does not include the main supporting sign structure, but all other ornamental attachments, inner connecting lines, etc., which are not part of the main supports of the sign, are to be included in determining the sign area. On a two-sided sign, only one face is counted in computing the sign's area, provided the faces are located not more than two feet from each other.

**SIGN, BANNER** — Any cloth, bunting, plastic, paper, or similar non-rigid material and captive/tethered balloon or inflatable sign used for advertising purposes attached to or pinned on or from any structure, staff, pole, line, framing, or vehicle.

**SIGN, BILLBOARD** — A structure designed, intended, or used for advertising a product, property, business, entertainment, service, amusement, or the like, and not located where the matter advertised is available or occurs.

**SIGN, BULLETIN BOARD** — A board or wall area on which bulletins, notices, announcements, or displays are posted.

**SIGN, CHANGEABLE ELECTRONIC MESSAGE BOARD** — A sign or portion thereof that displays electronic, nonpictorial text information in which each alphanumeric character, graphic, or symbol is defined by a small number of matrix elements using different combinations of light-emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area. Electronic changeable message board signs include computer-programmable, microprocessor-controlled electronic displays.

**SIGN, CHANGEABLE MESSAGE BOARD** — A freestanding, permanent, or moveable sign with manually moveable and interchangeable letters or numbers.

**SIGN, COMBINATION** — A freestanding sign that has a permanent component advertising a business and also has a message board component.

**SIGN, CONSTRUCTION** — A sign erected during the construction of a building or other type of improvement, customarily listing the name of the owner, architect, engineer, designer, and/or contractors involved in the construction of the building or improvement.

**SIGN, DIRECTIONAL** - Signs designed to provide direction to pedestrian and vehicular traffic into and out of or within a site.

**SIGN, ELECTRONIC DISPLAY SCREEN** — A sign or portion of a sign that displays an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays.

**SIGN, ELECTRONIC GRAPHIC DISPLAY** — A sign or portion thereof that displays electronic, static images, static graphics, or static pictures, with or without information, defined by a small number of matrix elements using different combinations of light-emitting diodes (LEDs), fiber optics, light bulbs or other illumination devices within the display area where the message change sequence is accomplished immediately or by means of a fade, re-pixilation or dissolve mode. Electronic graphic display signs include computer-programmable, microprocessor-controlled electronic or digital displays. Electronic graphic display signs include projected images or messages with these characteristics onto buildings or other objects.

**SIGN, ELECTRONIC MESSAGE BOARD** — Any sign or portion of a sign that uses changing lights to form a sign message or messages in text form wherein the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes.

**SIGN, FLAG** — Any cloth, bunting, or similar material containing distinctive colors, patterns, or symbols indicating the name, trademark, or logo of a business or used as an advertising device.

**SIGN, FLASHING** — Any illuminated sign on which the artificial or reflected light is not maintained stationary and constant in intensity and color at all times when in use. Any revolving illuminated sign shall be considered a flashing sign.

**SIGN, FLAT/WALL** — Any sign attached parallel to, but within nine inches of, a wall, which is supported by such wall or building and displays only one sign surface. This definition includes those signs painted in or erected and confined within the limits of an outside wall or building.

**SIGN, FREESTANDING** — A sign that is attached to, erected on, or supported by some structure (such as a pole, mast, frame, or other structure) that is not itself an integral part of or attached to a building or other structure having a principal function other than the support of a sign. A sign that stands without separate supporting elements, such as a "sandwich sign," is also freestanding.

**SIGNIFICANTLY ERODING AREAS or SIGNIFICANT SHORELINE EROSION** — Areas that erode two feet or more per year.

**SIGN, MARQUEE** — A roof-like structure of a permanent nature that projects from the wall of a building or its supports and may overhang the public way.

**SIGN, PENNANT** — Any cloth, bunting, plastic, paper, or similar material, whether or not it contains a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

**SIGN, PERMANENT MATERIAL** — A sign constructed of materials engineered or manufactured to be durable, designed for long-term use, and appropriate for the conditions where such a sign is located. Examples of permanent sign materials are exterior-grade wood, such as redwood or cedar, high-density urethane, dibond, aluminum, and medium-density overlay (MDO).

**SIGN, PERSONAL EXPRESSION** — An on-premises sign that expresses an opinion, interest, position, or other non-commercial message.

**SIGN, POLITICAL** — A temporary sign designed to attract support for a particular candidate, political party, or political issue or to express an opinion on any matter of public interest.

**SIGN, PORTABLE, OR MOBILE** — A sign that is not permanently secured to a structure or the ground.

**SIGN, PROJECTING** — Any sign affixed to a building or wall in such a manner that its leading edge extends more than nine inches beyond the surface building or wall.

**SIGN, SHIMMERING** — A sign that reflects an oscillating, sometimes distorted visual image.

**SIGN, STOREFRONT WINDOW** — Any sign, picture, symbol, or combination thereof designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the windowpanes or glass and is visible from the exterior of the window. This definition shall not include the display of merchandise, provided that such display does not contain any advertising.

**SIGN, TEMPORARY** — Any movable sign, not permanently attached to the ground, a structure, or other sign, designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes intended for a limited period of display.

**SIGN, TIME/TEMPERATURE** — An electronic or mechanical device that shows time and/or temperature but contains no business identification or advertising.

**SIGN, VEHICLE** — Any sign exceeding 10 square feet in area and mounted on, painted on, placed on, attached, or affixed to a trailer, watercraft, truck, automobile, or other form of transportable vehicle so parked or placed so that the sign thereon is discernible from a public street or right-of-way as a means of communication or exhibiting.

**SILVICULTURE** — The care and cultivation of forest trees; forestry.

**SITE PLAN** — A drawing or plat that describes and locates required improvements of a development tract in accordance with the provisions of Article XVI of this chapter.

- A. Concept or sketch: an informal pre-submission of an illustration(s) demonstrating the proposed development of a site.
- B. Preliminary: drawing(s) with more substantive detail than a concept or sketch plan indicating the proposed layout of the subdivision or site, including the geometric layout with all proposed streets, lots, and easements drawn to scale.
- C. Final: detailed drawing(s) with all substantive specificity (information about the project, including, but not limited to, legal data, impact on environs, natural features, existing development, infrastructure, and the site development).

**SLUM** — Any area where dwellings predominate that, by reason of dilapidation, overcrowding, lack of ventilation, light or sanitary facilities, or any combination of these factors, is detrimental to safety, health, or morals.

**SMALL SHRUB** — A shrub that, when mature, reaches a height no greater than six feet.

**SOIL CONSERVATION AND WATER QUALITY PLANS** — Land use plans for farms that show farmers how to make the best possible use of their soil and water resources while protecting and conserving those resources for the future. It is a document containing a map and related plans that indicate:

- A. How the landowner plans to treat a farm unit;
- B. Which best management practices the landowner plans to install to treat undesirable conditions and
- C. The schedule for applying best management practices.

**SOLAR PANEL** — A packaged interconnected assembly of solar cells, also known as "photovoltaic cells." The solar panel is used as a component in a larger photovoltaic system. Because a single solar panel can only produce a limited amount of power, many installations contain several panels and are known as a "photovoltaic array." A photovoltaic installation typically includes an array of solar panels, an inverter, batteries, and interconnection wiring.

**SPECIAL EVENTS** — Circuses, fairs, carnivals, festivals, or other types of special events that run for longer than one day but not longer than two weeks, are intended to or likely to attract substantial crowds and are unlike the customary or usual activities generally associated with the property where the special event is to be located.

**SPECIAL EXCEPTION** — Permission given by the Board of Appeals to establish a specific use that would not be appropriate generally or without restriction throughout a zoning district but which, if controlled as to number, area, location, or relation to the neighborhood would comply with the purpose and intent of this chapter. Such uses may be approved within a zoning district if a specific provision for such a special exception is made in this chapter.

**SPECIES IN NEED OF CONSERVATION** — Those fish and wildlife whose continued existence as part of the state's resources are in question and which may be designated by regulation by the Secretary of Natural Resources as in need of conservation pursuant to the

requirements of Natural Resources Article, §§ 10-2A-03 and 4-2A-03, Annotated Code of Maryland.

**SPOIL PILE** — The overburden and reject materials as piled or deposited during surface mining.

**SPOT BLIGHT** — A structure, improvement, or lot that is a blighted property as defined in this section.

**SPOT BLIGHT ABATEMENT PLAN** — A written plan prepared by the owner or owners of record of the real property to address spot blight.

**STABLE, COMMERCIAL, OR CLUB** — Any building or land where horses are kept for breeding, hire, sale, boarding, riding, or show.

**STABLE, NONCOMMERCIAL** — Any building or structure, accessory to the principal use of the premises as a residence, that shelters horses for the exclusive use of the occupants of the premises.

**STATE TIDAL WETLAND** — Any land under the navigable waters of the state below the mean high tide affected by the regular rise and fall of the tide. Tidal wetlands of this category, which have been transferred by the state by a valid lease, patent, or grant confirmed by Article 5 of the Maryland Declaration of Rights, are considered "private tidal wetlands" to the extent of the interest transferred.

**STEEP SLOPES** — Any slope with a grade of 15% or more shall be considered a steep slope.

**STORAGE** — The keeping, either indoors (including inside a cargo trailer) or outdoors, of equipment, vehicles, or supplies used in the conduct of a trade, business, or profession. Storage does not include the overnight parking in residential zones of a single vehicle weighing no more than 2.5 tons gross vehicle weight, which, although used primarily for business, trade, or professional purposes, also provides daily transportation to and from work.

**STORMWATER MANAGEMENT** —

- A. For quantitative control, a system of vegetative and structural measures that control the increased volume and rate of surface runoff caused by man-made changes to the land and
- B. For qualitative control, a system of vegetative, structural, and other measures that reduce or eliminate pollutants that might otherwise be carried by surface runoff.

**STORMWATER MANAGEMENT PLAN** — A set of drawings or other documents submitted by a person as a prerequisite to obtaining stormwater management approval, which contains all of the information and specifications pertaining to stormwater management.

**STORY** — That portion of a building other than a basement, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between such floor and the ceiling next above it.

**STORY, HALF** — A space under a sloping roof at the top of the building, the floor of which is not more than two feet below the plate, shall be counted as a half story when not more than 60%

of said floor area is used for rooms, baths, or toilets. A half-story containing an independent apartment or living quarters shall be counted as a full story.

**STREET** — A public thoroughfare that affords the principal means of access to property abutting thereon.

**STREET CLASSIFICATION/FUNCTIONAL SYSTEMS FOR RURAL AREAS ROAD CLASSIFICATION** — Rural roads consist of those facilities that are outside of small urban and urbanized areas. They are classified into four major systems: principal arterials, minor arterial roads, major and minor collector roads, and local access streets. The road classifications are shown conceptually in the Comprehensive Plan.

**STREET, CUL-DE-SAC** — A street that terminates in a vehicular turnaround.

**STREET LINE** — A dividing line between a lot, trace, or parcel of land and a contiguous street.

**STREET, SERVICE ACCESS** — A minor street that is parallel and adjacent to (principal arterials) parkways, throughways, or bypasses and which provides access to abutting properties and protection from through traffic.

**STRUCTURAL ALTERATIONS** — Any change in the supporting members of a building, including but not limited to bearing walls or partitions, columns, beams, girders, or any substantial change in the roof or the exterior walls.

**STRUCTURE** — Building or construction materials, or a combination of those materials, that are purposely assembled or joined together on or over land or water. "Structure" includes a temporary or permanent fixed or floating pier, piling, deck, walkway, dwelling, building, boathouse, platform, gazebo, or shelter for marine access, navigation, working, eating, sleeping, or recreating.

**SUBDIVISION** — The division of a tract of land into two or more lots, building sites, or other divisions for sale or building development (whether immediate or future).

**SUBDIVISION, MAJOR** — Any subdivision other than a minor subdivision.

**SUBDIVISION, MINOR** — A subdivision that does not involve any of the following: the creation of more than a total of three lots; the creation of any new public streets; the extension of a public water or sewer system; or the installation of drainage improvements through one or more lots to serve one or more other lots.

**SUBSTANTIAL ALTERATION** — Any repair, reconstruction, or improvement of a principal structure where the proposed footprint equals or exceeds 50% of the existing principal structure.

**SUPERMARKET** — A store that is larger than, and has a wider selection of products than, a grocery store. A supermarket typically offers a wide variety of food and household merchandise organized into departments.



**SUPPLEMENTAL PLANTING PLAN** — A description and landscape schedule that shows the proposed species type, quantity, and size of plants to be located within a buffer if natural regeneration does not meet the required stem density.

**TATTOO STUDIO/PARLOR** — A place where people receive permanent decorative tattoos and/or body piercing from a tattoo artist.

**TAVERN** — An establishment used primarily for the serving of liquor by the drink to the public and where food or packaged liquors may be served or sold only as an accessory to the primary use. Also called a "bar" or "lounge."

**TELEVISION OR SATELLITE DISH** — A device or equipment used primarily for the receiving of television, radio programming, or Internet which is a subordinate use or structure customarily incidental to and located upon the same lot as the main structure, in either a side or rear yard.

**TEMPORARY EMERGENCY, CONSTRUCTION, OR REPAIR RESIDENCE** — A residence (which may be a mobile home) that is located on the same lot as a residence made uninhabitable by fire, flood, or other natural disaster and occupied by the persons displaced by such disaster; or located on the same lot as a residence that is under construction and occupied by the persons intending to live in such permanent residence when the work is completed; or located on a nonresidential construction site and occupied by persons having construction or security responsibilities over such construction site. These residences shall be removed from the site within one month of the resolution of the situation that prompted their need.

**TEMPORARY DISTURBANCE** — A short-term change in the landscape that occurs as part of a development or redevelopment activity. "Temporary disturbance" includes storage of materials that are necessary for the completion of the development or redevelopment activity; construction of a road or other pathway that is necessary for access to the site of the development or redevelopment activity if the road or pathway is removed immediately after completion of the development or redevelopment activity and the area is restored to its previous vegetative condition; and grading of a development site, if the area is restored to its previous vegetative condition immediately after completion of the development or redevelopment activity. "Temporary disturbance" does not include a septic system in a forest or developed woodland on a lot created before local program approval if clearing is required. "Temporary disturbance" also does not include a violation.

**THREATENED SPECIES** — Any species of fish, wildlife, or plants designated as such by regulation by the Secretary of the Department of Natural Resources that appear likely, within the foreseeable future, to become endangered, including any species of wildlife or plant determined to be threatened species pursuant to the federal Endangered Species Act, 16 U.S.C. § 1531 et seq., as amended.

**TIDAL WETLANDS** — All state and private wetlands, marshes, submerged aquatic vegetation, lands, and open water affected by the daily and periodic rise and fall of the tide within the Chesapeake Bay and its tributaries, the coastal bays adjacent to Maryland's coastal barrier islands, and the Atlantic Ocean to a distance of three miles offshore of the low-water mark.

**TOPOGRAPHY** — The existing configuration of the earth's surface, including the relative relief, elevations, and position of land features.

**TOURIST COURT; AUTO COURT** — Same as "motel."

**TOURIST HOME** — A private, owner-occupied home in which bedrooms are rented to tourists or travelers.

**TOWER** — Any structure whose principal function is to support an antenna or wind turbine.

**TOWNHOUSE** — One of a group of attached single-family dwellings that are designed as single structures, with each dwelling unit separated by fire walls, fire separations, or similar party walls.

**TOWNHOUSE UNIT**—A single-family dwelling forming one of a series of three or more attached single-family dwellings separated from one another by party walls without doors, windows, or other provisions for human passage or visibility through such walls from basement to roof and having roofs that may extend from one such dwelling unit to another.

**TRACT** — A lot. (See definition of "lot.") The term "tract" is used interchangeably with the term "lot," particularly in the context of subdivisions, where one tract is subdivided into several lots.

**TRANSITIONAL HABITAT** — A plant community whose species are adapted to the diverse and varying environmental conditions that occur along the boundary that separates aquatic and terrestrial areas.

**TRANSPORTATION FACILITIES** — Anything that is built, installed, or established to provide a means of transport from one place to another.

**TREE** — For purposes of the Critical Area, a woody perennial plant having a single, usually elongated main stem generally with few or no branches on its lower part; a perennial shrub or herb of arborescent form. For purposes of the forest conservation provisions of this chapter, a tree is defined as a large, woody plant having one or several self-supporting stems or trunks and numerous branches that reach a height of at least 20 feet at maturity.

**TRIBUTARY STREAMS** — Perennial and intermittent streams in the Critical Area that are so noted on the most recent U.S. Geological Survey 7.5-minute topographic quadrangle maps (scale 1:24,000) or on more detailed maps or studies at the discretion of the Town.

**UNDERSTORY** — The layer of forest vegetation typically located underneath the forest canopy.

**UNDERREPRESENTED COMMUNITY** – The term has the meaning stated in §19-106 of the Business Regulation Article, Annotated Code of Maryland.

**UNDERSERVED COMMUNITY** — The term has the meaning stated in §1-701 of the Environment article Annotated Code of Maryland.

**UNDERSTORY TREE** — A tree that, when mature, reaches a height between 12 and 35 feet.

**UNWARRANTED HARDSHIP** — Without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.

**UPLAND BOUNDARY** — The landward edge of a tidal wetland or nontidal wetland.

**USE** — The purpose or activity for which land or any building thereon is designed, arranged, or intended or for which it is occupied or maintained.

**USE, CONDITIONAL** — Permission to conduct certain activities within a zoning district. Such activities are considered conditional uses, which are permitted within the zone only upon special approval of the Board of Appeals.

**USE, PERMITTED** — A use which may be lawfully established in a particular district or district, provided it conforms to all regulations, requirements, and standards of such district.

**USE, PRINCIPAL** — A use listed in the Table of Permitted Uses.

**USE, SPECIAL EXCEPTION** — See "use, conditional."

**UTILITY FACILITIES, COMMUNITY, OR REGIONAL** — All utility facilities other than neighborhood utility facilities.

**UTILITY FACILITIES, NEIGHBORHOOD** — Utility facilities that are designed to serve the immediately surrounding neighborhood and that must, for reasons associated with the purpose of the utility in question, be located in or near the neighborhood where such facilities are proposed to be located.

**UTILITY TRANSMISSION FACILITIES** — Fixed structures that convey or distribute resources, wastes, or both, including, but not limited to, electric lines, water conduits, and sewer lines.

**VARIANCE** — A modification only of density, bulk, or area requirements in this chapter where such modifications will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of any action taken by the applicant, a literal enforcement of this chapter would result in unnecessary hardship.

**VENDOR OPERATIONS** — Those uses offering a product for sale on a regular basis, in which said sales are not located within a permanent structure.

**VIEWING BOOTH** — Any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat patrons and is used for presenting motion pictures or viewing publications by any photographic, electronic, magnetic, digital, or other means or media (including, but not limited to, film, video or magnetic tape, laser disc, CD-ROM, books, magazines, or periodicals) for observation by patrons therein. A viewing booth shall not mean a theater, movie house, playhouse, or a room or enclosure or portion thereof that contains more than 600 square feet.

**WAREHOUSE** — A structure used for the storage and/or the sale of products at wholesale and where the sale of a product at retail is incidental.

**WASH PLANT** — A facility where sand and gravel are washed during processing.

**WATER-BASED AQUACULTURE** — The raising of fish and shellfish in any natural, open, free-flowing water body.

**WATERCOURSE** — Any natural or artificial stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash, in and including any area adjacent to it which is subject to inundation by reason of overflow or water.

**WATER-DEPENDENT FACILITIES** — Those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the buffer. An activity is water dependent if it cannot exist outside the buffer and is dependent on the water by reason of the intrinsic nature of its operation. Such activities include, but are not limited to, ports, the intake and outfall structures of power plants, water-use industries, marinas, and other boat-docking structures, public beaches and other public water-oriented recreation areas, and fisheries activities.

**WATERFOWL** — Birds which frequent and often swim in water, nest and raise their young near water, and derive at least part of their food from aquatic plants and animals.

**WATER-USE INDUSTRY** — An industry that requires a location near the shoreline because it utilizes surface waters for cooling or other internal purposes.

**WHOLESALE** — The selling of goods in relatively large quantities and usually at lower prices than at retail, especially such selling to retailers for resale to consumers.

**WILDLIFE CORRIDOR** — A strip of land having vegetation that provides habitat and a safe passageway for wildlife.

**WILDLIFE HABITAT** — Those plant communities and physiographic features that provide food, water, cover, and nesting areas, as well as foraging and feeding conditions necessary to maintain populations of animals in the Critical Area.

**WILD OR EXOTIC ANIMAL** — Any live monkey, raccoon, skunk, wolf, squirrel, fox, leopard, panther, tiger, lion, lynx, or any other warm-blooded animal, poisonous snake or tarantula that can normally be found in the wild state or any other member of crocodilian, including but not limited to alligators, crocodiles, caimans, gavials or any other animal so classified by the State of Maryland. Ferrets, nonpoisonous snakes, rabbits, and laboratory rats which have been bred in captivity and which have never known the wild, shall be excluded from this definition.

**WIND TURBINE** — A device with vanes that are rotated by the wind to generate electricity, usually similar in appearance to a giant aircraft propeller and mounted on a tall, slim tower.

**WOODED AREA** — An area of contiguous wooded vegetation where trees are at a density of at least one six-inch-or-greater-caliper tree per 325 square feet of land and where the branches and leaves form a contiguous canopy.

**YARD** — An open space other than a court on a lot unoccupied and unobstructed from the ground upward except as otherwise provided for in this chapter.

**YARD, FRONT** — A yard extending across the front of a lot between the side lot lines and being the minimum horizontal distance between the street line and the main building or any projection thereof, other than the terraces or uncovered porches. On corner lots, the front yard shall be considered parallel to the street upon which the lot has its least dimension.

**YARD, REAR** — A yard extending across the rear of the lot between the side lot lines and measured between the rear lot line and the rear of the main building or any projection other than steps, unenclosed porches, or entranceways.

**YARD, SIDE** — A yard between the main building and the sideline of the lot extending from the front yard to the rear yard and being the minimum horizontal distance between the side lot line and the side of the main buildings or any projections thereof.

**ZONING DISTRICT** — An area within which certain uses of land and structures are permitted and certain others are prohibited; yards and other open spaces are required; minimum lot areas and dimensions and other requirements are established.

**ZONING OVERLAY DISTRICT** — A district that is placed over the existing regular or parent zoning because of the siting of a zoning district or imposes additional restrictions, e.g., the Critical Area Overlay District.

**ZONING PERMIT** — A written statement issued by the Director of Planning and Codes authorizing buildings, structures, or uses consistent with the terms of this chapter and for the purpose of carrying out and enforcing its provisions.

### **Article III - Zoning Districts and Zoning District Maps.**

#### **§ 128-16. Zoning Districts Established.**

A. The following base zoning districts are established for Denton, Maryland:

- SR Suburban Residential
- TR Town Scale Residential
- MR Mixed Residential
- UR Urban Residential
- GC General Commercial
- CBC Central Business Commercial
- RHC Regional Highway Commercial
- CM Commercial Medical
- I Industrial
- MI Mixed Industrial
- RA Rural Agriculture

B. The following overlay zoning districts are established for Denton, Maryland:

- CA Chesapeake Bay Critical Area Overlay Zone
- FP Floodplain District Overlay Zone
- HD Historic District Overlay Zone
- IRD Infill and Redevelopment Overlay Zone

C. The following floating zone districts are established for Denton, Maryland:

- AE Arts and Entertainment District
- GA Critical Area Growth Allocation District
- PN Planned Neighborhood District
- PUD Planned Unit Development

#### **§ 128-17. District Purpose.**

A. Base Zoning Districts.

- (1) SR - Suburban Residential – The SR Suburban Residential District encompasses an area primarily characterized as low-density single-family residential units with an average density of about one dwelling unit per acre. Also located here is one townhouse development with approximately four units per acre. Slightly more than one-third of the district is undeveloped land. The standards and development options applicable in this zoning district aim to make more efficient use of the Town's land resources and increase the supply of affordable housing by enabling its character to transition over time to that of the Urban Fringe and General Urban Transects discussed in the Comprehensive Plan. Base zoning standards protect existing neighborhoods from incompatible development and add two-family residential and accessory dwelling units by right. At the same time, development options provide an opportunity for context-appropriate infill and redevelopment of vacant and underutilized land and mixed-use development in planned communities. Along with residential development, the district also provides for siting public buildings, schools, churches, open spaces, public recreational facilities, accessory uses, and the like that are necessary or usually compatible with residential surroundings.
- (2) TR - Town Scale Residential – The TR Town Residential District encompasses an area primarily characterized as low to medium-density single-family residential units with an average density of slightly less than three dwelling units per acre. Approximately one-quarter of the district is unimproved, with parcels ranging from less than one-tenth of an acre to more than twenty-three acres. Consistent with the objectives of the Comprehensive Plan to make more efficient use of the Town's land resources and increase the supply of affordable housing, the district standards enable the district's character to transition over time to that of the General Urban and Urban Core Transects discussed in the Comprehensive Plan. Base zoning standards protect existing neighborhoods from incompatible development and add two-family residential and accessory dwelling units as a by-right use. At the same time, development options provide an opportunity for context-appropriate infill and redevelopment with missing middle housing unit types, accessory dwelling units, and mixed-use development in planned communities on larger parcels. District standards also provide for public buildings, schools, churches, open spaces, public recreational facilities, accessory uses, and the like that are necessary or usually compatible with residential surroundings.
- (3) MR - Mixed Residential – The objective of the MR Mixed Residential District is to facilitate the development of higher-density single-family and multiple-family residences within the Town core. Approximately half of the MR Mixed Residential District is comprised of improved properties featuring medium-density single-family homes, as well as higher-density townhouses and apartment units. This zone also encompasses certain commercial and mixed-use developments.

The objective for portions of the MR District that are adjacent to the Urban Core Transect and within a reasonable walking distance from the Town center is to promote the ongoing development of a diverse mix of higher-density residential options along with some commercial and mixed uses, like those found in the Urban Core Transect. In areas of the MR district that are more distant from the Town center, zoning regulations are implemented to safeguard existing neighborhoods from incompatible developments while permitting a variety of housing types in well-planned developments on larger parcels.

In addition, flexible development options allow context-appropriate infill and redevelopment projects within existing neighborhoods that enable the area to evolve to the adjacent urban center level of intensity but with discretion to ensure no neighborhood is overwhelmed by inappropriate development. The district standards also accommodate public buildings, schools, churches, open spaces, public recreational facilities, accessory uses, and other amenities that are essential or typically compatible with residential environments.

- (4) UR - Urban Residential - The UR Urban Residential District provides a framework for revitalizing underutilized areas east of MD 404, creating walkable, mixed-use communities that offer a range of housing choices and contribute to a more sustainable and vibrant urban fabric. The purpose of the MR-2 Mixed Residential District is to enable more compact, mixed-use nodes and encourage compact, sustainable, and vibrant urban form. The district is strategically applied to areas east of MD 404 currently characterized by scattered suburban development and vacant or underutilized parcels. By facilitating a range of housing types and densities, the district encourages a shift away from the typical low-density, single-family home-dominated suburban pattern, reducing sprawl and promoting more efficient land use.

The district allows a mix of single-family, multifamily, and townhomes to accommodate diverse needs and increase housing availability in vibrant, mixed residential neighborhoods that cater to a wider range of needs and demographics, attracting a more diverse population and a greater range of housing affordability. The district specifically permits the development of four-story townhomes as an innovative solution for increasing density while maintaining a compact footprint and providing functional living spaces. Permitting taller buildings is a key strategy for increasing density and making efficient use of land without significantly expanding a building's footprint. Allowing tall buildings promotes a more vertical development pattern, a hallmark of compact urban form.

District standards incorporate provisions to ensure new development complements the surrounding character, avoids abrupt transitions, and is compatible with adjacent land uses while allowing for a variety of housing types. The district's emphasis on compatibility with existing neighborhoods is crucial for successful integration in suburban areas.



- (5) GC - General Commercial - The purpose of the GC General Commercial District is to provide sufficient space in appropriate locations for a wide variety of business, commercial, and service activity, but which uses are not characterized by extensive warehousing, frequent heavy trucking activity, open storage of material, or the nuisance factors of dust, odor, and noise associated with manufacturing. The overall intent of this district is to provide areas for local commercial needs within the core areas of the Town that are compatible with the surroundings.
- (6) CBC - Central Business Commercial - The purpose of the CBC Central Business Commercial District is to provide retail and office development and redevelopment within the Central Business Commercial District of the Town. Appropriate uses are generally the same as for the GC General Commercial District, but with altered yard and off-street parking requirements in recognition of the practical difficulty of providing off-street parking and the collective responsibility to provide off-street parking for smaller establishments. Development/redevelopment in this district shall be compatible with the existing historic, aesthetic, and pedestrian character of the downtown area in scale and design. Residential uses are also appropriate in this district.
- (7) CM – Commercial Medical District - The purpose of the CM Commercial Medical District is to provide an area for the orderly development of medical-related uses, including care facilities within the Town. Permitted uses in the district include those customarily associated with medical care and assisted living. Residential uses are also appropriate in this district.
- (8) RHC - Regional Highway Commercial - The purpose of the RHC Regional Highway Commercial District is to provide a variety of retail and office establishments and commercial services for use by the traveling public on or near major roads or streets in the Town and at the same time, is intended to maintain the appearance of the highways and their access points by limiting outdoor advertising and establishing high standards for development. Commercial development in this district shall be in the form of well-planned commercial concentrations. Commercial development in this district shall be subject to standards for buffering and landscaping, access control, internal auto and pedestrian orientation, screening of loading/unloading and service areas, lot depth-to-width ratios which promote minimal road frontage, service roads, and reverse lot frontage concepts and other site design amenities which enhance aesthetic appeal.
- (9) I - Industrial - The purpose of the I Industrial District is to provide areas in the appropriate locations for light manufacturing, fabricating, warehousing, and wholesale distribution in low buildings with off-street loading and off-street parking for employees and with access to major thoroughfares or railroads. Development standards for this district shall control excessive heat, odor, noise,

dust, and vibration nuisance impacts that could potentially occur. Extensive bufferyards and screening shall be required to screen industrial development from adjacent residential development. Waste removal businesses and similar uses are not permitted in this district. This primary zoning district further intends to allow the establishment of an adult-oriented business consistent with applicable laws or regulations.

- (10) MI - Mixed Industrial - The purpose of the MI Mixed Industrial District is to offer property located northeast of Lincoln Street and Gay Street and southwest of the old railroad spur the opportunity to transition over time, as directed by the market, to a more mixed residential use. The current use is mainly industrial, and these uses will remain as permitted, with the addition of additional limited commercial uses and mixed residential uses allowed as referred to in the Official Table of Permitted Uses in § 128-87. A planned unit development (PUD), per Article IV of this chapter, is permitted with conditions.
- (11) RA - Rural Agriculture - The purpose of the RA Rural Agriculture District is to protect and preserve areas of the Town that are presently rural or in agricultural use. District standards permit agricultural activities, and related accessory uses while limiting residential. Additional protection is afforded sensitive environmental areas in those portions of the district in the Chesapeake and Coastal Bays Critical Area.

B. Overlay Zoning Districts.

- (1) CA - Chesapeake Bay Critical Area - The goals of the Town's Critical Area Overlay District are to accomplish the following:
  - (a) Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or runoff from surrounding lands.
  - (b) Conserve fish, wildlife, and plant habitat.
  - (c) Establish land use policies for development in the Critical Area, which accommodate growth and address the environmental impacts that the number, movement, and activities of people may have on the area.
  - (d) Reduce vulnerability to the impacts of climate change and incorporate measures to improve the climate resiliency of the Chesapeake and Atlantic Coastal Bays and its tributaries.
  - (e) Ensure an equitable distribution of the burdens and benefits of development, mitigation, restoration, conservation, and adaptation to climate change within the Critical Area.
- (2) HD - Historic District - The purpose of the Historic Overlay Zone is to:

- (a) Safeguard the heritage of the Town by preserving areas and structures that reflect elements of its cultural, social, economic, political, or architectural history or pre-history;
  - (b) Stabilize and improve property values in the area of historic districts and strengthen the local economy;
  - (c) Foster civic beauty;
  - (d) Promote the use and preservation of historic districts for the education, welfare, and pleasure of the residents of the Town, county, the State of Maryland, and the United States of America;
  - (e) Develop an awareness among property owners of the value of preserving, protecting, and restoring areas of historical significance; and
  - (f) Enable the Town government to identify and officially designate structures and sites of historical and cultural importance to the Town to protect, preserve, and promote the continued use and enhancement of the identified structures and sites to make such structures and sites eligible for specific benefits conferred by this and other Town ordinances and policies which may be adopted.
- (3) IRD - Infill and Redevelopment Overlay District – The purpose of the IRD - Infill and Redevelopment Overlay District is to accomplish the following:
- (a) Accommodate growth in Denton by encouraging and facilitating new development and redevelopment on vacant, bypassed, and underutilized land where such development is found to be compatible with the surrounding neighborhood and adequate public facilities and services exist;
  - (b) Encourage efficient use of land and public infrastructure;
  - (c) Stimulate re-investment in older established neighborhoods and the central business commercial area;
  - (d) Provide flexibility that achieves high-quality design and results in infill and redevelopment projects that strengthen existing neighborhoods;
  - (e) Streamline the development review process;
  - (f) Support and encourage local small businesses and local entrepreneurs; and
  - (g) Implement the goals, objectives, and policies of the Denton Comprehensive Plan.
- (4) FP - Floodplain District.

- (a) It is the purpose of the FP Floodplain District to designate all areas within the Town subject to inundation by floodwaters as defined and referenced by Chapter 58 of the Denton Town Code.
- (b) It is the intent hereof that the FP District shall protect the general welfare of the Town of Denton residents and the value of property by preventing excessive damage to buildings, structures, and land due to the conditions of flooding.

C. Floating Zoning Districts.

- (1) GA - Growth Allocation District - The purpose of the GA Growth Allocation Floating Zone District is to permit a change in the land management classification established in the Critical Area Overlay District on specific sites so that they may be developed to the extent permitted by the underlying zoning classification or the land use management classification.
- (2) PN - Planned Neighborhood District - The purpose of the PN Planned Neighborhood District is to provide for the development of well-planned, mixed-use neighborhoods that exhibit the following characteristics:
  - (a) Integrated mix of uses, including residential, commercial, employment/office, civic, and open space;
  - (b) A range of housing types and densities to accommodate a diverse population of age groups and income levels;
  - (c) Compact design;
  - (d) Interconnected streets designed to balance the needs of all users with sidewalks and on-street parking;
  - (e) Open spaces integral to the community; and
  - (f) Location adjacent to and extending the fabric of existing development.
- (3) AE - Arts and Entertainment District - The AE Arts and Entertainment District is intended to permit master-planned, mixed-use infill and redevelopment with an emphasis on for-profit and nonprofit artistic, cultural, educational, and musical uses of properties in identified redevelopment areas of the Town.
- (4) PUD - Planned Unit Development Floating Zone — The PUD Planned Unit Development floating zone provides for a mix of residential uses with certain provisions for commercial activities to serve primarily a resident population on large infill and redevelopment parcels within the existing urban fabric.

## **Article IV - Special Districts.**

### **Part A - CA - Critical Area Overlay District.**

#### **§ 128-18. Regulation and applicability; general requirements; accommodations.**

- A. The Town Critical Area Program - The Town of Denton Critical Area Program consists of the Chapter 128 Denton Zoning Ordinance and the Official Critical Area map(s). Related provisions may be found in Chapter 73, Land Subdivision.
- B. Regulated activities and applicability. Any applicant for a permit or license to pursue activities within the Critical Area, including, but not limited to, development or redevelopment, grading, sediment and erosion control, timber harvesting, shoreline erosion control, installation of a septic system and drain field, operation of a waste collection or disposal facility, operation of a commercial or private marina or other water-related commercial or industrial operation (whether public or private), mining (whether surface or subsurface) or quarrying, farming or other agriculture-related activities, shall have such permits or licenses issued by the duly appointed local approving authority after review to determine compliance with Chapter 128 and any related development provisions found in Chapter 73 Land Subdivision.
- C. Critical Area Overlay District Map.
  - (1) The Official Critical Area Overlay District Map is maintained in force as part of the Official Zoning Map for Denton. The Official Critical Area Map delineates the extent of the Critical Area Overlay District that shall include:
    - (a) All waters of and lands under the Chesapeake Bay and its tributaries to the head of tide, and all state and private wetlands designated under Title 16 of the Environment Article of the Annotated Code of Maryland; and
    - (b) All land and water areas within 1,000 feet beyond the landward boundaries of those resources indicated in Subsection C(1)(a) of this section.
  - (2) Critical Area Overlay Map. Within the designated Critical Area Overlay District, all land shall be assigned one of the following land management and development area classifications:
    - (a) Intensely Developed Area (IDA).
    - (b) Limited Development Area (LDA).
    - (c) Resource Conservation Area (RCA).
  - (3) The Critical Area Overlay District Map may be amended by the Town Council in compliance with amendment provisions in this article, the Maryland Critical Area Law, and COMAR Title 27, as amended from time to time.

- D. Notification of project approval. The Town shall send copies of applications for all developments, subdivisions, and site plans wholly or partially within the Critical Area as specified in COMAR 27.03.01.04 to the Critical Area Commission for review and comment.
- (1) The application shall be accompanied by a completed "Project Notification Application" form downloaded from the Critical Area Commission's website.
  - (2) The Town may not process an application that has been sent to the Critical Area Commission for notification until it has received notice of receipt by the Critical Area Commission or prior to the close of the fifth business day, whichever comes first. The Town may contact the Critical Area Commission to verify receipt.
  - (3) Any action by the Town in violation of these procedures shall be void.

<b>Summary of Notification Requirements Critical Area Commission (COMAR 27.03)</b>			
	<b>Requires Notification to the Critical Area Commission Yes/No</b>		
<b>Type of Application</b>	<b>IDA</b>	<b>LDA</b>	<b>RCA</b>
1. Disturbance to a Habitat Protection Area	Y	Y	Y
2. Physical disturbance to the Buffer (see Note 1)	Y	Y	Y
3. Variance from Critical Area provisions	Y	Y	Y
4. Development resulting in less than 5,000 square feet of disturbance	N	N	N
5. Development resulting in between 5,000 and 15,000 square feet of disturbance	N	N	Y
6. Development resulting in greater than 15,000 square feet of disturbance	Y	Y	Y
7. Subdivision of 3 lots or fewer	N	N	Y
8. Subdivision of 4 to 10 lots	N	Y	Y
9. Subdivision of greater than 10 lots	Y	Y	Y
10. Subdivision affecting Growth Allocation	N/A	Y	Y
11. Intrafamily transfer	N/A	N/A	Y
12. Rezoning that would partially within the Critical Area occur wholly or	Y	Y	Y
13. Special exception or conditional use for industrial commercial, institutional, non-residential, or multi-family	N	Y	Y
14. Substantial alteration to applications previously submitted to the Critical Area Commission	Y	Y	Y
Note 1: Shoreline stabilization measures and private piers that do not involve disturbance to the Buffer and are not permitted by MDE do not require Critical Area Commission notification.			

- E. General Requirements in all Critical Area Overlay Zones.

- (1) New solid or hazardous waste collection or disposal facilities, or sanitary landfills or rubble fills, including transfer stations, may not be permitted in the Critical Area unless no environmentally preferable alternative exists outside the Critical Area, and these development activities or facilities are needed to correct an existing water quality wastewater management problem. Existing permitted facilities shall be subject to the standards and requirements of the Department of the Environment.
- (2) Development and redevelopment shall be subject to the Habitat Protection Area (HPA) requirements prescribed in Chapter 128.
- (3) Development and redevelopment shall be subject to the water-dependent facilities requirements of Chapter 128.
- (4) Utility transmission facilities:
  - (a) Utility transmission facilities, except those necessary to serve permitted uses or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area provided:
    - (i) The facilities are located in IDAs; and
    - (ii) Only after the activity or facility has demonstrated to all appropriate local and state permitting agencies will there be a net improvement in water quality for the adjacent body of water.
  - (b) These provisions do not include power plants.
- (5) Roads, bridges, and utilities are prohibited in a Habitat Protection Area (HPA) unless no feasible alternative exists. If a road, bridge, or utility is authorized, the design, construction, and maintenance shall:
  - (a) Provide maximum erosion protection;
  - (b) Minimize negative impacts on wildlife, aquatic life, and their habitats; and
  - (c) Maintain hydrologic processes and water quality.
- (6) All development activities that must cross or affect streams shall be designed to:
  - (a) Reduce increases in flood frequency and severity that are attributable to development;
  - (b) Retain tree canopy to maintain stream water temperature within normal variation;
  - (c) Provide a natural substrate for stream beds; and
  - (d) Minimize adverse water quality and quantity impacts of stormwater.
- (7) Reasonable accommodations for the needs of disabled citizens.

- (a) An applicant seeking relief from the Critical Area standards contained in this Chapter to accommodate the reasonable needs of disabled citizens shall have the burden of demonstrating by a preponderance of the evidence the following:
  - (i) The alterations will benefit persons with a disability within the meaning of the Americans with Disabilities Act;
  - (ii) Literal enforcement of the provisions of this Chapter would result in discrimination by virtue of such disability or deprive a disabled resident or user of the reasonable use and enjoyment of the property;
  - (iii) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this Chapter or restore the disabled resident's or user's reasonable use or enjoyment of the property;
  - (iv) The accommodation requested will not substantially impair the purpose, intent, or effect of the provisions of this Chapter as applied to the property; and
  - (v) The accommodation would be environmentally neutral with no greater negative impact on the environment than the literal enforcement of the statute, ordinance, regulation, or other requirements or would allow only the minimum environmental changes necessary to address the needs resulting from the particular disability of the applicant/appellant.
- (b) The Planning Commission shall determine the nature and scope of any accommodation under this Chapter. It may award different or other relief than requested after giving due regard to the purpose, intent, or effect of this Chapter's applicable provisions. The Planning Commission may also consider the size, location, and type of accommodation proposed and whether alternatives exist that accommodate the need with less adverse effect.
- (c) The Planning Commission may require, as a condition of approval, that upon the termination of the need for accommodation, that the property be restored to comply with all applicable provisions of this Chapter. Appropriate bonds may be collected or liens placed to ensure the Town's ability to restore the property should the applicant fail to do so.
- (8) Where applicable, development and redevelopment shall include mitigation and adaptation measures that address sea level rise, storm surge, precipitation-induced flooding, other extreme weather events, migrating wetlands, and coastal forests, including measures to enhance the climate resiliency of the critical area by



identifying, restoring, and creating and conserving existing and projected future natural and nature-based features.

F. State and local agency projects.

- (1) For all development in the Critical Area resulting from state and local agency projects, the Town of Denton shall comply with the provisions of COMAR 27.02, as amended from time to time. If applicable, consistency reports shall be submitted to the Chesapeake Bay Critical Area Commission.
- (2) The Town of Denton will ensure the equitable distribution of the benefits and burdens of development, restoration, and mitigation within the critical area and equity in the public participation process for identified underserved and overburdened communities within the critical area for all Town projects.

**§ 128-19. Intensely Developed Areas (IDA).**

- A. The following uses may only be permitted in the IDA after the activity or facility has demonstrated to all appropriate local and State permitting agencies that there will be a net improvement in water quality to the adjacent body of water. These activities include the following:
- (1) Nonmaritime heavy industry;
  - (2) Permanent sludge handling, storage, and disposal facilities other than those associated with wastewater treatment facilities. However, agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the 100-foot Buffer.
- B. Development activities shall be designed and implemented to minimize the destruction of forest and woodland vegetation.
- C. All development and redevelopment activities shall include stormwater management technologies that reduce pollutant loadings by at least 10 percent (10%) below the level of pollution on the site before development or redevelopment as provided in Critical Area 10% Rule Guidance Manual — Fall 2003 and as may be subsequently amended.
- D. New, expanded, or redeveloped industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of IDAs that have been designated as Modified Buffer Areas (MBAs).

**§ 128-20. Limited Development Areas (LDA).**

- A. Development standards. For all development activities in the Limited Development Areas, the applicant shall identify any environmental or natural feature described below and shall meet all of the following standards:

- (1) If the Department of Natural Resources identifies a wildlife corridor system on or near the site, the following practices are required:
  - (a) The applicant shall incorporate a wildlife corridor system that connects the largest undeveloped or most vegetative tracts of land on and adjacent to the site;
  - (b) The Town will require and approve a conservation easement, restrictive covenant, or similar instrument to ensure the maintenance of the wildlife corridor; and
  - (c) A public or private group shall preserve the wildlife corridor.
- (2) Development on slopes of fifteen percent (15%) or greater, as measured before development, shall be prohibited unless the project is the only effective way to maintain or improve the stability of the slope and is consistent with the policies and standards for Limited Development Areas.
- (3) Except as otherwise provided in this subsection, lot coverage is limited to:
  - (a) When a site is mapped entirely as LDA, fifteen percent (15%) of the total site;
  - (b) When a portion of a lot or parcel is mapped as an LDA, fifteen percent (15%) of that portion of the lot or parcel and
  - (c) In the case of a growth allocation award:
    - (i) Fifteen percent (15%) of the growth allocation development envelope or
    - (ii) Fifteen percent (15%) of the acreage proposed for growth allocation.
  - (d) If a parcel or lot of 1/2 acre or less in size existed on or before December 1, 1985, then lot coverage is limited to twenty-five percent (25%) of the parcel or lot.
  - (e) If a parcel or lot greater than 1/2 acre and less than one acre in size existed on or before December 1, 1985, lot coverage is limited to fifteen percent (15%) of the parcel or lot.
  - (f) If an individual lot one (1) acre or less in size is part of a subdivision approved after December 1, 1985, then lot coverage may exceed fifteen percent (15%) of the individual lot; however, the total lot coverage for the entire subdivision may not exceed fifteen percent (15%).
  - (g) Lot coverage limits provided in Subsection A(3)(d) and (e) above may be exceeded upon findings by the Planning Commission or its designee that the following conditions exist:

- (i) The lot or parcel is legally nonconforming. A lot or parcel legally developed as of July 1, 2008, may be considered legally nonconforming for lot coverage requirements.
- (ii) Lot coverage associated with new development activities on the property has been minimized;
- (iii) For a lot or parcel 1/2 acre or less in size, total lot coverage does not exceed the lot coverage limits in Subsection A(3)(d) by more than twenty-five percent (25%) or five hundred (500) square feet, whichever is greater;
- (iv) For a lot or parcel greater than 1/2 acre and less than one acre in size, total lot coverage does not exceed the lot coverage limits in Subsection A(3)(e) or 5,445 square feet, whichever is greater;
- (v) The following table summarizes the limits set forth in Subsection A(3)(g)(i) through (iv) above:

<b>Table A(3)(g)[5] Lot Coverage Limits</b>	
<b>Lot/Parcel Size (square feet)</b>	<b>Lot Coverage Limit</b>
0 to 8,000	25% of the parcel plus 500 square feet
8,001 to 21,780	31.25% of parcel
21,780 to 36,300	5,445 square feet
36,301 to 43,560	15% of a parcel

- (h) If the Planning Commission or its designee makes the findings set forth in Subsection A(3)(g) above and authorizes an applicant to use the lot coverage limits set forth in that subsection, the applicant shall:
  - (i) Demonstrate that water quality impacts associated with runoff from the development activities that contribute to lot coverage have been minimized through site design considerations or the use of best management practices to improve water quality and
  - (ii) Provide on-site mitigation in the form of plantings to offset potential adverse water quality impacts from the development activities resulting in new lot coverage. The plantings shall be equal to two times the area of the development activity.
  - (iii) If the applicant cannot provide appropriate stormwater treatment and plantings due to site constraints, then the applicant shall pay a fee to the Town in lieu of performing the on-site mitigation. The

fee amount shall be \$1.50 per square foot of the required mitigation.

- (iv) For development that uses pervious materials that the Critical Area Commission has approved, the limits established in sections (g), (iii), and (iv) of this subsection may be exceeded by up to 500 square feet.
- (4) The alteration of forest and developed woodlands shall be restricted and mitigated as follows:
  - (a) The total acreage in forest and developed woodlands within the Town in the Critical Area shall be maintained or preferably increased;
  - (b) All forests and developed woodlands that are allowed to be cleared or developed shall be replaced in the Critical Area on not less than an equal area basis;
  - (c) If an applicant is authorized to clear more than twenty percent (20%) of a forest or developed woodlands on a lot or parcel, the applicant shall replace the forest or developed woodlands at 1.5 times the areal extent of the forest or developed woodlands cleared, including the first twenty percent (20%) of the forest or developed woodlands cleared.
  - (d) An applicant may not clear more than thirty percent (30%) of a forest or developed woodlands on a lot or parcel unless the Board of Appeals grants a variance and the applicant replaces forest or developed woodlands at a rate of three (3) times the areal extent of the forest or developed woodlands cleared.
  - (e) If an applicant is authorized to clear any percentage of forest or developed woodlands associated with a subdivision or site plan approval, the remaining percentage shall be maintained through recorded, restrictive covenants or similar instruments approved by the Town.
- (5) The following are required for forest or developed woodlands clearing as required in Subsection A(4) above:
  - (a) The applicant shall ensure that any plantings that die within twenty-four (24) months of installation shall be replaced. A performance bond in an amount determined by the Town shall be posted to assure satisfactory replacement and plant survival;
  - (b) A permit is issued by the Town before forest or developed woodlands are cleared. Clearing forests and developed woodlands before obtaining a Town permit is a violation; any forests and developed woodlands cleared before obtaining a Town permit shall be replanted at three (3) times the areal extent of the cleared forest or developed woodlands;

- (c) Clearing of forest or developed woodlands that exceed the maximum area allowed in Subsection A(4) above shall be replanted at three (3) times the areal extent of the cleared forest or developed woodlands;
    - (d) If the areal extent of the site limits the application of the reforestation standards in this section, the applicant may be allowed to plant off-site at the required ratio or pay a fee in lieu of planting at a rate of \$1.50 per square foot.
  - (6) If no forest is established on proposed development sites, these sites shall be planted to provide a forest or developed woodlands cover of at least fifteen percent (15%).
    - (a) The applicant shall designate, subject to the approval of the Town, a new forest area on a part of the site not forested; and
    - (b) The afforested area shall be maintained as forest cover through easements, restrictive covenants, or other protective instruments approved by the Town Attorney.
  - (7) All forests, including afforested areas, shall be maintained through conservation easements, restricted covenants, or other protective instruments.
  - (8) New, expanded, or redeveloped industrial facilities may only be permitted in LDA if such use is permitted in the underlying zoning district and provided such facilities meet all requirements for development in the LDA.
- B. Process. Prior to commencing a development activity on a site in a Limited Development Area, the applicant shall follow the following process:
- (1) The applicant shall conduct a site-specific field investigation to identify forest areas, specimen trees, streams, wetlands, sensitive environmental areas, and rare, threatened, or endangered species habitats that may be present. Forested areas and specimen trees shall be identified and shown on all site development and subdivision plans in order to ensure that appropriate protection measures are implemented.
  - (2) The applicant shall prepare a plan clearly showing the limits of disturbance for the project and forested areas to be conserved. The applicant shall show appropriate temporary tree protection devices, including fencing, signs, berms, etc., necessary to protect existing trees and forests.
  - (3) For projects that involve clearing or require afforestation, the location of afforestation and reforestation areas shall be clearly shown on a planting plan that will include all specifications for implementing the planting and include a construction sequence and proposed maintenance and monitoring agreement.

- (4) The Town shall monitor afforestation and reforestation areas for two (2) years following completion of the project, and the developer will be responsible for replacing any trees or plantings that do not survive and are necessary to maintain compliance with the site plan and/or planting plan.

**§ 128-21. Resource Conservation Areas (RCA).**

- A. Development standards. For all development activities and resource utilization in the Resource Conservation Areas, the applicant shall meet all of the following standards:
  - (1) Land use management practices shall be consistent with the policies and criteria for the Habitat Protection Area provisions of this article.
  - (2) Land within the Resource Conservation Area may be developed for residential uses at a density not to exceed one (1) dwelling unit per twenty (20) acres. The Town may not grant a variance to this density restriction per COMAR 27.01.02.05.C(4).
  - (3) Development activity within the RCAs shall be consistent with the requirements and standards for LDAs as specified in this Chapter. For the purposes of calculating limitations on lot coverage, it is as follows:
    - (a) When a site is mapped entirely as RCA, lot coverage is based on the entire site area, and
    - (b) When a portion of a lot or parcel is mapped as RCA, lot coverage is based on the area of the RCA.
  - (4) Nothing in this section shall limit the ability of a participant in any agricultural easement program to convey real property impressed with such an easement to family members, provided that no such conveyance will result in a density greater than one (1) dwelling unit per twenty (20) acres.
  - (5) New and/or expanded institutional, industrial, and commercial uses are prohibited in the RCA, except as expressly authorized under Table A(1) in § 128-22 and § 128-23.
- B. Process. Prior to commencing a development activity on a site in a Resource Conservation Area, the applicant shall follow the following process:
  - (1) The applicant shall conduct a site-specific field investigation to identify forest areas, specimen trees, streams, wetlands, sensitive environmental areas, and rare, threatened, or endangered species habitats that may be present. Forested areas and specimen trees shall be identified and shown on all site development and subdivision plans in order to ensure that appropriate protection measures are implemented.

- (2) The applicant shall prepare a plan clearly showing the limits of disturbance for the project and forested areas to be conserved. The applicant shall show appropriate temporary tree protection devices, including fencing, signs, berms, etc., necessary to protect existing trees and forests.
  - (3) For projects that involve clearing or require afforestation, the location of afforestation and reforestation areas shall be clearly shown on a planting plan that will include all specifications for implementing the planting and include a construction sequence and proposed maintenance and monitoring agreement.
  - (4) The Town shall monitor afforestation and reforestation areas for two (2) years following completion of the project, and the developer shall be responsible for replacing any trees or plantings that do not survive and are necessary to maintain compliance with the site plan and/or planting plan.
- C. Density. Land within the RCA may be developed for residential uses at a density not to exceed one (1) dwelling unit per twenty (20) acres. The Town may not grant a variance to this density restriction per COMAR 27.01.02.05.C(4). In calculating the 1-in-20-acre density of development that is permitted on a parcel located within the RCA, the Town:
- (1) Shall count each dwelling unit; and
  - (2) May permit the area of any private wetlands located on the property to be included under the following conditions:
    - (a) Only when using transfer of development rights; and
    - (b) The area of private wetlands shall be field delineated when certifying development rights for transfer.

## **§ 128-22. Land use.**

- A. Permitted uses.
- (1) Permitted uses in the Critical Area shall be limited to those uses allowed by the underlying zoning classification as modified by Table A and the supplemental use standards in § 128-23, provided such uses meet all standards established by the Critical Area Overlay Zone.

Table A(1) Permitted Uses				
<b>LEGEND:</b> <b>P = Permitted if allowed in the underlying zoning district</b> <b>PC = Permitted with conditions if allowed in the underlying zoning district</b> <b>NP = Not Permitted</b>				
		Land Use Management Designation		
Item	Use Description	IDA	LDA	RCA
<b>1.00</b>	<b>RESIDENTIAL</b>			
1.10	Accessory dwelling unit	P	P	PC
<b>2.00</b>	<b>INSTITUTIONAL</b>			
2.10	Existing institutional uses	P	P	PC
2.20	New institutional uses	P	P	NP
2.30	Cemetery	P	P	PC
2.40	Group home	P	P	PC
2.50	Daycare	P	P	PC
<b>3.00</b>	<b>COMMERCIAL</b>			
3.10	Existing commercial uses	P	P	PC
3.20	New commercial uses	P	P	NP
3.30	Home occupation	P	P	PC
3.40	Bed-and-breakfast facility	P	P	PC
<b>4.00</b>	<b>MARITIME/WATER DEPENDENT</b>			
4.10	Expansion of existing commercial marinas	P	P	PC
4.20	New marina, commercial	P	P	NP
4.30	Community piers and noncommercial boat docking and storage	P	P	PC
4.40	Public beaches and public water-oriented recreational and educational areas	P	P	PC
4.50	Research areas	P	P	PC
4.60	Fisheries activities	P	P	P
4.70	Private pier	P	P	P
<b>5.00</b>	<b>RECREATION</b>			
5.10	Golf course	P	P	PC
<b>6.00</b>	<b>INDUSTRIAL</b>			
6.10	Existing industrial uses	P	P	PC
6.20	New industrial uses	PC	PC	NP
6.30	Non-maritime heavy industry	PC	NP	NP
<b>7.00</b>	<b>TRANSPORTATION/PARKING/ COMMUNICATIONS/ UTILITIES</b>			



<b>Table A(1)</b> <b>Permitted Uses</b>				
<b>LEGEND:</b> <b>P = Permitted if allowed in the underlying zoning district</b> <b>PC = Permitted with conditions if allowed in the underlying zoning district</b> <b>NP = Not Permitted</b>				
		<b>Land Use Management Designation</b>		
<b>Item</b>	<b>Use Description</b>	<b>IDA</b>	<b>LDA</b>	<b>RCA</b>
7.10	Utility transmission facilities	PC	NP	NP
<b>8.00</b>	<b>PUBLIC/QUASI-PUBLIC</b>			
8.10	Sanitary landfill; rubble fill	PC	NP	NP
8.20	Solid or hazardous waste collection or disposal facilities	PC	NP	NP
8.30	Sludge facilities	PC	NP	NP
<b>9.00</b>	<b>OTHER</b>			
9.10	Non-Water Dependent Structures on Piers	PC	NP	NP

### **§ 128-23. Supplemental use standards.**

The following supplemental use standards apply to the permitted uses listed in Table A(1) above and shall apply when the permitted use is allowed in the underlying zoning district.

#### **A. Accessory dwelling unit.**

- (1) Within a Resource Conservation Area, the Planning Commission may consider one additional dwelling unit per lot or parcel as part of a primary dwelling unit for the density calculation under this subsection if the additional dwelling unit:
  - (a) Does not require a variance to any critical area development standards; and
    - (i) is located within the primary dwelling unit or its entire perimeter is within 100 feet of the primary dwelling unit and does not exceed 900 square feet in total enclosed area; or
    - (ii) is located within the primary dwelling unit and by its construction, does not increase the amount of lot coverage already attributed to the primary dwelling unit by greater than 900 square feet.
- (2) The provisions of this section may not be construed to consider an additional dwelling unit as part of a primary dwelling unit for the density calculation under this subsection.

- (3) An additional dwelling unit meeting all of the provisions of this section may not be subdivided or conveyed separately from the primary dwelling unit.
  - (4) An additional dwelling unit that exceeds 900 square feet shall count towards the density calculation.
- B. Existing institutional uses.
  - (1) Existing institutional facilities, including those that directly support agriculture, forestry, aquaculture, or residential development, shall be allowed in Resource Conservation Areas.
  - (2) Expansion of existing institutional facilities and uses in the Resource Conservation Area shall be subject to the nonconforming use provisions of this article and the grandfathering provisions in § 128-25 and may require growth allocation.
- C. New institutional uses.
  - (1) New institutional facilities and uses, except those specifically listed in Table A(1), shall not be permitted in Resource Conservation Areas.
  - (2) Certain institutional uses may be permitted in a Resource Conservation Area if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Town Zoning Ordinance. These institutional uses are limited to:
    - (a) A cemetery that is an accessory use to an existing church, provided man-made lot coverage is limited to fifteen percent (15%) of the site or twenty thousand (20,000) square feet, whichever is less;
    - (b) A day-care facility in a dwelling where the operators live on the premises, and there are no more than eight (8) children; and
    - (c) A group home or assisted living facility with no more than eight (8) residents; and
    - (d) Other similar uses determined by the municipality and approved by the Critical Area Commission to be similar to those listed above.
- D. Existing industrial and commercial uses.
  - (1) Existing industrial and commercial facilities and uses, including those that directly support agriculture, forestry, aquaculture, or residential development, shall be allowed in Resource Conservation Areas.
  - (2) Expansion of existing industrial and commercial facilities and uses in the Resource Conservation Area shall be subject to the nonconforming use provisions of this article and the grandfathering provisions in § 128-25 and may require growth allocation.

E. New commercial uses.

- (1) New commercial uses, except those specifically listed in Table A(1), shall not be permitted in Resource Conservation Areas.
- (2) Certain commercial uses may be permitted in the Resource Conservation Area if allowed in the underlying zoning district and if the use complies with all requirements for such uses as provided in the Town Zoning Ordinance. These commercial uses are limited to:
  - (a) A home occupation as an accessory use on a residential property and as provided for in the Town's Zoning Ordinance;
  - (b) A bed-and-breakfast facility located in an existing residential structure and where meals are prepared only for guests staying at the facility;
  - (c) Other uses determined by the municipality and approved by the Critical Area Commission to be similar to those listed above.

F. Expansion of existing commercial marinas.

- (1) Expansion of existing commercial marinas may be permitted within Resource Conservation Areas, provided that:
  - (a) Water quality impacts are quantified, and appropriate best management practices that address impacts are provided;
    - (i) It will result in an overall net improvement in water quality at or leaving the site of the marina;
    - (ii) The marina meets the sanitary requirements of the Department of the Environment and
    - (iii) Expansion is permitted under the nonconforming use provisions of this article.
- (2) Expansion of existing commercial marinas may be permitted in the buffer in the Intensely Developed Areas and Limited Development Areas provided that the applicant demonstrates that:
  - (a) The project meets a recognized private right or public need;
  - (b) Adverse effects on water quality, fish, plant, and wildlife habitat are minimized;
  - (c) Insofar as possible, nonwater-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer and

- (d) Expansion is permitted under the nonconforming use provisions of this article.

G. New marina, commercial.

- (1) New commercial marinas shall not be permitted in Resource Conservation Areas.
- (2) New commercial marinas may be permitted in Limited Development Areas and Intensely Developed Areas if allowed in the underlying zoning, provided:
  - (a) New marinas shall establish a means of minimizing the discharge of bottom wash waters into tidal waters.
  - (b) New marinas meet the sanitary requirements of the Maryland Department of the Environment.
  - (c) New marinas may be permitted in the buffer in the Intensely Developed Areas, and Limited Development Areas provided that it can be shown that:
    - (i) The project meets a recognized private right or public need;
    - (ii) Adverse effects on water quality, fish, plant, and wildlife habitat are minimized; and
    - (iii) Insofar as possible, nonwater-dependent structures or operations associated with water-dependent projects or activities are located outside the buffer.

H. Community piers and noncommercial boat docking and storage.

- (1) New or expanded community marinas and other noncommercial boat-docking and storage facilities may be permitted in the buffer, subject to the requirements in this article, provided that:
  - (a) These facilities may not offer food, fuel, or other goods and services for sale and shall provide adequate and clean sanitary facilities;
  - (b) The facilities are community-owned, established, and operated to benefit the residents of a platted and recorded riparian division.
  - (c) The facilities are associated with a residential development approved by the Town for the Critical Area and consistent with all state requirements and the requirements of this article applicable to the Critical Area;
  - (d) Disturbance to the buffer is the minimum necessary to provide a single point of access to the facilities and
  - (e) If community piers, slips, or moorings are provided as part of the new development, private piers in the development are not allowed.

- (2) Number of slips or piers permitted. The number of slips or piers permitted at the facility shall be the lesser of Subsection H(2)(a) or (b) below:
  - (a) One slip for each fifty (50) feet of shoreline in the subdivision in the Intensely Developed and Limited Development Areas and one slip for each three hundred (300) feet of shoreline in the subdivision in the Resource Conservation Area; or
  - (b) A density of slips or piers to platted lots or dwellings within the subdivision in the Critical Area according to the following schedule:

<b>Table H(2)(b)</b>	
<b>Number of Slips Permitted</b>	
<b>Platted Lots or Dwellings in the Critical Area</b>	<b>Slips</b>
Up to 15	1 for each lot
16 to 40	15% or 75%, whichever is greater
41 to 100	30% or 50%, whichever is greater
101 to 300	50% or 25%, whichever is greater
Over 300	75% or 15%, whichever is greater

- I. Public beaches and public water-oriented recreational and educational areas.
  - (1) Public beaches or other public water-oriented recreation or education areas, including, but not limited to, publicly owned boat launching and docking facilities and fishing piers, may be permitted in the buffer in Intensely Developed Areas.
  - (2) These facilities may be permitted within the buffer in Limited Development Areas and Resource Conservation Areas, provided that:
    - (a) Adequate sanitary facilities exist;
    - (b) Service facilities are, to the extent possible, located outside of the buffer;
    - (c) Permeable surfaces are used, to the extent practicable, if no degradation of groundwater would result;
    - (d) Disturbance to natural vegetation is minimized; and
    - (e) Areas for possible recreation, such as nature study, hunting and trapping, and education, may be permitted in the buffer within Limited Development Areas and Resource Conservation Areas if service facilities for these uses are located outside of the buffer.
  - (3) When assessing areas for these facilities, consideration will be given to underserved communities.
- J. Research areas.

- (1) Water-dependent research facilities or activities operated by State, federal, or local agencies or educational institutions may be permitted in the Buffer if nonwater-dependent structures or facilities associated with these projects are located outside of the Buffer.
- K. Fisheries activities.
  - (1) Commercial water-dependent fisheries and aquaculture including, but not limited to, structures for crab shedding, fish off-loading docks, shellfish culture operations, shore-based facilities necessary for aquaculture operations and fisheries activities, and a facility or activity that supports water quality restoration may be permitted in the Buffer in Intensely Developed Areas, Limited Development Areas, and Resources Conservation Areas.
- L. Golf course.
  - (1) A golf course, excluding main buildings and/or structures such as the clubhouse, pro shop, parking lot, etc., may be permitted in Resource Conservation Areas, provided that:
    - (a) Such use is permitted in the underlying zoning; and
    - (b) Development is in accordance with the official guidance adopted by the Critical Area Commission on August 3, 2005.
- M. Existing industrial uses.
  - (1) Existing industrial facilities and uses, including those that directly support agriculture, forestry, or aquaculture, may be permitted in Resource Conservation Areas.
  - (2) Expansion of existing industrial facilities and uses in the Resource Conservation Areas shall be subject to the nonconforming use provisions of this article and the grandfathering provisions in § 128-25 and may require growth allocation.
- N. New industrial uses.
  - (1) New industrial uses shall not be permitted in Resource Conservation Areas.
  - (2) New, expanded, or redeveloped industrial facilities may only be permitted in Limited Development Areas and Intensely Developed Areas if permitted uses in the underlying zoning district, provided such facilities meet all requirements for development in the Limited Development Area and Intensely Developed Areas.
  - (3) New, expanded, or redeveloped water-dependent industrial or port-related facilities and the replacement of these facilities may be permitted only in those portions of Intensely Developed Areas that have been designated as Modified Buffer Areas.
- O. Nonmaritime heavy industry.

- (1) Nonmaritime heavy industry may be permitted if:
  - (a) The site is located in an Intensely Developed Area; and
  - (b) The activity or facility has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.
- P. Utility transmission facilities.
  - (1) Utility transmission facilities, except those necessary to serve permitted uses or where regional or interstate facilities must cross tidal waters, may be permitted in the Critical Area provided that:
    - (a) The facilities are located in Intensely Developed Areas; and
    - (b) Only after the activity or facility has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.
  - (2) These provisions do not include power plants.
- Q. Sanitary landfill; rubble fill.
  - (1) Sanitary landfills or rubble fills shall not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.
  - (2) Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.
- R. Solid or hazardous waste collection or disposal facilities.
  - (1) Solid or hazardous waste collection or disposal facilities, including transfer stations, shall not be permitted in the Critical Area unless no environmentally acceptable alternative exists outside the Critical Area and these development activities or facilities are needed in order to correct an existing water quality or wastewater management problem.
  - (2) Existing, permitted facilities shall be subject to the standards and requirements of the Department of the Environment.
- S. Sludge facilities.
  - (1) Permanent sludge handling, storage, and disposal facilities, other than those associated with wastewater treatment facilities, shall not be permitted in the Critical Area unless:
    - (a) The facility or activity is located in an Intensely Developed Area; and

- (b) The applicant has demonstrated to all appropriate local and state permitting agencies that there will be a net improvement in water quality to the adjacent body of water.
  - (2) Agricultural or horticultural use of sludge under appropriate approvals when applied by an approved method at approved application rates may be permitted in the Critical Area, except in the one-hundred-foot buffer.
- T. Nonwater-Dependent Structures on Piers.
- (1) Except as provided in Subsection T(2) and (3) of this section and notwithstanding any other provisions of the law, the Town may not issue a building permit or any other approval to authorize a nonwater dependent project located on State or private wetlands within the Critical Area.
  - (2) The Town may issue a building permit or any other approval to authorize a nonwater dependent project located on State or private wetlands within the Critical Area if the project:
    - (a) Involves a commercial activity that is permitted as a secondary or accessory use to a permitted primary commercial use;
    - (b) Is not located on a pier that is attached to residentially, institutionally, or industrially used property;
    - (c) Is located in an IDA;
    - (d) Is approved by the Planning Commission;
    - (e) Allows or enhances public access to State wetlands;
    - (f) Does not expand beyond the length, width, or channel ward encroachment of the pier on which the project is constructed;
    - (g) Has a height of up to 18 feet unless the project is located at a marina; and
    - (h) Is up to 1,000 square feet in total area; or
      - (i) Is located on a pier that was in existence on or before December 31, 2012,
      - (ii) Satisfies all of the requirements under Subsection T(2)(a) through (g) of this section; and
      - (iii) If applicable, has a temporary or permanent roof structure or covers up to 1,000 square feet in total area.
  - (3) The Town may issue a building permit or other approval to authorize a nonwater-dependent project for a small-scale renewable energy system on a pier located on State or private wetlands within the Critical Area if the project:



- (a) Involves the installation or placement of a small-scale renewable energy system that is permitted as a secondary or accessory use on a pier that is authorized under Title 16 of the Environment Article;
- (b) Is located in:
  - (i) The Chesapeake and Atlantic Coastal Bays Critical Area and the project is authorized under a program amendment to the Denton's Critical Area Program approved on or after July 1, 2013, if the approved program amendment includes necessary changes to Denton's zoning, subdivision, and other ordinances so as to be consistent with or more restrictive than the requirements provided under this subsection; or
  - (ii) An area that has been excluded from Denton's Critical Area Program that has been adopted or approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays;
- (c) Is approved by the Planning Commission;
- (d) A building permit or other approval issued under the requirements in Subsection T(3) above may include the installation or placement of:
  - (i) A solar energy system attached to a pier of the device or equipment associated with that system does not extend more than:
    - [1] Four (4) feet above or 18 inches below the deck of the pier; or
    - [2] One (1) foot beyond the length or width of the pier;
  - (ii) A solar energy system attached to a piling if there is only one solar panel per boat slip;
  - (iii) A solar energy system attached to a boathouse roof if the device or equipment associated with that system does not extend beyond the length, width, or height of the boathouse roof;
  - (iv) A closed-loop geothermal heat exchanger under a pier if the geothermal heat exchanger or any associated devices or equipment do not:
    - [1] Extend beyond the length, width, or channel ward encroachment of the pier;
    - [2] Deleteriously alter longshore drift or
    - [3] Cause significant individual or cumulative thermal impacts on aquatic resources or

- (v) A wind energy system attached to a pier if there is only one (1) wind energy system per pier for which:
  - [1] The height from the deck of the pier to the blade extended at its highest point is up to 12 feet;
  - [2] The rotor diameter of the wind turbine is up to four (4) feet, and
  - [3] The setbacks of the wind energy system from the nearest property line and from the channelward edge of the pier to which that system is attached are at least 1.5 times the total height of the system from its base to the blade extended at its highest point.

**§ 128-24. Growth allocation.**

**A. Growth allocation acreage.**

- (1) Growth allocation available to the Town includes:
  - (a) An area equal to five percent (5%) of the RCA acreage located within the Town and/or;
  - (b) Growth allocation available to the Town as provided for by Caroline County.
- (2) As of the date of adoption of this article, there is no specific acreage of growth allocation allotted to the Town. The county will review potential growth allocation requests from the Town on a case-by-case basis.
- (3) The Town shall deduct acreage from its growth allocation reserves in accordance with COMAR 27.01.02.06-4.

**B. Growth Allocation Floating Zone District.**

- (1) Designation of floating zones.
  - (a) The Growth Allocation District shall be a floating zone.
  - (b) The Growth Allocation District provides for changing the land management classification of Resource Conservation Areas and Limited Development Areas in the Critical Area Overlay District.

**C. Standards. When locating new Intensely Developed Areas (IDA) or Limited Development Areas (LDA), the following requirements shall apply:**

- (1) A new IDA shall only be located in an LDA or adjacent to an existing IDA.
- (2) A new LDA shall only be located adjacent to an existing LDA or an IDA.

- (3) New IDA shall be at least twenty (20) acres in size unless:
  - (a) They are contiguous to an existing IDA or located in an LDA; or
  - (b) They are a grandfathered commercial or industrial use that existed as of March 1989, and the project is consistent with the Town's Comprehensive Plan. The amount of growth allocation deducted shall be equivalent to the area of the entire parcel or parcels subject to the growth allocation request.
- (4) No more than 1/2 of the Town's growth allocation may be located in Resource Conservation Areas (RCA) except as provided in Subsection C(9) below.
- (5) A new LDA or IDA shall be located in a manner that minimizes impacts to Habitat Protection Areas as defined herein and in COMAR 27.01.09, as amended from time to time, and in an area and manner that optimizes benefits to water quality.
- (6) A new IDA shall only be located where it minimizes impacts on the permitted land uses of the RCA.
- (7) A new IDA or an LDA in an RCA shall be located at least three hundred (300) feet beyond the landward edge of tidal wetlands or tidal waters unless the Town proposes and the Commission approves alternative measures for enhancement of water quality and habitat that provide greater benefits to the resources.
- (8) New IDA or LDA to be located in RCA shall conform to all criteria of this article for such areas, shall be so designated on the Town Critical Area Maps, and shall constitute an amendment to this article, subject to review and recommendation by the Planning Commission and the approval of the Town Council and the Critical Area Commission, as provided herein.
- (9) Locate new IDAs and LDAs outside of areas vulnerable to climate change unless the Town proposes and the Critical Area Commission approves measures that:
  - (a) Assess climate resiliency and vulnerability, and
  - (b) Incorporate siting, design, construction, and other natural features to enhance climate resiliency and reduce vulnerability significantly.
- (10) The Town Council recognizes that the Town may not be able to utilize growth allocation acreage in the locations outlined in Subsection C(1) and (2) above and/or may not satisfy the 20-acre size threshold outlined in Subsection C(3) above. In addition, the Town Council recognizes that most of its critical area lands for which growth allocation is planned are currently classified as Resource Conservation Areas. Accordingly, if the Town is unable to satisfy any or all of the criteria outlined in Subsection C(1) through (4), the Town may utilize a portion of its growth allocation in a manner that varies from Subsection C(1), (2), (3), and/or

(4) above, provided that the area receiving growth allocation meets the following standards:

- (a) Any development will be serviced by public water and sewer;
  - (b) The area is located in a Priority Funding Area;
  - (c) The development is consistent with the Denton Comprehensive Plan and
  - (d) The development will have an overall economic benefit to the community or implement a specific goal, objective, or policy of the Denton Comprehensive Plan.
- (11) For residential development, the area to be developed shall be limited to no more than the underlying zoning requirements or 85% of the site, whichever is the lesser amount.
- (12) In addition to meeting the minimum requirements of the Critical Area regulations, the Planning Commission reserves the right to require additional water quality and/or wildlife habitat improvements in the project design.
- (13) For residential development, a community pier shall be provided rather than individual private piers consistent with standards included in § 128-23 and Table H(2)(b).

D. Additional factors. In reviewing map amendments or refinements involving the use of growth allocation, the Town shall consider the following factors:

- (1) Consistency with the Town's adopted Comprehensive Plan and whether the growth allocation would implement the goals and objectives of the adopted plan. "Consistency with" means that a standard or factor will further, and not be contrary to, the following items in the Comprehensive Plan:
- (a) Policies;
  - (b) Timing of the implementation of the plan of development and rezoning;
  - (c) Development patterns;
  - (d) Land uses; and
  - (e) Densities or intensities.
- (2) For a map amendment or refinement involving a new LDA, whether the development is:
- (a) To be served by a public wastewater system or septic system that uses the best available nitrogen removal technology;
  - (b) A completion of an existing subdivision;

- (c) An expansion of an existing business; or
  - (d) To be clustered.
- (3) For a map amendment or refinement involving a new IDA, whether the development is:
  - (a) To be served by a public wastewater system;
  - (b) If greater than twenty (20) acres, to be located in a designated Priority Funding Area; and
  - (c) To have a demonstrable economic benefit.
- (4) The use of existing public infrastructure, where practical;
- (5) Consistency with state and regional environmental protection policies concerning the protection of threatened and endangered species and species in need of conservation that may be located on or off the site;
- (6) Impacts on a Priority Preservation Area;
- (7) Environmental impacts associated with wastewater and stormwater management practices and wastewater and stormwater discharges to tidal waters, tidal wetlands, and tributary streams; and
- (8) Environmental impacts associated with the location in a coastal hazard area or an increased risk of severe flooding attributable to the proposed development.

E. Application.

- (1) An application for the GA Floating Zone shall include the following submissions:
  - (a) The subdivision history of parcels designated as RCA. The date of December 1, 1985, is the date used for the original Critical Area mapping and shall be used as a beginning point of analysis;
  - (b) Concept Plan, as provided in (2) below.
  - (c) Information required by COMAR 27.01.02.06-1;
  - (d) Environmental report as per COMAR 27.01.02.06-2; and
  - (e) The Planning Commission or the Town Council may require other information and documentation.
  - (f) Ten (10) copies of the application for the GA Floating Zone and all required submissions submitted to the Planning and Codes.
- (2) Concept Plans. Unless waived by the Planning Commission at the applicant's request, concept plans accompanying applications for the GA Floating Zone shall include the following information:

- (a) Boundary Survey, including identification of adjacent property owners;
- (b) Existing conditions, including:
  - (i) Topographic survey (minimum 1' contour interval);
  - (ii) Soils;
  - (iii) Forested areas and tree lines;
  - (iv) Wetlands, wetland buffers, floodplain, hydric soils, streams, and water features;
  - (v) Habitat protection areas;
  - (vi) Steep slopes;
  - (vii) Easements and deed restrictions;
  - (viii) Roads, driveways, and rights-of-way;
  - (ix) Existing buildings;
  - (x) General location of storm surge boundaries for all categories of storm events; and
  - (xi) Existing land uses.
- (c) Proposed open space, protected areas, and public and private parks;
- (d) Pedestrian and vehicular circulation plan showing the dominant street configuration and pedestrian walking and biking alignments;
- (e) A detailed plan of at least one (1) phase, showing all applicable features:
  - (i) Road alignments;
  - (ii) Lot configuration;
  - (iii) Commercial area plan, if applicable;
  - (iv) Public and private open space(s);
- (3) Studies and reports by qualified professionals:
  - (a) Nontidal wetlands delineation;
  - (b) Habitat protection areas study prepared by qualified professionals; and
  - (c) A concept plan indicating how stormwater will be managed on the site.
  - (d) Report describing mitigation and adaptation measures that address sea level rise, storm surge, precipitation-induced flooding, other extreme weather events, migrating wetlands, and coastal forests. Identify measures

to enhance climate resiliency, including restoring, creating, and conserving existing and projected future natural and nature-based features.

- (e) Assessment of the impacts of mitigation, restoration, conservation, and adaptation to climate change on underserved communities and description of measures to ensure the equitable distribution of the benefits and burdens of development, restoration, and mitigation.
- F. Process. Growth allocation floating zone amendments shall be processed as provided in §128-187 and § 128-195 prior to submission to the Critical Area Commission for review and approval.

### **§ 128-25. Grandfathering.**

- A. Continuation of existing uses.
- (1) The continuation, but not necessarily the intensification or expansion, of any use in existence on April 3, 1989, may be permitted unless the use has been abandoned for more than one year or is otherwise restricted by existing municipal ordinances.
  - (2) If any existing use does not conform with the provisions of this article, its intensification or expansion may be permitted only in accordance with the variance procedures in § 128-26.
- B. Residential density on grandfathered lots.
- (1) Except as otherwise provided, the following types of land are permitted to be developed with a single-family dwelling if a dwelling is not already placed there, notwithstanding that such development may be inconsistent with the density provisions of this article.
    - (a) A legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985;
    - (b) Land that received a building permit subsequent to December 1, 1985, but prior to March 1989;
    - (c) Land that was subdivided into recorded, legally buildable lots, where the subdivision received final approval between June 1, 1984, and December 1, 1985; or
    - (d) Land that was subdivided into recorded, legally buildable lots, where the subdivision received the final approval after December 1, 1985, and provided that either development of any such land conforms to the Intensely Developed Area, Limited Development Area, or Resource Conservation Area requirements in this article or the area of the land has been counted against the growth allocation permitted under this article.

- (e) Any land on which development activity has progressed to the point of pouring of foundation footings or the installation of structural members.
- C. Consistency. The Town shall have determined, based on land uses and development in existence on December 1, 1985, which land areas fall within the three types of development areas described in this chapter to implement this regulation. Nothing in this section may be interpreted as altering any requirements of this article related to water-dependent facilities or Habitat Protection Areas.

#### **§ 128-26. Variances.**

- A. Applicability. The Town has established provisions where, owing to special features of a site or other circumstances, implementation of this article or literal enforcement of provisions within this article would result in unwarranted hardship to an applicant, a Critical Area variance may be obtained.
  - (1) In considering an application for a variance, the Town shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of the Natural Resources Article of the Annotated Code of Maryland, § 8-1801, COMAR Title 27, as amended from time to time, and the requirements of this article.
  - (2) "Unwarranted hardship" means that without a variance, an applicant would be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
- B. Standing. In accordance with Natural Resources Article, § 8-1808(d)(2), Annotated Code of Maryland, if a person meets the threshold standing requirements under federal law, the person shall have standing to participate as a party in a local administrative proceeding.
- C. Standards. The provisions for granting such variance shall include evidence submitted by the applicant that the following standards are met:
  - (1) Special conditions or circumstances exist that are peculiar to the land or structure involved, and that literal enforcement of provisions and requirements of this article would result in unwarranted hardship;
  - (2) A literal interpretation of the provisions of this article will deprive the applicant of the use of land or a structure permitted to others in accordance with the provisions of this Critical Area Ordinance;
  - (3) The granting of a variance will not confer upon an applicant any special privilege that this Critical Area Ordinance would deny to other lands or structures within the Critical Area;



- (4) The variance request is not based upon conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition relating to land or building use, either permitted or nonconforming on any neighboring property; and
  - (5) The granting of a variance shall not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the State Critical Area Law and this article.
- D. Process. Applications for a variance will be made, in writing, to the Board of Appeals, with a copy provided to the Critical Area Commission. The Board of Appeals shall follow its established procedures for advertising and notification of affected landowners.
  - (1) After hearing an application for a Critical Area Ordinance variance, the Board of Appeals shall make written findings reflecting an analysis of each standard.
  - (2) If the variance request is based on conditions or circumstances that are the result of actions by the applicant, the Board of Appeals shall consider that fact.
  - (3) The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in Subsection A above.
  - (4) The Board of Appeals shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request in accordance with Subsection G below.
- E. Findings. Based on competent and substantial evidence, the Board of Appeals shall make written findings on whether the applicant has overcome the presumption of nonconformance as established in Subsection A above and, if applicable, Subsection B above. With due regard for the person's technical competence and specialized knowledge, the written findings may be based on evidence introduced and testimony presented by:
  - (1) The applicant;
  - (2) The Town or any other government agency; or
  - (3) Any other person deemed appropriate by the Board of Appeals.
- F. If the variance request is based on conditions or circumstances that are the result of actions by the applicant, the Board of Appeals shall consider that fact and whether the application has met the requirements of Subsection I below.
- G. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance established in Subsection A above.

- H. Within ten (10) working days after issuance of a written variance decision, the Board of Appeals shall notify the Critical Area Commission of its findings and decision to grant or deny the variance request.
- I. After-the-Fact Requests.
- (1) The Town will not accept an application of a variance to legalize a violation of this subtitle, including an unpermitted structure or other development activity until:
    - (a) Issues a notice of violation; and
    - (b) Assesses an administrative or civil penalty for the violation.
  - (2) The Town will not approve an after-the-fact variance unless an applicant has:
    - (a) Fully paid all administrative, civil, and criminal penalties imposed under Natural Resources Article, § 8-1808(c)(1)(iii)14-15 and (2)(i), Annotated Code of Maryland;
    - (b) Prepared a restoration or mitigation plan, approved by the local jurisdiction, to abate impacts to water quality or natural resources as a result of the violation; and
    - (c) Performed the abatement measures in the approved plan in accordance with this Chapter or posted a bond for the abatement measures pending the outcome of the variance request.
  - (3) If the Board of Appeals denies the requested after-the-fact variance, then the Town shall:
    - (a) Order removal or relocation of any structure; and
    - (b) Order restoration of the affected resources.
  - (4) Application for an after-the-fact variance constitutes a waiver of the right to appeal the terms of a notice of violation and its final adjudication, including the payment of any penalties and costs assessed.
- J. Appeals. Appeals from decisions concerning the granting or denial of a variance under these regulations shall be taken in accordance with all applicable laws and procedures of the Board of Appeals for variances. Variance decisions by the Board of Appeals may be appealed to the Circuit Court within thirty (30) days of the date on which the Board of Appeals issues its written decision in accordance with the Maryland Rules of Procedure. Appeals may be taken by any person, firm, corporation, or governmental agency aggrieved or adversely affected by any decision made under this article.
- K. Conditions and mitigation. The Board of Appeals shall impose conditions on the use or development of a property that is granted a variance as it may find reasonable to ensure

that the spirit and intent of this article are maintained, including, but not limited to, the following:

- (1) Adverse impacts resulting from the granting of the variance shall be mitigated as recommended by the appropriate local body or approving authority, but not less than by planting on the site per square foot of the variance granted at no less than a three-to-one basis.
  - (2) New or expanded structures or lot coverage shall be located at the greatest possible distance from mean high water, the landward edge of tidal wetlands, tributary streams, nontidal wetlands, or steep slopes.
- L. Commission notification. Within ten (10) working days after a written decision regarding a variance application is issued, a copy of the decision will be sent to the Critical Area Commission. The Town may not issue a permit for the activity of the subject of the application until the applicable thirty-day appeal period has elapsed.

**§ 128-27. Lot consolidation and reconfiguration.**

- A. Applicability. The provisions of this section apply to the consolidation or a reconfiguration of any nonconforming legal grandfathered parcel or lot in the Limited Development Area (LDA) and Resource Conservation Area (RCA). These provisions do not apply to the reconfiguration or consolidation of parcels or lots that conform to or meet all Critical Area requirements. "Conforming" does not include a parcel or lot:
- (1) For which a Critical Area variance is sought or has been issued or
  - (2) That is located in the Resource Conservation Area and is less than twenty (20) acres in size.
- B. Procedure. An applicant seeking a parcel or lot consolidation or reconfiguration shall provide the information required in COMAR 27.01.02.08.E, as amended from time to time, to the Town.
- (1) The Town may not approve a proposed parcel or lot consolidation or reconfiguration without making written findings in accordance with COMAR 27.01.02.08.F, as amended from time to time.
  - (2) The Town shall issue a final written decision or order granting or denying an application for consolidation or reconfiguration.
  - (3) After a final written decision or order is issued, the Town shall send a copy of the decision or order and a copy of any approved development plan within ten (10) business days by U.S. mail to the Critical Area Commission's business address.

## **§ 128-28. Amendments.**

- A. Amendments. The Denton Town Council may, from time to time, amend the Critical Area provisions of this article. Changes may include, but are not limited to, amendments, revisions, and modifications to the Critical Area regulations, Critical Area Maps, implementation procedures, and local policies that affect the Town's Critical Area. All such amendments, revisions, and modifications shall also be approved by the Critical Area Commission as established in § 8-1809 of the Natural Resources Article of the Annotated Code of Maryland. No such amendment shall be implemented without the approval of the Critical Area Commission. Standards and procedures for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law § 8-1809(i) and § 8-1809(d) of the Natural Resources Article of the Annotated Code of Maryland, respectively.
- B. Zoning Map amendments. Except for ordinance amendments or ordinance refinements developed during a ten-year comprehensive review, a change to a critical area designation may be granted by the Town Council on proof of mistake if the proposed critical area classification:
  - (1) Conforms to the State critical area mapping criteria.
  - (2) Is based on land uses or natural features in existence as of December 1, 1985, or for areas included in the critical area due to remapping, is based on land uses or natural features in existence at the time of the remapping.
  - (3) Follows the Town's documented mapping methodology for critical area classifications at the time of the original program adoption and
  - (4) Is consistent with the purposes, policies, and goals of this subtitle and all criteria of the Critical Area Commission.
- C. A Zoning Map Amendment may be granted if the zoning map amendment:
  - (1) Is wholly consistent with the Critical Area land classifications (IDA, LDA, RCA, and MBA) as shown on the adopted Critical Area Overlay Map.
  - (2) Proposes the use of a part of the remaining growth allocation in accordance with the growth allocation provisions of this Chapter or
  - (3) Proposes to change the land classification from either an Intensely Developed Area to a Limited Development Area or a Resource Conservation Area, or a Limited Development Area to a Resource Conservation Area.
- D. Process.
  - (1) When an amendment is requested, the applicant shall submit the amendment to the Planning Commission for review and recommendation. Upon completing findings of fact, these documents shall be forwarded to the Town Council.

- (2) The Town Council shall hold a public hearing at which parties of interest and citizens shall have an opportunity to be heard. At least fourteen (14) days' notice of the time and place of such hearing shall be published in a newspaper of general circulation in the Town of Denton.
- (3) After the Town Council has approved an amendment, it shall send in writing to the Critical Area Commission, within sixty (60) days after the completion of review, the following information.
  - (a) A statement certifying that the required review has been accomplished.
  - (b) Any necessary requests for program amendments, program refinements, or other matters that the Town wishes the Commission to consider.
  - (c) An updated resource inventory and
  - (d) A statement quantifying acreages within each land classification, the growth allocation used, and the growth allocation remaining.

**§ 128-29. Enforcement; violations and penalties.**

- A. Consistency. The Critical Area provisions of this article, in accordance with the Critical Area Act and criteria, supersede any inconsistent law, chapter, or plan of the Town of Denton. In the case of conflicting provisions, the stricter provisions shall apply.
- B. Violations.
  - (1) No person shall violate any provision of this article. Each violation that occurs and each calendar day that a violation continues shall be a separate offense.
  - (2) Each person who violates a provision of this article shall be subject to separate ~~administrative and civil~~ penalties, abatement and restoration orders, and mitigation for each offense.
  - (3) Noncompliance with any permit or order issued by the Town related to the Critical Area shall be a violation of this article and shall be enforced as provided herein.
- C. Responsible persons. The following persons may each be held jointly or severally responsible for a violation:
  - (1) Persons who apply for or obtain any permit or approval;
  - (2) Contractors;
  - (3) Subcontractors;
  - (4) Property owners;
  - (5) Managing agents; or

- (6) Any person who has committed, assisted, or participated in the violation(s).
- D. Required enforcement action. In the case of violations of this article, the Town shall take enforcement action, including:
  - (1) Assess penalties as necessary to cover the costs associated with performing inspections, supervising, or rendering assistance with identifying and citing the violation, issuing abatement and restoration orders, and reviewing mitigation plans and ensuring compliance with these plans;
  - (2) Issue abatement, restoration, and mitigation orders as necessary to:
    - (a) Stop unauthorized activity;
    - (b) Restore and stabilize the site, as appropriate, to its condition prior to the violation or to a condition that provides the same water quality and habitat benefits; and
    - (c) Require the implementation of mitigation measures, in addition to restoration activities, to offset the environmental damage and degradation or loss of environmental benefit resulting from the violation.
- E. Right to enter the property. Except as otherwise authorized and in accordance with the procedures specified herein, the Town Council or its designee may obtain access to and enter a property in order to identify or verify a suspected violation, restrain a development activity, or issue a citation if the Town has probable cause to believe that a violation of this article has occurred, is occurring, or will occur. The Town shall make a reasonable effort to contact a property owner before obtaining access to or entering the property. If entry is denied, the Town may seek an injunction to enter the property to pursue an enforcement action.
- F. Penalties. In addition to any other penalty applicable under state or town law, every violation of a provision of the Natural Resources Article of the Annotated Code of Maryland, § 8-1801, and/or the Critical Area provisions of this article shall be punishable by a penalty as established by the Town of Denton penalty schedule adopted by resolution of the Town Council and may be amended from time to time, with a maximum penalty of up to \$10,000 per calendar day. In addition to the standards as set forth herein, prosecution of violations and penalties shall be in accordance with Chapter 94, the Denton Property Maintenance Code, and Chapter 38, the Denton Building Code.
  - (1) Before imposing any penalty, the person(s) believed to have violated this article shall receive written notice of the alleged violation(s) by certified mail, regular mail, property posting, etc., including which, if any, are continuing violations, and an opportunity to be heard. The amount of the penalty for each violation, including each continuing violation, shall be determined separately for each violation and in accordance with this section. For each continuing violation, the

amount of the penalty shall be determined per day and deemed a separate offense. In determining the amount of the civil penalty, the Town shall consider:

- (a) The gravity of the violation;
  - (b) The presence or absence of good faith of the violator;
  - (c) Any willfulness or negligence involved in the violation, including a history of prior violations;
  - (d) The environmental impact of the violation; and
  - (e) The cost of restoration of the resource affected by the violation and mitigation for damage to that resource, including the cost to the Town for performing, supervising, or rendering assistance to the restoration and mitigation.
- (2) Penalties for continuing violations shall accrue for each violation every day each violation continues, with no requirements for additional assessments, notices, or hearings for each separate offense. The total amount payable for continuing violations shall be assessed per day for each violation multiplied by the number of days that each violation has continued.
  - (3) The person responsible for any continuing violation shall promptly provide the Town with written notice of the date(s) the violation has been or will be brought into compliance and the date(s) for the Town's inspection to verify compliance. Penalties for continuing violations continue to accrue as set forth herein until the Town receives such written notice and verifies compliance by inspection or otherwise.
  - (4) Assessment and payment of penalties shall be in addition to and not in substitution for recovery by the Town of all damages, costs, and other expenses caused by the violation.
  - (5) Payment of all penalties assessed shall be a condition precedent to the issuance of any permit or other approval required by this article.
  - (6) Unpaid expenses in the prosecution of a violation or violations shall be subject to a lien against the property.
- G. Cumulative remedies. The remedies available to the Town under this article are cumulative and not alternative or exclusive, and the decision to pursue one remedy does not preclude the pursuit of others.
- H. Injunctive relief. The Town is authorized to institute injunctive or other appropriate actions or proceedings to bring about the discontinuance of any violation of this article, an administrative order, a permit, a decision, or other imposed conditions.

- (1) The pendency of an appeal to the Board of Appeals or subsequent judicial review shall not prevent the Town from seeking injunctive relief to enforce an administrative order, permit, decisions, or other imposed condition or to restrain a violation pending the outcome of the appeal or judicial review.
- I. Variances pursuant to a violation. Upon citing a violation, the Town may accept an application for a variance regarding a parcel or lot that is subject to a current violation of this subsection or any provisions of an order, permit, plan, or this article in accordance with the variance provisions of this article. However, the application shall not be reviewed, nor shall a final decision be made, until all abatement, restoration, and mitigation measures have been implemented and inspected by the Town of Denton. The property may be required to post a bond equal to 125% of the value of the cost of all abatement, restoration, and mitigation measures. Application for a variance constitutes a waiver of the right to appeal under Subsection K below.
- J. Permits pursuant to a violation. Failure to complete the required conditions of approval shall constitute a separate violation. The Town may not issue any permit, approval, variance, or special exception unless the person seeking the permit has:
  - (1) Fully paid all penalties as set forth in Subsection F above;
  - (2) Prepared a restoration or mitigation plan, approved by the Town, to abate impacts to water quality or natural resources as a result of the violation;
  - (3) Performed the abatement measures in the approved plan in accordance with the Town regulations; and
  - (4) Unless an extension of time is approved by the Town because of adverse planting conditions, within 90 days of the issuance of a permit, approval, variance, or special exception for the affected property, any additional mitigation required as a condition of approval for the permit, approval, variance, or special exception shall be completed.
- K. Appeals. An appeal in accordance with Chapter 94, Means of appeal, of the Denton Property Maintenance Code may be filed by any person aggrieved by any order, requirement, decision, or determination by an officer or official of the Town of Denton in connection with the administration and enforcement of this article.
  - (1) An appeal is taken by filing a written notice of appeal with the Board of Appeals in accordance with the provisions in the Denton Zoning Ordinance and accompanied by the appropriate filing fee.
  - (2) An appeal must be filed within 20 days after the date of the decision or order being appealed; and
  - (3) An appeal stays all actions by the Town seeking enforcement or compliance with the order or decisions being appealed unless the Town certifies to the Board of Appeals that (because of facts stated in the certification) such stay will cause



imminent peril to life or property. In such a case, action by the Town shall not be stayed except by order of the Board of Appeals or a court on application of the party seeking the stay.

#### **§ 128-30. Buffer standards.**

- A. Applicability and delineation. An applicant for development activity or a change in land use shall apply all of the required standards for a minimum one-hundred-foot buffer as described in this section. Governmental or public development activity shall comply with the provisions of the Code of Maryland ("COMAR") Title 27 Subtitle 02. The minimum one-hundred-foot buffer shall be delineated in the field and shall be shown on all applications as follows:
- (1) The minimum one-hundred-foot buffer is delineated landward from:
    - (a) The mean high-water line of tidal water;
    - (b) The edge of each bank of a tributary stream; and
    - (c) The upland boundary of a tidal wetland.
  - (2) The buffer shall be expanded beyond the minimum one-hundred-foot buffer as described in Subsection A(1) above and the minimum two-hundred-foot buffer as described in Subsection A(3) below, to include the following contiguous land features:
    - (a) A steep slope at a rate of four feet for every 1% of slope or the entire steep slope to the top of the slope, whichever is greater;
    - (b) A nontidal wetland to the upland boundary of the nontidal wetland;
    - (c) The one-hundred-foot buffer that is associated with a nontidal wetland of special state concern as stated in COMAR 26.23.06.01, as amended from time to time;
    - (d) For an area of hydric soils or highly erodible soils, the lesser of:
      - (i) The landward edge of the hydric or highly erodible soils; or
      - (ii) Three hundred feet, where the expansion area includes the minimum one-hundred-foot buffer.
  - (3) Applications for a subdivision or for a development activity on land located within the RCA requiring site plan approval after July 1, 2008, shall include:
    - (a) An expanded buffer in accordance with Subsection A(2) above; or
    - (b) A buffer of at least 200 feet from a tidal waterway or tidal wetlands and a buffer of at least 100 feet from a tributary stream, whichever is greater.

- (4) The provisions of Subsection A(3) above do not apply if:
  - (a) The application for subdivision or site plan approval was submitted before July 1, 2008, and legally recorded (subdivisions) or received approval (site plans) by July 1, 2010;
  - (b) The application involves the use of growth allocation.
- B. Permitted activities. If approved by the Town, disturbance to the buffer is permitted for the following activities, provided mitigation is performed in accordance with an approved Buffer Management Plan as required per Subsection F of this section.
  - (1) A new development or redevelopment activity associated with a water-dependent facility or located in an approved Modified Buffer Area;
  - (2) A shoreline stabilization activity constructed in accordance with COMAR 26.24.02, COMAR 27.01.04, as amended from time to time, and this article;
  - (3) A development or redevelopment activity approved in accordance with the variance provisions of this article;
  - (4) A new development or redevelopment activity on a lot or parcel that was created before January 1, 2010, where:
    - (a) The buffer is expanded for highly erodible soil on a slope less than 15% or is expanded for hydric soil, and the expanded buffer occupies at least 75% of the lot or parcel;
    - (b) The development or redevelopment is located in the expanded portion of the buffer and not within the one-hundred-foot buffer; and
    - (c) Mitigation occurs at a 2:1 ratio based on the lot coverage of the proposed development activity in the expanded buffer.
  - (5) A new or replacement septic system on a lot created before April 3, 1989, where:
    - (a) The Caroline County Health Department has determined the buffer is the only available location for the septic system; and
    - (b) Mitigation is provided at a one-to-one ratio for the area of canopy cleared of any forest or developed woodland.
  - (6) Riparian access for water access, where mitigation is required at a rate of 2:1.
- C. Buffer establishment in vegetation. An applicant for development activity, redevelopment activity, or a change in land use that occurs outside the buffer but is located on a riparian lot or parcel that includes the minimum one-hundred-foot buffer shall establish the buffer in vegetation if the buffer is not fully forested or fully established in woody or wetland vegetation. The Town shall require a Buffer Management Plan in accordance with the standards of this Section.

- (1) The provisions of this section apply to:
    - (a) A new subdivision or a new lot;
    - (b) A lot or parcel that is converted from one land use to another;
    - (c) Development or redevelopment of a lot or parcel created before January 1, 2010.
  - (2) The provisions of this section do not apply to the in-kind replacement of a structure.
  - (3) If a buffer is not fully forested or fully established in woody or wetland vegetation, the buffer shall be established through planting in accordance with COMAR 27.01.09.01-1C, as amended from time to time.
  - (4) A local jurisdiction may authorize an applicant to deduct from the total establishment requirement an area of lot coverage removed from the buffer if:
    - (a) The lot coverage existed before the date of local program adoption or was allowed by local procedures; and
    - (b) The total area is stabilized.
- D. Mitigation for impacts to the buffer. An applicant for a development activity that includes disturbance to the buffer shall mitigate impacts to the buffer and shall provide a Buffer Management Plan in accordance with the standards set forth in this Section.
- (1) Authorized development activities may include a variance, subdivision, site plan, shoreline stabilization permit, building permit, grading permit, a septic system approved by the Caroline County Health Department on a lot created before April 3, 1989, and special exception.
  - (2) All authorized development activities shall be mitigated according to COMAR 27.01.09.01-2, as amended from time to time.
  - (3) All unauthorized development activities in the buffer shall be mitigated at a ratio of 4:1 for the limit of disturbance in the buffer.
  - (4) Planting for mitigation shall be planted on site within the buffer. If mitigation planting cannot be located within the buffer, then the Town may permit planting in the following order of priority:
    - (a) On-site and adjacent to the buffer; and
    - (b) On-site elsewhere in the Critical Area.
    - (c) A fee in lieu as referenced in Subsection G below.
  - (5) The installation or cultivation of new lawn or turf in the Buffer is prohibited.

- E. Buffer planting standards.
- (1) An applicant required to plant the buffer for buffer establishment or buffer mitigation shall apply the planting standards set forth in COMAR 27.01.09.01-2, as amended from time to time.
  - (2) A variance to the planting and mitigation standards of this article is not permitted.
- F. Required submittal of Buffer Management Plans. An applicant required to plant the buffer to meet establishment or mitigation requirements shall submit a Buffer Management Plan as provided in COMAR 27.01.09.01-3, as amended from time to time, with the application for the specific activity. The provisions of this Section do not apply to maintaining an existing grass lawn or an existing garden in the buffer.
- (1) A Buffer Management Plan that includes planting for establishment shall be submitted with all other application materials, clearly specify the area to be planted, and state if the applicant is:
    - (a) Fully establishing the buffer;
    - (b) Partially establishing an area of the buffer equal to the net increase in lot coverage or
    - (c) Partially establishing an area of the buffer equal to the total lot coverage.
  - (2) Any permit for development activity that requires buffer establishment or buffer mitigation will not be issued until the Town approves a Buffer Management Plan.
  - (3) An applicant may not obtain final approval for a subdivision application until the Buffer Management Plan has been reviewed and approved by the Town.
  - (4) The Town may not approve a Buffer Management Plan unless:
    - (a) The plan indicates that all planting standards under Subsection E of this Section will be met; and
    - (b) Appropriate measures are in place for the long-term protection and maintenance of all buffer areas.
  - (5) For a Buffer Management Plan that is the result of an authorized disturbance to the buffer, a permit authorizing final use and occupancy will not be issued until the applicant:
    - (a) Completes the implementation of a Buffer Management Plan; or
    - (b) Provides financial assurance to cover the costs for:
      - (i) Materials and installation; and

- (ii) If the mitigation or establishment requirement is at least 5,000 square feet, long-term survivability requirements as set forth in COMAR 27.01.09.01-2, as amended from time to time.
  - (6) Concurrent with the recordation of a subdivision plat, an applicant shall record a protective easement for the buffer.
  - (7) If an applicant fails to implement a Buffer Management Plan, that failure shall constitute a violation of this article. A permit for development activity will not be issued for a property with the violation.
  - (8) An applicant shall post a subdivision with permanent signs prior to final recordation in accordance with COMAR 27.01.09.01-2 as amended from time to time.
  - (9) Buffer Management Plans that include natural regeneration shall follow the provisions of COMAR 27.01.09.01-4.
- G. Fees in lieu of buffer mitigation. A fee in lieu of mitigation will be collected if the planting requirements of the Buffer Management Plan cannot be fully met on-site in accordance with the following standards:
- (1) Fee-in-lieu monies shall be collected and held in a special fund, which may not revert to the Town's general fund and may only be used for projects within the Critical Area to enhance wildlife habitat, improve water quality or otherwise promote the goals of the Denton's Critical Area Program. The funds cannot be used to accomplish a project or measure that would have been required under existing Town, State, or federal laws, regulations, statutes, or permits;
  - (2) Fees-in-lieu shall be assessed at \$1.50 per square foot of required buffer mitigation;
  - (3) A portion of fee-in-lieu money can be used for management and administrative costs; however, this cannot exceed twenty percent (20%) of the fees collected; and
  - (4) Fee-in-lieu monies shall be used for the following projects:
    - (a) To establish the buffer on sites where planting is not a condition of development or redevelopment;
    - (b) For water quality and habitat enhancement projects as approved by the Critical Area Commission or by agreement between the Town and the Critical Area Commission.
  - (5) The Town will make the fee-in-lieu fund plans and accounting procedures available to the public, and the status of these funds must be reported in Denton's quarterly reports.

- (6) Any fees-in-lieu collected under these provisions shall be placed in an account that will ensure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the Town's Critical Area Program.
- H. Shoreline stabilization projects. Shoreline stabilization measures are permitted activities within the buffer in accordance with the following requirements:
  - (1) An applicant for a shoreline stabilization project that affects the buffer in any way, including, but not limited to, access, vegetation removal, pruning, or backfilling, shall submit a Buffer Management Plan in accordance with the requirements of this section; and
  - (2) Comply fully with all of the policies and criteria for a shoreline stabilization project stated in COMAR 27.01.04 and COMAR 26.24, as amended from time to time.
  - (3) The Town, in reviewing any application for a permit for structural erosion control devices, shall refer the application to the Soil Conservation District and the Maryland Department of the Environment for field verification of the need for structural erosion control as well as for recommendations on proposed erosion control mechanisms.
    - (a) Any application made to the Town for the installation of an erosion control device must, at a minimum, include the following information:
      - (i) Photograph of erosion problem;
      - (ii) The specific location of the site on a USGS 7.5-minute topographic map;
      - (iii) Soil type and erodibility;
      - (iv) Proposed and existing land use.
    - (b) Applications must include appropriate authorization from the Maryland Department of the Environment and the U.S. Army Corps of Engineers. Mitigation is required for any disturbance above mean high water, including tree removal.

**§ 128-31. Modified Buffer Area (MBA) provisions.**

- A. Applicability. The following provisions apply to areas designated and mapped by the Town as Modified Buffer Areas (MBA) and shown on maps available to the public held by the Town. The Critical Area Commission must approve all MBA maps and provisions.
- B. Development and redevelopment standards. New development or redevelopment activities, including structures, roads, parking areas, and other impervious surfaces, lot

coverage, or septic systems, will not be permitted in the buffer in a designated MBA unless the applicant can demonstrate that there is no feasible alternative and the Planning Commission finds that efforts have been made to minimize buffer impacts and the development shall comply with the following standards:

- (1) Development and redevelopment activities have been located as far as possible from mean high tide, the landward edge of tidal wetlands, or the edge of tributary streams.
- (2) Variances to other local setback requirements have been considered before additional intrusion into the buffer.
- (3) Commercial, industrial, institutional, recreational, and multifamily residential development and redevelopment shall meet the following standards:
  - (a) New development, including accessory structures, shall minimize the extent of intrusion into the buffer. New development shall not be located closer to the water (or edge of tidal wetlands) than the minimum required setback for the zoning district or fifty (50) feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line.
  - (b) Redevelopment, including accessory structures, shall minimize the extent of intrusion into the buffer. Redevelopment shall not be located closer to the water (or edge of tidal wetlands) than the local setback for the zoning district or twenty-five (25) feet, whichever is greater. Structures on adjacent properties shall not be used to determine the setback line. A new structure may be constructed on the footprint of an existing structure.
- (4) Single-family residential development and redevelopment shall meet the following standards:
  - (a) New development or redevelopment shall minimize the shoreward extent of intrusion into the buffer. New development and redevelopment shall not be located closer to the water (or the edge of tidal wetlands) than principal structures on adjacent properties or the local setback for the zoning district, whichever is greater. In no case shall new development be located less than fifty (50) feet or redevelopment be located less than twenty-five (25) feet from the water (or the edge of tidal wetlands).
  - (b) Existing principal or accessory structures may be replaced in the same footprint.
  - (c) New accessory structures may be located closer to the water than the setback if the Town of Denton has determined there are no other locations for the structures. The area of new accessory structures shall not exceed

five hundred (500) square feet within twenty-five (25) feet of the water and one thousand (1,000) square feet total in the buffer.

- (5) Variances to other local setback requirements shall be considered before additional intrusion into the buffer is permitted.
- (6) Development and redevelopment may not impact any Habitat Protection Area (HPA) other than the buffer, including nontidal wetlands, other state or federal permits notwithstanding.
- (7) Modified Buffer Area (MBA) designation shall not be used to facilitate the filling of tidal wetlands that are contiguous to the buffer or to create additional buildable land for new development or redevelopment.
- (8) No natural vegetation may be removed in the buffer except that required by the proposed construction.
- (9) Mitigation for development or redevelopment in the MBA approved under the provisions of this subsection shall be implemented as follows:
  - (a) Natural forest vegetation of an area twice the extent of the footprint of the development activity within the one-hundred-foot buffer shall be planted on site in the buffer or at another location approved by the Planning Commission.
  - (b) Applicants who cannot fully comply with the planting requirement in Subsection A(9)(a) above may offset by removing an equivalent area of existing lot coverage in the buffer.
  - (c) Applicants who cannot comply with either the planting or offset requirements in Subsection A(9)(a) or (b) above shall pay \$1.50 per square foot of mitigation requirement into a fee-in-lieu program as follows:
    - (i) Applicants shall submit two (2) cost estimates from qualified landscape businesses for planting the equivalent of twice the extent of the development within the Buffer. The estimate shall include the cost of stock, planting, staking, mulching, and a one (1) year guarantee.
    - (ii) The Town shall determine the amount of the fee-in-lieu based on the average of the two (2) estimates.
  - (d) Any fees-in-lieu collected under these provisions shall be placed in an account that will ensure their use only for projects within the Critical Area to enhance wildlife habitat, improve water quality, or otherwise promote the goals of the Town's Critical Area Ordinance. The funds cannot be used to accomplish a project or measure that would have been required under existing local, state, or federal laws, regulations, statutes, or permits. The



status of these funds must be reported to the Critical Area Commission on an annual basis.

- (e) Any required mitigation or offset areas shall be protected from future development through an easement, development agreement, plat notes, or other instrument and recorded among the land records of the County.

#### **§ 128-32. Other Habitat Protection Areas.**

A. Identification. An applicant for development activity, redevelopment activity, or change in land use shall identify all applicable Habitat Protection Areas and follow the standards contained in this Section. Habitat Protection Areas include:

- (1) Threatened or endangered species or species in need of conservation;
- (2) Colonial waterbird nesting sites;
- (3) Historic waterfowl staging and concentration areas in tidal waters, tributary streams, or tidal and non-tidal wetlands;
- (4) Existing riparian forests;
- (5) Forest areas utilized as breeding areas by future interior dwelling birds and other wildlife species;
- (6) Other plant and wildlife habitats determined to be of local significance;
- (7) Natural Heritage Areas; and
- (8) Anadromous fish propagation waters.

B. Standards.

- (1) An applicant proposing a subdivision or a site plan for a site within the Critical Area that is in or near a Habitat Protection Area listed above shall request a review by the Department of Natural Resources Wildlife and Heritage Service for comment and technical advice. Based on the Department's recommendations, additional research and site analysis may be required to identify the location of threatened and endangered species and species in need of conservation on a site.
- (2) If the Department of Natural Resources confirms the presence of a Habitat Protection Area, the applicant shall develop a Habitat Protection Plan in coordination with the Department of Natural Resources and, as necessary, the United States Fish and Wildlife Service.
  - (a) If potential Forest Interior Dwelling Species (FIDS) habitat is identified, the proposed development shall conform to the Critical Area Commission's FIDS Guidance Manual, dated June 2000, and as updated.

- (b) If potential anadromous fish propagation waters are identified, the proposed development shall conform to the policies and criteria listed in COMAR 27.01.09.05.
- (3) The applicant shall obtain approval of the Habitat Protection Plan from the Planning Commission. The specific protection and conservation measures included in the Plan shall be considered conditions of approval of the project.

**§ 128-33. Water-dependent facilities.**

- A. Applicability. The provisions of this Chapter apply to those structures or works associated with industrial, maritime, recreational, educational, or fisheries activities that require location at or near the shoreline within the Buffer. An activity is water-dependent if it cannot exist outside the Buffer and is dependent on the water by reason of the intrinsic nature of its operation.
- B. Identification. Water-dependent facilities include but are not limited to, ports, intake and outfall structures, marinas, and other boat docking structures, public beaches and other public water-oriented recreation areas, fisheries activities, and any other water-dependent facility or activity that supports water quality restoration in the Chesapeake Bay, the Atlantic Coastal Bays, or their watersheds. Excluded from this regulation are individual private piers installed or maintained by riparian landowners that are not part of a subdivision that provides community piers.
- C. Standards. In accordance with COMAR 27.01.03 and the standards below, the following shall apply to new or expanded development activities associated with water-dependent facilities:
  - (1) New or expanded development activities may be permitted in the Buffer in the IDAs and LDAs provided that it can be shown:
    - (a) That they are water-dependent;
    - (b) That the project meets a recognized private right or public need;
    - (c) That adverse effects on water quality, fish, plant, and wildlife habitat are first avoided, or if unavoidable, minimized;
    - (d) That, insofar as possible, nonwater-dependent structures or operations associated with water-dependent projects or activities are located outside the Buffer; and
    - (e) That the facilities are consistent with an approved local plan as set forth below.
  - (2) New or expanded development activities may not be permitted in those portions of the Buffer that occur in RCAs, except as otherwise provided. Applicants for

water-dependent facilities in an RCA, other than those specifically permitted herein, must apply for a portion of Growth Allocation as set forth in this Chapter.

- D. Evaluating plans for new and expanded water-dependent facilities. The Town shall evaluate on a case-by-case basis all proposals for expansion of existing or new water-dependent facilities. The Town shall work with appropriate State and federal agencies to ensure compliance with COMAR 27.01.03 and other applicable regulations.

#### **§ 128-34. Reserved.**

### **Part B – Historic Overlay Zone.**

#### **§ 128-35. Definitions.**

The following definitions shall be construed to include the future, the singular to include the plural, and the plural to include the singular.

**APPURTENANCES and ENVIRONMENTAL SETTINGS** — Includes paved or unpaved walkways or driveways, trees, landscaping, rocks, and open space located within the existing or proposed Historic Overlay Zone.

**DAY** — A business day when the Denton Town government is open for business.

**DEMOLITION BY NEGLECT** — Any willful neglect in the maintenance and repair of an individually designated landmark, site, or structure, or a site or structure within a designated preservation district, not including any appurtenances and environmental settings, that does not result from an owner's financial inability to maintain and repair such landmark, site, or structure, and which results in any of the following conditions:

- A. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows so as to create or permit an unsafe condition to exist; or
- B. The deterioration of the foundations, exterior walls, roofs, chimneys, doors, or windows, the lack of adequate waterproofing, or the deterioration of interior features which will or could result in permanent damage, injury, or loss of or loss to foundations, exterior walls, roofs, chimneys, doors, or windows.

**HISTORIC COMMISSION** — The Denton Historic and Architectural Review Commission.

**HISTORIC COMMISSION GUIDELINES** — The Denton Historic and Architectural Review Commission Guidelines.

**HISTORIC DISTRICT** — A significant concentration, linkage, or continuity of sites, structures, or objects united historically or aesthetically by plan or physical development.

**HISTORIC OVERLAY ZONE** — A historic district designated by the Denton Town Council as provided herein, containing significant features, woodlands, vegetation, structures, sites, monuments, landmarks, farmland, and/or archaeological sites. The historic district shall be

accurately posted on the Official Town Zoning Map. (A historic district may be comprised of a single lot or multiple lots.) The area shall include such property as is essential for historical protection. Additional areas may be included or added as determined by the Historic Commission and Planning Commission and approved by the Town Council to benefit or enhance the Historic Overlay Zone.

**HISTORIC RESOURCE** — A term used to identify a historic site or any item interpreted as a structure, as defined in "structure."

**MINIMUM MAINTENANCE** — A required protective maintenance of historic-overlay-zoned structures and sites. Minimum maintenance shall be interpreted as the minimum building codes currently enforced by the Town of Denton and shall include emergency repairs and ADA compliance items.

**ORDINARY MAINTENANCE** — Routine repairs that do not alter the exterior features of a historic site or historic resource within a Historic Overlay Zone. Exterior features include the architectural style, design, and general arrangement of the exterior; the color, nature, and texture of building materials; and the type and style of all windows, doors, light fixtures, signs, and similar items found on or related to the exterior of, a historic site or historic resource within a Historic Overlay Zone. Basically, ordinary maintenance is that which will have no material effect on the historical, architectural, cultural, or archaeological value of the historic site or historic resource within a Historic Overlay Zone. This definition of "ordinary maintenance" applies, whenever appropriate, to the appurtenances and environmental setting of the property, as well as the building, structure, or object itself. Specific items to be considered as ordinary maintenance include:

- A. Repair or replacement of roofs, gutters, siding, external doors and windows, shutters, trim, lights, decks or porches, fences, and other appurtenant fixtures with like materials of like design.
- B. Landscaping, except the removal of significant healthy trees.
- C. Paving repair using like materials of like design.
- D. Repainting of surfaces using the same or substantially the same color.

**SITE** — The location of an event of historic significance or a standing or ruined structure that possesses historic archaeological or cultural significance.

**STRUCTURE** — A combination of materials to form a stable construction, including but not limited to buildings, stadiums, reviewing stands, platforms, staging, observation towers, trestles, bulkheads, piers, wharves, sheds, coal bins, shelters, fences, and display signs.

- A. The term "structure" shall include natural and man-made land formations and appurtenances and environmental settings.
- B. The term "structure" shall be interpreted as if followed by the words "or part thereof."

### **§ 128-36. Statutory authority.**

Section 8.02, Annotated Code of Maryland, gives the Town of Denton the power to designate historic landmarks and to establish, change, layout, and define zones that are deemed to be of historic or architectural value, following the procedures as per this article of this chapter.

### **§ 128-37. Structural and site standards specifications.**

- A. The Historic Overlay Zone is a special district to be superimposed on other districts contained in these regulations. It is to be so designated by a special symbol for its boundaries on the Official Zoning Map. The uses, housing types, minimum lot requirements, minimum yard requirements, maximum height, and accessory uses and accessory signs shall be determined by the regulations applicable to the underlying zone over which the Historic Overlay Zone is superimposed except as the applications in the Historic Overlay Zone may modify the underlying zone regulations.
- B. The Historic Commission Guidelines, adopted by Ordinance No. 472 on February 7, 2005, or as amended after that, shall apply to and shall be considered during the review of all plans, site plans, subdivision plans, work permits, or other applications for new development, new construction involving structural alterations, new structures, and all applications for special exceptions or variances on all land within the Historic Overlay Zone. Where these guidelines conflict with any provision of this chapter or the Subdivision Ordinance, Chapter 73, Land Subdivision, or any other ordinance of the Town of Denton, these guidelines shall control.

### **§ 128-38. Permitted uses.**

A building or land shall be used only for the following purposes, and, except as provided herein, in each case, subject to approval by the Director of Planning and in accordance with the standards set forth in this article and the standards and procedures set forth in this article.

- A. Any use, accessory use, or sign permitted in the zoning district in which the premises are situated and upon which the Historic Overlay Zone is superimposed. The normal maintenance of a historic area or building, the charging of admission fees for visitors, or the conduct of visitor tours or centers or services within the Historic Overlay Zone shall not be considered commercial uses.
- B. Any conditional use permitted in the zoning district in which the premises are located, subject to the procedures and standards of this chapter for approval of conditional uses and subject in all cases to report by the Historic Commission in accordance with the purposes and standards of the Historic Overlay Zone.
- C. Any special exception or variance permitted in the zoning district in which the premises are located, subject to the procedures and standards of this chapter for approval of special exceptions and variances and subject to report by the Historic Commission and specific

findings of the Board of Appeals regarding the purposes and standards of the Historic Overlay Zone; provided, however, that if said special exception or variance is of such a minor nature as to be exempted from review by the Board of Appeals by the terms of the regulation in the Historic Overlay Zone, then no such review or report shall be required.

**§ 128-39. Historic and Architectural Review Commission.**

- A. Creation of Historic Commission and membership. Pursuant to Land Use Article, Division I, Title 8 of the Annotated Code of Maryland, the Denton Town Council shall create and appoint members for a Historic Commission. The Historic Commission shall have a membership of five (5) members, all of whom are qualified by special interest, knowledge, or training in such fields, but not limited to said fields, as history, architecture, archaeology, preservation, or urban design; and of which two of the five shall have professional qualifications which shall be determined according to the guidelines set forth in "Procedures for State Certification of Local Government Historic Preservation Programs," as established by the Maryland Historical Trust in February 1985, in one or more of the said fields. In addition, four of the five members shall be residents of the Town. All members of the Historic Commission shall, to the extent possible, be selected to represent the geographical, social, economic, and cultural concerns of the residents of the Town.
- B. Term of membership. The members shall be appointed for terms of three (3) years each, except that, in making the initial appointments, some appointments shall be established for less than three years in order that, as these initial terms expire, all appointments shall be for three years and shall not expire at the same time. Specifically, the first Chairperson of the Historic Commission shall be appointed for a three-year term. Members of the Historic Commission are eligible for reappointment. Any vacancy on the Historic Commission shall be filled by the appointing authority Town Council for the unexpired term of the particular position. Town authorities may consult private societies or agencies to request the names of possible members to fill vacancies on the Historic Commission.
- C. Removal for cause. A member may be removed for cause from the Historic Commission by a majority vote of the Town Council.
- D. Chairperson. The Historic Commission shall elect at the first regular meeting of each year, a Chairperson who shall serve for one year. If the Historic Commission fails to elect a Chairperson at the first regular meeting of each year, the Mayor will appoint a Chairperson.
- E. Compensation. The members of the Historic Commission shall serve without compensation. Still, they may be reimbursed for actual expenses incurred in the performance of their duties, provided said expenses are permitted by the budget and approved by the Town Council.
- F. Gifts. The Historic Commission shall have the right to accept and use gifts for the exercise of its functions.

- G. Architectural easements. The Historic Commission may purchase or accept architectural easements in connection with structures located in or adjacent to the Historic Overlay Zone. Such easement shall grant to the Historic Commission, residents of the Historic Overlay Zones, and the general public the perpetual right to have the exterior appearance of any structure upon which it is applied retained in substantially the same character as when the easement took effect.
- H. Regulations, bylaws, and rules of procedure. The Historic Commission shall adopt its own rules and regulations for organization, conduct of meetings, and other transaction of business. The bylaws and rules of procedure adopted by the Historic Commission shall be available for public inspection.
- I. Guidelines. The Town Council shall adopt and amend Historic and Architectural Review Commission Guidelines, which shall be considered by the Historic Commission when reviewing applications.
- J. Meetings. The Historic Commission shall hold such regular meetings which, in its discretion, are necessary to discharge its duties. When an application is filed, the Historic Commission shall hold a monthly public meeting to discuss the said application. Said meetings shall be open to the public, whereby any interested person or their representative is entitled to appear and be heard by the Historic Commission before it decides on any matter. All decisions by the Historic Commission shall be made in a public forum. The Historic Commission shall keep an open record of its resolutions, proceedings, and actions, which shall be kept available for public inspection during reasonable business hours. Applicants shall be given written notification of the decision of the Historic Commission.
- K. Staff. There may be appointed and/or assigned to the Historic Commission such employees, including personnel to record minutes of all meetings, and the Town Administrator shall make available to the Historic Commission such services and facilities of the Town as are necessary or appropriate for the proper performance of duties of the Historic Commission. The Town Attorney shall serve as counsel, and the Town staff shall serve as staff to the Historic Commission.

#### **§ 128-40. Designation of Historic Overlay Zones.**

- A. Designating body. The Town Council shall designate Historic Overlay Zones in accordance with the procedures established by this chapter.
- B. Petition for designation or removal of designation. Petition for designation of a Historic Overlay Zone or removal of said designation may be initiated by the owner of the site or by that owner's agent, by the Historic Commission, or by any interested person, group, or organization.

- C. Criteria for designation. The following criteria are to be considered when determining to designate a resource eligible for classification as a Historic Overlay Zone or an area within a Historic Overlay Zone.
- (1) Historic and cultural significance. The historic resource:
    - (a) Has significant character, interest, or value as part of the development, heritage, or cultural characteristics of the Town, county, state, or nation;
    - (b) Is the site of a historic event;
    - (c) Is a site that has yielded, or may be likely to yield, information important in prehistory or history;
    - (d) Is identified with a person or a group of persons who influenced society; or
    - (e) Exemplifies the cultural, economic, social, political, or historic heritage of the Town.
  - (2) Architectural and design significance. The historic resource:
    - (a) Embodies the distinctive characteristics of a type, period, style, or method of construction;
    - (b) Represents the work of a master craftsman, architect, or builder;
    - (c) Possesses high artistic values;
    - (d) Represents a significant and distinguishable entity whose components may lack individual distinction; or
    - (e) Represents an established and familiar visual feature of the Town, due to its singular physical characteristics or landscape.
- D. Should a Historic Overlay Zone or an area within a Historic Overlay Zone no longer meet the above criteria and the specific criteria for which it was originally designated, the Historic Overlay Zone designation may be removed by legislative action of the Town Council after receipt of a recommendation from the Historic Commission.
- E. Should a Historic Overlay Zone or an area within a Historic Overlay Zone have received Town-authorized or -administered preservation grants, loans, or special property tax incentives, the Town Council may require that those funds received through grants, loans, or tax incentives be reimbursed in full to the Town prior to the site being removed from the Historic Overlay Zone designation.

#### **§ 128-41. Procedures for petition for designation or removal.**

- A. Petitions for Historic Overlay Zone designation or removal of a Historic Overlay Zone designation shall be filed with the Department of Planning and Codes Administration.



- (1) The petitions concerning Historic Overlay Zone designation shall include a completed Historic Overlay Zone application form and additional information as required by the Historic Commission to enable the Historic Commission to make a well-informed decision.
  - (2) The application and all attachments shall be forwarded to the Chairperson of the Historic Commission within ten (10) days of the application filing date. Applications are due by the first of each month.
- B. The Historic Commission shall have twenty (20) days to review the application after it has been discussed at a public meeting held by the Historic Commission before forwarding the Historic Overlay Zone application, attachments (if applicable), and Historic Commission recommendations to the Town Council. If the Historic Commission feels that more than twenty (20) days are needed in order to make an educated and informed decision, the Historic Commission shall inform the applicant of their request for an extension prior to the terminus of the twenty days. The applicant shall then send a written response to the Director of Planning within ten (10) days, and the official shall forward said response to the Historic Commission within ten (10) days of receipt of said response. If the applicant fails to send a written response within the designated time, the petition is null and void and would need to be resubmitted if said applicant wishes to pursue the matter. If the Historic Commission receives a negative reply for an extension, the Historic Commission shall have thirty (30) days to forward its recommendations to the Town Council. If the Historic Commission fails to act within the designated time, the application shall be forwarded to the Town Council, which approves the petition.
- C. For petitions initiated by other than the owner, the applicant must abide by the following criteria:
  - (1) Notify the owner of the property at least fourteen (14) days prior to the Historic Commission's next scheduled meeting to discuss the application;
  - (2) Clearly identify the significance of the site with regard to the Town;
  - (3) State the need for the site to be designated a Historic Overlay Zone;
  - (4) Demonstrate how the public interest will be served by having the site designated a Historic Overlay Zone;
  - (5) Demonstrate that the designation will not create an undue burden or hardship for the property owner;
  - (6) Consider the property owners' comments and desires; and
  - (7) A unanimous vote of the Town Council will be required to designate the site as a Town Historic Overlay Zone.

#### **§ 128-42. Outside consultation permitted.**

- A. The Historic Commission may obtain comments from appropriate county, state, and federal agencies and appropriate private organizations, including, but not limited to, educational institutions and local historical societies. It shall forward its recommendation to the Town Council for action.
- B. The Maryland Historic Trust may be designated by the Historic Commission to make an analysis of and recommendation concerning the preservation of structures of historic and architectural value within the area served by the Historic Commission. Such a report may include proposed boundaries of districts and the use recommended to be permitted in the districts, as well as identify and designate particular structures recommended to be preserved.

#### **§ 128-43. Duties of Town Council.**

The Town Council, upon receipt of recommendations regarding a Historic Overlay Zone application from the Historic Commission, shall:

- A. Schedule a public hearing in relation to the case by publishing a notice of the time and place of such hearing in a newspaper of general circulation in the Town at least fourteen (14) days in advance of said hearing.
- B. Inform the affected property owner(s) via written notice to be postmarked at least 14 days in advance of the scheduled public hearing of the date, time, and place of said hearing.
- C. Hold a public hearing at which parties in interest and citizens shall have an opportunity to be heard.
- D. Prepare a finding of facts based upon the criteria for designation listed in this section of this chapter and upon the comments of owners of property within the proposed overlay district. It shall be the policy of the Town to carefully consider the impact of any proposed zoning, special exception use, permitted uses (such as, but not limited to, public utility buildings and structures, including radio and television broadcasting stations), utility distribution lines, public buildings and structures, public (state, county, or Town) roads and rights-of-way, or development upon officially designated Historic Overlay Zones and, to the greatest degree practical, avoid or minimize any adverse effects.
- E. Upon finding that a proposed site meets the criteria of this chapter and that such designation is in the general interest of the citizens of Denton, the Town Council may designate or remove the Historic Overlay Zone or an area within a Historic Overlay Zone and cause the site to be posted on or removed from the Official Zoning Map.
- F. In the event of a denial of an application, the applicant shall receive a written notification of the reasons for such denial to be postmarked within five days of the Town Council decision.

#### **§ 128-44. Powers and duties of the Historic and Architectural Review Commission.**

The Historic Commission shall have the following powers and duties:

- A. To maintain and update an inventory of historic resources within the Town.
- B. To review applications for the designation or removal of a Historic Overlay Zone or an area within a Historic Overlay Zone and to forward recommendations to the Town Council, which will approve or disapprove the designation or removal of a Historic Overlay Zone or an area within a Historic Overlay Zone.
- C. To review and process applications for historic area work permits.
- D. To make recommendations to the Planning Commission on courses of action in the event of subdivision of land within a Historic Overlay Zone as it relates to the preservation of the historic resource, of the architectural setting, and of the environmental setting in which the resource is located.
- E. To recommend courses of action to the Planning Commission in the event of subdivision of land containing an identified historic resource as it relates to the preservation of the historic resource, of the architectural setting, and of the environmental setting in which the resource is located.
- F. To review any legislation and proposal affecting historic preservation and to make recommendations on said legislation and proposals to appropriate authorities.
- G. To research the Town's historic resources and recommend applicable sites, areas, and structures to the Town Council for designation as a Historic Overlay Zone.
- H. To serve as a clearinghouse for information on historic preservation for the Town government, individuals, citizens' associations, historical societies, and local advisory committees; to provide information and educational materials for the public; and to undertake activities to advance the goals of historic preservation in the Town of Denton.
- I. To regularly inform the Maryland Historical Trust of the addition or removal of a Historic Overlay Zone or an area within a Historic Overlay Zone and of new information or data found or researched regarding historic sites or structures in the Town.
- J. To employ consultants or other temporary personnel, consistent with Town contract provisions, as deemed necessary to assist the Historic Commission in the accomplishment of its functions. Said consultants or other personnel shall be compensated as may be provided for in the Town budget.
- K. To write or amend the Historic Commission guidelines for Town Council approval consideration.

**§ 128-45. Historic area work certificates of approval.**

- A. Before the construction, alteration, reconstruction, repair, moving, or demolition of any structure is made within a designated Historic Overlay Zone, for any proposed changes that would affect the exterior appearance of the structure, the individual(s), firm or corporation proposing to make the construction or change shall file with the Historic Commission a historic area certificate of approval application for permission to build, alter, repair, reconstruct, move, demolish, or make an addition. If the proposed changes require a Town building permit as determined by this chapter, a completed building permit shall accompany the historic area certificate of approval application to be filed with the Historic Commission. All proposed changes shall be consistent with the Historic Commission Guidelines.
- B. Emergency repair items and residential ADA items shall be approved by the Department of Planning and Codes Building Official.
- C. Every such certificate of approval application shall be referred to and considered by the Historic Commission and accepted or rejected by the Historic Commission. No building permit for any such change may be granted until the Historic Commission has acted thereon as hereinafter provided.
- D. Application to the Historic Commission is not required for ordinary maintenance as defined in § 128-35, Definitions.
- E. Specific items requiring historic area certificate of approval. A historic area certificate of approval shall be filed for the following specific items, whether or not a building permit is required.
  - (1) Repair or replacement of roofs, gutters, siding, external doors, and windows, external trim, external lights, and other external appurtenant fixtures with different materials of different designs.
  - (2) Removal of a building, structure, or object, or a visible portion thereof, including outbuildings.
  - (3) New construction or any enlargement, modification, or alteration of the exterior of an existing building, structure, or object which requires a building permit.
  - (4) Removal, replacement, or enclosure of porches.
  - (5) Basic alteration of materials, including installation of siding, shingles, or masonry facing.
  - (6) Removal of significant healthy trees.
  - (7) Installation or removal of fencing or fence walls.
  - (8) Permanent installation or removal of shutters.

- (9) New paving or modification of paving materials in front of the building line.
- (10) Removal, modification, or alteration of exterior architectural features.
- (11) First-time painting, removal of paint, or substantially changing the color of paint.
- (12) Exterior sandblasting.
- (13) Performing any grading, excavating, construction, or substantially modifying, changing, or altering the environmental setting.
- (14) Erecting or causing to be erected any sign or advertisement (with the exception of those signs which are erected temporarily for such purposes as advertising the sale of the property site or promoting a political viewpoint) on exterior structures or in the environmental setting.
- (15) Any other act which does not constitute ordinary maintenance but which modifies, alters, or otherwise affects the exterior features of a historic resource within a Historic Overlay Zone.

**§ 128-46. Criteria for review of application and permits for alterations to designated Historic Overlay Zones.**

- A. In reviewing applications for certificates of approval and work permits filed under the provisions of § 128-45, Historic area work certificates of approval, the Historic Commission shall review each application or permit for consistency with the Historic and Architectural Review Commission Guidelines. In addition to the Guidelines, the Historic Commission shall consider:
- (1) The historic or architectural value and significance of the structure and its relationship to the historic value of the surrounding area;
  - (2) The relationship of the exterior architectural features of the structure to the remainder of the structure and the surrounding area;
  - (3) The general compatibility of exterior design, arrangement, texture, and materials proposed to be used;
  - (4) The extent to which the building or structure would be harmonious with, or incongruous to, the environmental setting of a designated Historic Overlay Zone. It is not the intent of this chapter to discourage contemporary architectural expression, or to encourage the emulation of existing buildings or structures of historical architectural interest in specific detail. Harmony or incompatibility will be evaluated in terms of the appropriateness of materials, scale, size, height, and placement of new buildings in their relationship with existing structures and
  - (5) Any other factors, including aesthetic and environmental factors, which the Historic Commission deems pertinent.

- B. Limitation of considerations. The Historic Commission normally shall consider only the exterior features of a structure. Still, in cases where the owner voluntarily subjects the interior arrangement and materials to review by the Historic Commission, those interior features shall also be considered. The Historic Commission shall not disapprove a certificate of approval application except with respect to the factors specified above. Furthermore, the Historic Commission will not limit new construction, alteration, or repairs to any one architectural style of a given chronological period.
- C. Strictness and leniency in the judgment of plans. The Historic Commission shall be strict in its judgment of plans affecting those structures designated as having significant historic or architectural value. The Historic Commission may be lenient in its judgment of plans for structures of little historic value or plans involving new construction unless such plans would seriously impair the historic or architectural value of the surrounding area.

**§ 128-47. Action on applications for historic area work permits.**

- A. Applications for issuance of a historic area certificate of approval shall be filed with the Director of Planning. The historic area certificate of approval application provided by the Department of Planning shall have all pertinent information completed upon submission of the application. If a building permit is deemed required as per this chapter, a completed building permit application must be filed with said historic area certificate of approval permit application.
- B. Upon the filing of a completed application, within fourteen (14) days, the Director of Planning shall forward the application and all attachments to the Historic Commission.
- C. Upon receipt of the application, the Historic Commission shall consider at its next regularly scheduled public meeting.
- D. The Department of Planning shall notify the applicant of the public meeting scheduled with the Historic Commission for review of the application. It shall provide a public notice to the applicant for posting by the applicant on the property for purposes of notifying citizens or organizations which may have an interest in the proceedings.
- E. At the public meeting, interested persons will be encouraged to comment, and written and/ or taped minutes of the proceedings shall be kept. The Historic Commission shall determine specific rules of procedure.
- F. Actions of the Historic Commission.
  - (1) The failure of the Historic Commission to act upon a completed application within 45 days from the date the completed application was filed shall be deemed to constitute automatic approval of the proposed changes unless an extension of this forty-five-day period is agreed upon mutually by the applicant and the Historic Commission or the application has been withdrawn.

- (2) Within 14 days after an application is presented and reviewed at the Historic Commission's public meeting, the Historic Commission shall make its decision public. However, if Subsection G of this section is applicable, an extension shall be granted to the Historic Commission.
  - (3) The Historic Commission shall instruct the Director of Planning to:
    - (a) Issue the certificate of approval; or
    - (b) Issue the certificate of approval subject to such conditions as are necessary to ensure conformity with the provisions and purposes of this section or
    - (c) Prohibit issuance of the certificate of approval.
  - (4) The applicant shall receive a written notification of the Historic Commission's decision. In the event of a denial of a certificate of approval, reasons for such denial shall be included with the written notification.
  - (5) If, after a public meeting, the Historic Commission finds that not issuing a certificate of approval applied will result in the denial of reasonable use of the property or impose undue hardship on the owner, and, within ninety (90) days after the public appearance, no economically feasible plan for the preservation of the structure has been demonstrated by those seeking preservation, the Historic Commission must then instruct the Director of Planning to issue a certificate of approval with, if applicable, such reasonable conditions which will further the intent and purposes of this section.
- G. In the event that a decision of the Historic Commission aggrieves any party, then thirty (30) days from the date on which the Historic Commission's decision is made public, said aggrieved party may appeal to the Board of Appeals, which will review the Historic Commission's decision based on the record of the proceedings before the Historic Commission. Further appeal may be taken to the Circuit Court for Caroline County.
- H. Miscellaneous provisions:
- (1) The applicant for a permit shall have the responsibility of providing information sufficient to support the application and the burden of persuasion on all questions of fact, which are to be determined by the Historic Commission. Properties subject to deeds of easement held by other Historic Preservation organizations shall submit proof of approval of exterior architectural review by the organization holding the easement.
  - (2) Any permit issued by the Department of Planning and Codes may be subject to such conditions imposed by the Historic Commission as are reasonably necessary to assure that work in accordance with the permit shall proceed and be performed in a manner not injurious to those characteristics and qualities of the historic resource which are of historical, architectural, archaeological, or cultural value.

- (3) In the event that there is a conflict between the permit and the requirements of the Building Code, Chapter 38, Building Construction, Article II, Building Code, the permit would control, provided that all health and safety requirements are met.

**§ 128-48. Adaptive reuse of historic structures.**

The Board of Appeals may grant a special exception, adaptive reuse of a historic structure, provided:

- A. The structure proposed for adaptive reuse is located in the Historic Overlay Zone and approved as a historically significant structure by the Historic Commission;
- B. The application has been submitted to the Historic Commission and Planning Commission for any required approvals and each of their recommendations on the special exception for adaptive reuse;
- C. It is shown that exterior changes to the site structure will be minimized; extensions or enlargements of the principal structure and accessory structures may not exceed 25% of the gross floor area of each building above that which existed at the time of the adoption of these regulations. Enlargements shall be designed in keeping with the character of the building;
- D. Landscaping is in keeping with the character of the building;
- E. The site must have access to a public road;
- F. The use is complementary to the character of the structure and
- G. The number of dwellings shall not exceed the density permitted in the district in which the structure is located.

**§ 128-49. Applicability.**

Section § 128-39 of this article authorizing the establishment of the Historic Commission shall become effective immediately. The remainder of this article shall become effective upon the establishment of the Historic Commission.

**§ 128-50. Demolition by neglect.**

- A. In the event of demolition by neglect, the Historic Commission may request the Director of Planning to notify, in writing, the property owner of record, any person having a right, title, or interest therein, and the occupant or other person responsible for the maintenance of the property of the deterioration. The notice shall specify the minimum items of repair or maintenance necessary to correct the deterioration or prevent further deterioration.
- B. Prior to the issuance of a written notice, the Historic Commission may request the Director of Planning to establish a record of demolition by neglect. Such a record may



include dated materials such as photographs and written reports of the condition of the property so as to record or measure the deterioration.

- C. The notice shall provide that corrective action shall commence within thirty (30) days of the receipt of said notice and be completed within a reasonable time after that. The notice shall state that the owner of record of the property, or any person of record with any right, title, or interest therein, may, within ten (10) days after the receipt of the notice, request a hearing on the necessity of the items and conditions contained in the notice. In the event a public hearing is requested, it shall be held by the Historic Commissioners upon 30 days written notice being mailed to all persons of record with any right, title, or interest in the property and to all citizens and organizations which the Historic Commission determines may have an interest in the proceedings.
- D. If, after the public hearing, the Historic Commission determines that the corrective actions remain necessary, the Historic Commission may request the Director of Planning take corrective action to ensure compliance with the final notice within thirty (30) days of receipt of the final notice.
- E. Upon failure, neglect, or refusal of the property owner or other responsible person, duly notified, to take the corrective action specified in the final notice within the time required, the Historic Commission may request that the Director of Planning institute any of the remedies and penalties provided for in this chapter.

#### **§ 128-51. Violations.**

Any willful violation of the provisions of this article by willfully performing or allowing to be performed any work without first obtaining a historic area work permit, failing to comply with a final notice issued pursuant to this article, or disregarding a decision of the Historic Commission will violate this article. A violation of this article shall be deemed a municipal infraction as provided in § 128-219. Everyday that the violation continues shall be deemed a separate offense.

#### **§ 128-52. Administrative Approvals.**

As provided § 128-39 (H) and (I), the Commission may create, amend, and adopt its own rules and guidelines. Accordingly, the Historic and Architectural Review Commission authorizes administrative approvals as outlined in the Historic and Architectural Review Commission Administrative Approval Guidelines.

#### **Part C – IRD Infill and Redevelopment Overlay Zone.**

##### **§ 128-53 General.**

- A. The IRD Infill and Redevelopment Overlay Zone defines an area of the Town wherein the Planning Commission may approve development that may not meet all applicable

requirements of this ordinance but implement objectives of the Comprehensive Plan that are found to be context-appropriate.

- B. Accordingly, this section establishes flexible development standards and criteria that permit consideration without the requirement to approve infill and redevelopment proposals, including mixed-residential and mixed-use projects.

#### **§ 128-54. Applicability.**

- A. The provisions of this section shall apply to properties of 0.75 acres or less in the SR Single-Family Residential, TR Town Residential, MR Mixed Residential, and CBC Central Business zoning districts and within the IRD Overlay Zone recorded before September 23, 2010, and not part of a recorded subdivision. Small lots meeting these criteria may be combined to create a development site up to 0.75 acres. However, parcels larger than 0.75 acres may not be subdivided to create eligible properties.
- B. A proposed use's nature, size, scale, or intensity may cause a particular site to be unsuitable for a specific proposal. Therefore, there is no general presumption that an application for such use at a particular location is valid, ensures the public benefit of the Town, is compatible with surrounding uses, or is in compliance with the Comprehensive Plan. Instead, each application will be evaluated according to its particular location and the degree to which the developer is willing or able to propose a development plan that ameliorates possible adverse impacts and furthers the goals and objectives of this Subsection and the Zoning Ordinance generally.

#### **§ 128-55. Permitted Uses.**

The following are land uses the Planning Commission may approve in the IRD Overlay Zone.

- A. Detached single-family unit
- B. Two-family unit
- C. Duplex
- D. Standalone Tri-plex
- E. Standalone Four-plex
- F. Mixed-use building
- G. Neighborhood center

#### **§ 128-56. Development standards.**

- A. Other zoning provisions notwithstanding, minimum lot area, width, and yard requirements may be established for each project at the discretion of the Planning Commission. However, the Planning Commission may not permit a new principal

structure to be located on a property line or closer than ten (10) feet to a principal structure on an adjacent property.

- B. Other zoning provisions notwithstanding, the Planning Commission may permit additional dwelling units provided the lot area for the additional unit(s) is seventy-five percent or more of the required minimum area per unit. However, in no case shall a townhouse building or multifamily dwelling include more than four (4) units.
- C. Buildings and structures are restricted to the height limit established for the district.

**§ 128-57. Findings requirement.**

- A. The Planning Commission may approve a proposed infill or redevelopment project upon finding that:
  - (1) The plan is consistent with the Design Guidelines (Appendix III) as applicable;
  - (2) The plan is in accordance with the Denton Comprehensive Plan;
  - (3) The plan is internally and externally compatible and harmonious with existing and planned land uses in the area and
  - (4) Existing or planned public facilities adequately serve the proposed development.
- B. The Planning Commission may establish appropriate conditions for approval of non-residential uses such as hours of operation, buffer and screening, signage, and lighting to ensure compatibility with adjacent residential uses.

**§ 128-58. Application process.**

- A. Public notice of the Planning Commission's consideration of a proposed infill and redevelopment proposal shall be provided as outlined in § 128-216. In addition, property or properties proposed for development under the terms of this section shall be posted by the Town. Such posting shall appear on the site at least (14) days before the Planning Commission considers the application. At the time of posting, all required application information, as outlined herein, shall be present and available for review in the Town Office.
- B. The applicant has the entire burden of proof to demonstrate the proposed infill or redevelopment proposal meets or exceeds the Development Guidelines. Therefore, applications shall include adequate information to address this burden of proof requirement and shall, at a minimum, include the following:
  - (1) A description of the proposed development site, i.e., a plot plan or survey plot.
  - (2) A description of existing conditions in the vicinity of the site (e.g., block face on both sides of the street within five hundred (500) feet of the proposed development site). These descriptions shall include documenting photographs and

an analysis of the prominent architectural features along adjacent block faces and shall address the following:

- (a) site location and topography,
  - (b) street connections,
  - (c) pedestrian pathways,
  - (d) lot coverage and
  - (e) building orientation
- (3) A description of existing neighborhood architectural characteristics and features, including:
- (a) massing and proportions,
  - (b) entryways,
  - (c) windows,
  - (d) garage doors, if proposed,
  - (e) finishes and materials,
  - (f) ornamentation,
  - (g) roof detail, and
  - (h) color
- (4) A description of the proposed infill or redevelopment, including:
- (a) elevations of all proposed buildings,
  - (b) a description of how the proposed infill or redevelopment is compatible with the features described in (3) above and
  - (c) A statement of how the proposed infill or redevelopment meets the development and compatibility standards in Design Guidelines in Appendix III and the findings requirements outlined in § 128-57.

### **§ 128-59. Remedies.**

Appeals from the decision of the Planning Commission concerning any application for infill or redevelopment may be made as provided in § 128-179 of this Chapter.

## **Part D - FP Floodplain District.**

### **§ 128-60. Purpose.**

It is the purpose of the Floodplain District to designate all areas within the Town subject to inundation by floodwaters as defined and referenced by Chapter 58 of the Denton Town Code. It is the intent hereof that the FP District shall protect the general welfare of the Town of Denton residents and the value of property by preventing excessive damage to buildings, structures, and land due to the conditions of flooding.

### **§ 128-61. Higher standards to control.**

The provisions of this section are in addition to the provisions of other districts of this chapter. In all cases of conflicting requirements, the provision that represents the greater restriction or higher standards shall govern. See Chapter 58, Floodplain Zones.

### **§ 128-62. Delineation and Regulations.**

- A. The FP District shall include all areas subject to inundation by floodwaters as defined and referenced by Chapter 58 of the Denton Town Code.
- B. Reference Chapter 58 of the Denton Town Code for the provisions of all development activities in the FP District.

## **Part E – PN Planned Neighborhood Floating Zone.**

### **§ 128-63. PN Planned Neighborhood District.**

- A. There is a general presumption that an application for a PUD project at an appropriate location conditionally approved as a PN District, proposing uses permitted within the PN District with residential densities as provided in this section, inures to the general benefit of the Town and is in compliance with the Town's Comprehensive Plan.
- B. Applicability. The Town Council may apply the PN Planned Neighborhood District to any lands annexed by the Town that have not been rezoned prior to the original adoption of this section, Ordinance No. 446, adopted May 3, 2004, and effective May 10, 2005. The PN District is intended to apply to tracts of land exceeding 50 acres.
- C. Intent. The PN Planned Neighborhood District is intended to promote the following:
  - (1) Implement the recommendations of the Denton Comprehensive Plan;
  - (2) Develop neighborhoods that are pedestrian-friendly and encourage pedestrian travel;

- (3) Promote design that results in residentially scaled buildings fronting on and generally aligned with streets;
- (4) Encourage the inclusion of a diversity of household types, age groups, and income levels;
- (5) Promote traditional town building and site development patterns with an interconnected and broadly rectilinear pattern of streets, alleys, and blocks to accommodate both pedestrians and automobiles;
- (6) Encourage the creation of functionally diverse but visually unified communities focused on central squares;
- (7) Promote the use of neighborhood greens, landscaped streets, boulevards, and single-loaded parkways woven into street and block patterns to provide space for social activity, parks, and visual enjoyment;
- (8) Provide buildings for civic or religious assembly or for other common or institutional purposes that act as visual landmarks and symbols of identity;
- (9) Promote the location of dwellings, shops, and workplaces in close proximity to each other, the scale of which accommodates and promotes pedestrian travel for trips within the community;
- (10) Preserve open space, scenic vistas, agricultural lands, and natural areas;
- (11) Permit design flexibility to achieve an appropriate mix of residential and nonresidential building uses and
- (12) Require efficient utilization of designated growth areas.

D. Land uses in the PN District. The uses permitted within the PN District shall be as established by the land use table set forth in this chapter, which shall prevail over conflicting requirements of this chapter or the Subdivision Regulations, Chapter 73, Land Subdivision.

E. Density determination.

- (1) General. The total number of dwelling units permissible in a PUD project in the PN District shall be determined in accordance with the provisions of this section (as adjusted by density bonuses as set forth below), subject to the following:
  - (a) Areas used for nonresidential purposes shall be subtracted from the adjusted tract acreage, as described in Subsection E(2) below, before determining permissible residential density.
  - (b) All dwelling units constructed above commercial uses in the storefront area shall be permissible in addition to the number of dwelling units otherwise authorized under this section. However, the total number of dwelling units

in a development shall not be increased by more than ten (10) dwelling units or 5%, whichever is greater.

- (c) Base density calculation. The land area shall determine base density yielded through calculations of the adjusted tract acreage (also defined as "net area"), as determined by Table E(2). The minimum residential density for a proposed PN District shall be 3.5 dwelling units per adjusted tract acres. Except as may be provided below, the maximum residential density for a proposed PN District shall be no more than 5.0 dwelling units per adjusted tract acre.

- (2) Table E (2) Table Density Factors for Calculating Adjusted Tract Acreage Density.

	Factor	Description of Constraint
DF 1	0.00	Street rights-of-way, floodways within one-hundred-year floodplain; wetlands and soils classified as "very poorly drained"; utility easements for high-tension electrical transmission lines (less than 69 KV); steep slopes, that is, those greater than 25%; soils classified as "poorly drained" (in unsewered areas); one-hundred-year floodplain (excluding floodways or wetlands within the floodplain); additional environmental constraints, such as FIDS and other habitat areas
DF 2	0.05	Resource Conservation Area of Critical Area Buffer): shall be applied only to area components not constrained by DF 1
DF 3	0.75	Soils classified as "poorly drained" (in sewerred areas); slopes between 15% and 25%
DF 4	1.00	Unconstrained land

- (3) Density incentives to further certain public objectives.

- (a) Housing type diversity. A density increase of up to 5% is permitted at the discretion of the Town Council when the proposal provides a mixture of at least four of the five of the following types of housing: single-family detached, two-family (semidetached), multifamily, townhouse, and apartments. The architecture of the proposed dwellings shall be harmonious among the various housing types, and they shall be integrated physically; that is, they should not be separated into different neighborhoods but rather mixed in together on the same streets so that at least two dwelling types are located together within the same block.
- (b) Implementation. For each of the public purposes described in Subsection E(3)(a) above, if the Town Council is satisfied that the public purpose objectives are being satisfied, density bonuses may be implemented by reducing the minimum lot area requirements up to 20%. The cumulative density bonuses applied to a PUD project may not exceed 10% of the maximum residential base density.

F. General design requirements.

- (1) Design standards referenced in this section shall be considered as minimum performance standards for the PN District.
- (2) Planned neighborhoods are intended to provide for a range of complementary uses. They may consist of up to four use areas: single-family residential areas (SRAs), central residential areas (CRAs), storefront areas (SAs), and conservation areas (CAs). At a minimum, they must contain both a SRA and a CA. These areas are intended to provide for the diversity necessary for traditional town life while maximizing the interactions among related uses and minimizing the adverse impacts of different uses upon each other.
  - (a) Single-family residential areas (SRAs) provide locations for a broad range of housing types, including single-family detached, semidetached, and attached, and may also include accessory dwelling units. SRAs may include the Rural Conservation District (Resource Conservation Area of the Critical Area); however, no more than one detached single-family residential dwelling unit and one caretaker dwelling unit may be allowed per 20 acres and shall be subject to award of growth allocation. See § 128-24.
  - (b) Conservation areas (CAs) are permanently protected open spaces, including greens, commons, passive and active recreation areas, environmentally sensitive and constrained areas, habitat protection areas, and private noncommon acreage used for agriculture, wholesale nurseries, tree farms, equestrian facilities, etc.
  - (c) The central residential area (CRA) is intended to contain a variety of housing options and related uses.
  - (d) The storefront area (SA) is intended primarily to provide uses that meet the retail and service needs of a traditional community center and its vicinity within one- and two-story buildings. It may contain other compatible uses, such as civic and institutional uses of community-wide importance, specifically including second-floor residential uses.

G. Development standards.

- (1) The following development standards shall apply to the PN District:
  - (a) The setback, lot size, lot dimensions, lot coverage, height, and yard requirements in the PN shall be established for each project by the Planning Commission in accordance with the PN design guidelines in Appendix III. In establishing these requirements, the Planning Commission shall consider such factors as the proposed development intensity and the existing character of adjacent neighborhoods.



- (b) Land coverage. The maximum amount of land that may be built over (covered) by parking lots, roads, sidewalks, plazas, buildings, or other structures shall be 60% of the adjusted tract area of the PN property(ies).
- (c) Minimum required open space.
  - (i) Minimum open space, including parks, recreational, habitat, forest, agriculture, stream buffers, and wetland preservation areas, shall be provided as prescribed in Article XII Common Open Space. Not less than 50% of the minimum required open space shall be in a form usable to and accessible by the residents, such as a central green, neighborhood squares or commons, recreational playing fields, woodland walking trails, other kinds of footpaths, a community park, or any combination of the above.
  - (ii) Open space land shall be permanently protected through conservation easements and may be developed for uses consisting of the following:
    - [1] Agricultural uses, including horticultural, wholesale nurseries and the raising of crops, and buildings related to the same;
    - [2] Equestrian facilities, including related stables and pastures;
    - [3] Woodlots, arboreta, and other similar silvicultural uses;
    - [4] Woodland preserve, game preserve, wildlife sanctuary, conservation meadows, or other similar conservation uses;
    - [5] Municipal or public uses, public park or recreation area owned and operated by a public or private nonprofit agency, or governmental or public utility buildings or uses, not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, or private or municipal sanitary landfills; and
    - [6] Active or passive recreation, if it is noncommercial and provided that no more than 50% of the minimum required open space is so used. Parking areas and any roofed structures associated with the active recreation may not be included within the 50% minimum.
  - (iii) The required open space shall be located and designed to add to the visual amenities of neighborhoods and the surrounding area by maximizing the visibility of internal open space as terminal vistas (the building or landscape seen at the end of a street or along the outside edges of street curves) and by maximizing the visibility of

external open space as perimeter greenbelt land (the undeveloped and permanently protected acreage around a community). Such greenbelt open space shall be designated to provide buffers and to protect scenic views as seen from existing roadways and public parks and shall not be less than 100 feet deep.

- (iv) PN developments shall include multiple greens, commons, or passive parks measuring a total of at least 1,500 square feet for each dwelling unit, plus 500 square feet of land for active recreation per dwelling unit.
  - (v) Civic greens or squares shall be distributed throughout the neighborhood so as to be located within 1,500 feet of 90% of all residential units in the SRA and CRA areas.
- (2) Residential unit mix. At a minimum, each PN development shall have at least three of the five unit types. Each phase of a proposed PN shall have at least three of the five unit types. The Planning Commission may vary this phase requirement if satisfied that at build-out, three of five unit types are included in the overall PN development. Each phase of a proposed PN development shall provide housing opportunities for a diverse population mix of age groups and income levels.

<b>Unit Type</b>	<b>Minimum Percentage</b>	<b>Maximum Percentage</b>
Detached single-family dwelling	50	80
Two-family dwelling	10	40
Townhouse	5	20
Multifamily	5	10
Apartment	5	10

H. Small PN projects. The Town Council may modify the minimum standards established in Subsection F above for a PN development of less than 50 acres, provided:

- (1) The proposed PN development is shown as part of and integrated into a general development plan for an adjacent (larger) PN project; the applicant demonstrates that the proposed development could be integrated into an adjacent development(s) or neighborhood(s) by such features as street extensions, the location of its SAs, and the location of common areas; and the Town Council determines that the proposed design meets the goals and objectives of the Comprehensive Plan and the intent of this section; or
- (2) The Town Council may find that the proposed PN is an infill or transition project between existing developments and/or adjacent to a proposed or planned large-scale PN project and that the proposed design of the PN project is consistent with the goals and objectives of the Comprehensive Plan and the intent of this section.

- (3) All PN projects shall be consistent with the PN design guidelines.

**§ 128-64. Procedure for approval of PN District floating zone amendment and PUD plan approval.**

- A. Purpose. The purpose and intent of the PN District floating zone amendment process is to permit specific and detailed mapping of areas for planned unit developments (PUDs) to provide for the creation of carefully planned, well-designed residential, commercial, and/or mixed-use communities at appropriate locations.
- B. PN District design standards. Applicants shall be guided throughout the review process by the PN design guidelines. Because it is recognized that design professionals, including architects, landscape architects, and land planners, are trained to strive for creative excellence, the design standards and criteria are not intended to restrict creative solutions or to dictate all design details. The PN design guidelines serve as a tool for the Town planning staff by providing a checklist of elements to be considered. The standards also inform the design professionals of items that should be considered or included from the outset of the design process.
- C. Preliminary application. A preliminary application for a floating zone amendment for a PN Planned Neighborhood District approval and a proposed PUD plan conditional approval shall be made to the Town Council. Preliminary applications shall include:
- (1) A written petition for the location of a PN Planned Neighborhood District and approval of a PUD plan, signed by the owners and contract purchasers, if any, of the property that is the subject of the petition.
  - (2) A narrative describing the following:
    - (a) Statement of present and proposed ownership of all land within the development;
    - (b) Overall objectives of the proposed planned unit development and a statement of how the proposed planned unit development corresponds to and complies with the goals and objectives of the Zoning regulations, the proposed PN District, and the Comprehensive Plan;
    - (c) Method of providing sewer and water service and other utilities, such as but not limited to telephone, cable, gas, and electric services;
    - (d) Storm drainage areas and description of stormwater management concepts to be applied;
    - (e) Method of and responsibility for maintenance of open areas, private streets, recreational amenities, and parking areas;
    - (f) School availability and school population impact analysis;

- (g) General description of architectural and landscape elements, including graphic representations; and
  - (h) If the petitioner desires to develop the property in phases, a preliminary phasing plan, indicating:
    - (i) The phase(s) in which the project will be developed, the approximate land area, uses, densities, and public facilities to be developed during each phase.
    - (ii) If different land use types are to be included within the planned unit development, the plan should include the mix of uses anticipated to be built in each phase.
- (3) A concept PUD plan, which includes:
- (a) Boundary survey, prepared by a professional land surveyor, of the area subject to the application;
  - (b) Graphic and tabular presentation of proposed site development information that clearly depicts the following:
    - (i) Total acreage of subject property and identification of all adjoining landowners;
    - (ii) Description of proposed land uses, including residential, commercial, institutional, and recreational;
    - (iii) Maximum number and type of dwelling units, approximate densities of residential areas, and anticipated population, including a separate population of school-age children;
    - (iv) Land area and locations generally allocated to each proposed use and
    - (v) Location of proposed roads, public open space, any sensitive resource areas (environmental or cultural), and public facilities.

D. Referral of preliminary application to Planning Commission. If the Town Council finds that the preliminary application for a PN Planned Neighborhood District approval and a proposed PUD plan conditional approval is generally consistent with the Comprehensive Plan and the standards of the PN District, the preliminary application shall be conditionally approved and referred to the Planning Commission for review in accordance with Subsection E below. "Conditional approval," as used herein, only means the Town Council has made a preliminary finding that the proposal is generally consistent with the Comprehensive Plan and this chapter. Conditional approval shall authorize the Planning Commission, planning staff, and Town consultants to continue to analyze the proposal subject to all applicable review processes and procedures. No development may occur until:

- (1) A floating zone has been applied to the property by legislative action of the Town Council;
- (2) A final PUD plan is approved for the floating zone by the Town Council and
- (3) The Planning Commission approves a final PUD plan, and the subdivision plat is recorded according to the provisions of this chapter.

E. PUD plan submittal to the Planning Commission. After the Town Council conditionally approves the preliminary application for a PN Planned Neighborhood District and the proposed PUD plan, the petitioner shall submit the following to the Planning Commission for review and recommendations to the Town Council:

- (1) Graphic PUD plan requirements:
  - (a) PUD plan that includes the following individual sheets: Single sheets shall not exceed 36 inches by 48 inches. Plans should be presented at a scale no smaller than one-inch equals 400 feet such that the entire site may be shown on a single sheet.
    - (i) Conditionally approved concept PUD plan;
    - (ii) Boundary survey, prepared by a professional land surveyor, including identification of adjacent property owners;
    - (iii) Existing condition information, including (Information may be displayed on more than one sheet for clarity.):
      - [1] Topographic survey (minimum one-foot contour interval);
      - [2] Soils;
      - [3] Forested areas and tree lines;
      - [4] Wetlands, hydric soils, streams, and water features;
      - [5] Steep slopes;
      - [6] Easements and deed restrictions;
      - [7] Roads, driveways, and rights-of-way;
      - [8] Existing buildings and
      - [9] Existing land uses.
    - (iv) Proposed open space, protected areas, public and private parks;
    - (v) Pedestrian and vehicular master plan showing dominant street configuration and pedestrian walking and biking alignments;

- (vi) Detailed plan of at least one phase, showing:
  - [1] Road alignments;
  - [2] Lot configuration;
  - [3] Commercial area plan, if applicable;
  - [4] Public and private open space(s);
  - [5] Perspective streetscape (typical for represented phase);
  - [6] Examples of proposed residential and commercial architecture;
  - [7] Plan view, perspective, and elevations of private and/or public community facilities; and
  - [8] Plan view, perspective, and elevations of the entrance to PUD, including gateway improvements, if applicable.
- (vii) Phasing plan, including:
  - [1] The general boundaries or location of each phase.
  - [2] The phase(s) in which the project will be developed, the approximate land area, uses, densities, and public facilities to be developed during each phase.
  - [3] If different land use types are to be included within the planned unit development, the plan should include the approximate mix of uses anticipated to be built in each phase.
- (b) Studies and reports by qualified professionals:
  - (i) A traffic study that evaluates traffic impacts of proposed entrances on existing public (state, county, and town) roads and major existing intersections within one mile of the project that traffic generated by the proposed project may impact;
  - (ii) Nontidal wetlands delineation;
  - (iii) Endangered species study prepared by qualified professionals; and
  - (iv) Historical and archeological survey.
- (c) PUD design standards, which shall generally conform to the elements of the PN design guidelines. The PUD design standards should provide specific details regarding the following:

- (i) Site design standards in the designated neighborhood and/or commercial areas, including permitted uses, building types, frontage, setbacks, lot sizes, building heights, parking, street widths and cross sections, sidewalks, lighting, and road geometry. Lighting should comply with standards set forth in Article XI of this chapter.
    - (ii) Building standards for designated neighborhood and/or commercial areas, including size and orientation, building facades, regulated architectural elements (windows, trim, etc.), rooflines, architectural styles, fencing, parking, and signage.
    - (iii) Landscape, buffer, and environmental standards, including location and scope, materials, and scheduling.
  - (d) Project scheduling information, including anticipated permitting hearings, approvals, construction start, phasing, anticipated absorption, and completion of key site elements. (Note: This information is understood to be representative of a best estimate and will be used by the Town planning agencies as a tool for long-range planning activities but shall not be binding.)
  - (e) The PUD plan shall also include a management statement regarding the anticipated ownership, construction, operation, and maintenance of:
    - (i) Sanitary sewers, water mains, and all stormwater management systems;
    - (ii) Streets, roads, alleys, driveways, curb cuts, entrances and exits, parking and loading areas, and outdoor lighting systems; and
    - (iii) Parks, parkways, walking paths, cycleways, playgrounds, and open spaces.
  - (2) The PUD plan shall comply with the requirements of this section and the requested floating zone. It may be accompanied by other written or graphic material that may aid the decisions of the Planning Commission and Town Council.
  - (3) The Town Council may establish additional and supplemental requirements for the PUD plan during its consideration of the preliminary application if the Town Council determines such requirements are necessary to enable the Town Council to evaluate the particular floating zone amendment request.
- F. Planning Commission review and recommendation on floating zone amendment and PUD plan.

- (1) The Planning Commission shall review the PN Planned Neighborhood District floating zone amendment request and the proposed PUD plan and PUD plan for compliance with the requirements of this chapter and consistency with the Comprehensive Plan and the PN design guidelines.
- (2) The Planning Commission shall evaluate the degree to which the floating zone request and PUD plan incorporates and/or addresses the PN design guidelines and furthers the goals and objectives of the Comprehensive Plan.
- (3) The Planning Commission may make reasonable recommendations to the petitioner regarding changes to the PUD plan proposal, which, in the judgment of the Commission, shall cause the proposal to better conform to the requirements of the Comprehensive Plan, the PN design guidelines and the goals and objectives of this chapter. The petitioner may resubmit the PUD plan to the Planning Commission in consideration of the Commission's comments.
- (4) If, after four PUD plan submissions, the PUD plan has not received a favorable recommendation from the Planning Commission, the Commission shall make a negative recommendation to the Town Council, setting forth its reasons as to why the PUD plan should not be approved.
- (5) The Planning Commission shall consider and comment on the findings required of the Town Council by Subsection G (2) and shall make a favorable or negative recommendation to the Town Council.
- (6) The Planning Commission shall return the PUD plan with any revisions, together with written comments and recommendations and its floating zone comments, to the Town Council for action pursuant to the floating zone and PUD plan approval process.

G. Town Council approval of floating zone and PUD plan.

- (1) The Town Council shall review the PUD plan and other documents, together with such comments and recommendations as may have been offered by the Planning Commission.
- (2) The Town Council may approve or disapprove the proposed floating zone map amendment and associated PUD concept plan. It shall follow the procedures set forth in Article XV for a zoning reclassification. However, the change or mistake standard set forth in § 128-189A shall not apply to a floating zone amendment that locates a PN District in accordance with this section, and the Town Council shall apply the criteria as set forth in this section. Concurrently with the location of a floating zone, the Town Council may approve the PUD concept plan, which, in addition to the provisions of the PN District, shall govern the subdivision and/or development of the property. In approving the PN District floating zone map amendment, the Town Council shall make findings of fact, including but not limited to the following matters: population change, availability of public



facilities, present and future transportation patterns, compatibility with existing and proposed development for the areas, and the relationship of the proposed amendment to the Comprehensive Plan. The Town Council may approve the PN District map amendment if it finds that the proposed floating zone amendment is:

- (a) Consistent with the Comprehensive Plan;
  - (b) Consistent with the stated purposes and intent of the PN District;
  - (c) Complies with the requirements of this chapter; and
  - (d) Is compatible with adjoining land uses.
- (3) After approval of a floating zone amendment by the Town Council, two complete copies of the approved PUD concept plan shall be filed with the Town Clerk. Eight additional complete copies of the approved PUD concept plan shall be filed with the Director of Planning for Planning Commission reference during its subsequent review and approval of subdivision plans and/or site plans.
  - (4) As part of the final PUD concept plan approval, the Town Council shall approve a date for initiation of the proposed development.
  - (5) In the event that a floating zone amendment or a prior annexation agreement with a PN floating zone is approved by the Town Council without subdivision and approval of an associated PUD concept plan, the subject property may not be subdivided until the owner complies with the PUD review and approval provisions of this chapter, and may not be developed except in conformance with a subdivision plan as required by and in conformance with this chapter.

H. Additional required procedures.

- (1) The administrative procedures for approval of a site plan for property located within the PN District are set forth in Article XVI of this chapter. Subdivision plans shall conform to the approved PUD concept plan, including the PUD design standards.
- (2) The administrative procedures for approval of a subdivision located within the PN District shall be those of Chapter 73, Land Subdivision. Final subdivision plans shall conform to the approved PUD concept plan.
- (3) Any development, site plan, or subdivision approval for land in a PN District shall be consistent with the provisions of the PN District and the specific PUD concept plan applicable to the property, as approved or amended by the Town Council.

I. Amendment of PUD plan. The procedure for amendment of an approved PUD plan (concept, preliminary, or final) shall be the same as for a new application, except that the Planning Commission may approve minor amendments of a PUD plan at a regular meeting.

- (1) Using the guidelines set forth below, the Director of Planning shall determine whether the proposed amendment is minor. An amendment shall be deemed a minor amendment, provided that such amendment:
  - (a) Does not conflict with the applicable purposes and land use standards of this chapter;
  - (b) Does not prevent reasonable emergency vehicle access or deprive adjacent properties of adequate light and airflow;
  - (c) Does not significantly change the general character of the land uses of the approved PUD plan (concept, preliminary, or final);
  - (d) Does not result in any substantial change of major external access points;
  - (e) Does not increase the total approved number of dwelling units or height of buildings; and
  - (f) Does not decrease the minimum specified setbacks, open space area, or minimum or maximum specified parking and loading spaces.
- (2) The phrase "minor amendments" includes, but is not limited to, changes to the location, number, or types of uses within the planned unit development or any phase(s) thereof, subject to Subsection I(1)(c), above; internal road locations or configurations; the number, type or location of dwelling units, subject to Subsection I(1)(e), above; and the location of public amenities, services or utilities.
- (3) The Planning Commission may only approve minor amendments that increase residential density or intensify nonresidential uses if the amendments provide for enhancement of the architectural design and landscaping of the area subject to the amendment.
- (4) Any amendment of a PUD plan that adversely impacts upon the delivery or the Town's cost of public utilities, public services, public infrastructure, or otherwise affects amenities available to the public or the public health and safety shall not be considered a minor amendment.

## **Part F – AE Arts and Entertainment Floating Zone.**

### **§ 128-65. Definitions.**

The following definitions apply within the AE District.

**ART/CRAFT STUDIO** — A facility for art use, as defined above that is separate from any residential uses.

**ART GALLERY** — Building or space for the exhibition of art, usually visual art.

**ARTISTIC WORK** — An original and creative work, whether written, composed, or executed within the designated AE District, that falls within one of the following categories: a book or other writing; a play or performance of a play; musical composition or the performance of a musical composition; painting or other picture; sculpture; traditional or fine crafts; the creation of a film or the acting within a film; or the creation of a dance or the performance of a dance. Artistic work does not include adult entertainment or any piece or performance created or executed for industry-oriented or industry-related production, such as a commercial or advertising copy.

**ARTIST LIVE/WORK SPACE** — The use of all or a portion of a building for both art use and the habitation of artists.

**ART USE** — The production of art or creative work either written, composed, created, or executed for a one-of-a-kind production exclusive of any piece or performance created or executed for industry-oriented distribution or related production. Such use may include the fine and applied arts, including painting or other like pictures, traditional and fine crafts, sculpture, writing, creating film, animation, the composition of music, choreography, and the performing arts. Such use does not include adult entertainment.

#### **§ 128-66. Applicability.**

The Town Council may apply the AE District to any lands identified on the Official Zoning Map as being eligible for the AE District floating zone designation.

#### **§ 128-67. Permitted uses.**

Permitted uses shall be limited to those allowed in the original zone(s) on which the AE floating zone is applied. In addition, art galleries, art craft/studio uses, artist live/work space, art use, and artistic work use shall be permitted and encouraged if not already permitted in the original zone.

#### **§ 128-68. Development Standards.**

The following development standards shall apply to the AE District:

- A. Flexible development standards to reduce lot areas, lot frontage, lot widths, and yards and to increase building heights may be permitted consistent with a master development plan approved in accordance with the provisions of this section.
- B. The master development plan should be compatible with existing uses and architecture. In general, the following compatibility standards shall apply:
  - (1) Building size, height, bulk, and scale. Buildings should be similar in height and size or be designed in such a way that they appear similar in height and size, creating an overall mass that is consistent with the prevalent mass of other structures in the area, e.g., by dividing walls into units of similar proportions to adjacent structures.

- (2) Building orientation. Primary facades and entries face the adjacent street or internal pedestrian courts with a connecting walkway that does not require pedestrians to walk through parking lots or across driveways and that maintains the integrity of the existing streetscape.
  - (3) Privacy. Optimize the privacy of residents and minimize infringement on the privacy of adjoining land uses by considering appropriate bufferyards and the placement of windows and door entrances. Create opportunities for interactions among neighbors in common pedestrian circulation areas of the project.
  - (4) Building materials should be similar to materials of the surrounding neighborhood or use other characteristics, such as scale, form, architectural detailing, etc., to establish compatibility.
- C. All planned uses shall comply with the Denton Critical Area and floodplain regulations.
- D. Where the creation of a new lot is proposed, the Town shall have the discretion to waive the requirement in Chapter 73, Land Subdivision of the Town Code, that the lot front on a public street, provided there are sufficient pedestrian accessways and access for emergency services.
- E. Where the design standards set forth above conflict with any provision of this chapter or Chapter 73, Land Subdivision, these standards shall be controlled.
- F. Public facilities and utilities.
  - (1) Existing and planned public facilities should be shown on development plans.
  - (2) All public streets, walkways, and alleyways shall be shown on development plans. All through streets and walkways must be public. The local street and walkway system shall be safe, efficient, convenient, and attractive and shall accommodate use by all segments of the population.
  - (3) The street and walkway system should provide multiple, direct, and continuous intra- and inter-neighborhood connections between destinations.
  - (4) Additions to the Town's street network shall include sidewalks.
  - (5) Closed street systems are prohibited, but short cul-de-sacs (less than 120 feet long) that connect to the main grid system are allowed when consistent with the surrounding community. The Planning Commission may permit flag lots where appropriate.
  - (6) Street widths should be consistent with the surrounding community and sized to promote walkability and multimodal use (i.e., pedestrians, bikes, cars, trucks, buses, etc.).
  - (7) Roads, lighting, sidewalks, street furniture, utilities, and other public facilities should enhance pedestrian circulation.

- (8) Parking shall generally comply with the parking standards set forth in the Town's Design Guidelines in Appendix III and other provisions of this chapter. Parking requirements can be waived where adequate public parking is available in close proximity, and the new parking demand does not interfere with the established parking patterns in the neighborhood. If public parking is proposed as the means of providing any required parking, such arrangement shall be documented on the master development plan and approved by the Mayor and Council.

#### **§ 128-69. AE District Procedure.**

The following are the procedures for approval of an AE District floating zone, floating zone amendment, and master development plan.

- A. Master development plan submittal to the Planning Commission. An applicant shall submit their request for a floating zone amendment and the master development plan to the Planning Commission for review and Planning Commission recommendations to the Town Council.
  - (1) Graphic master development plan requirements. The master development plan shall include the information listed in the appendix for preliminary site plans and/or subdivision plans, as appropriate. In addition, the master development plan shall include the following:
    - (a) A description of the proposed development site, i.e., a plot plan or survey plot.
    - (b) A description of existing conditions in the vicinity of the site (e.g., block face on both sides of the street with 500 feet of the proposed development site). These descriptions shall include documenting photographs and an analysis of the prominent architectural features and shall address the following:
      - [i] Site location and topography.
      - [ii] Street connections.
      - [iii] Pedestrian pathways.
      - [iv] Lot coverage.
      - [v] Impervious surfaces.
      - [vi] Elevations of all proposed buildings.
      - [vii] Building orientation.
      - [viii] Roofs.
      - [ix] Massing and proportions.

- [x] Entryways.
- [xi] Windows.
- [xii] Garage doors.
- [xiii] Finishes and materials.
- [xiv] Ornamentation.
- [xv] Roof detail.
- [xvi] Color.

- (2) The master development plan and the requested floating zone may be accompanied by other written or graphic material that may aid the decisions of the Planning Commission and Town Council.
- (3) The Planning Commission may establish additional and supplemental requirements for the master development plan during its consideration of the preliminary application; it determines such requirements are necessary to enable the Planning Commission and the Town Council to evaluate the particular plan and floating zone amendment request.

B. Planning Commission review and recommendation of floating zone amendment and master development plan.

- (1) The Planning Commission shall review the floating zone amendment request and master development plan for compliance and consistency with the development standards set forth in § 128-68, the Town's Design Guidelines, Historic District design guidelines, and the goals and objectives of the Comprehensive Plan.
- (2) The Planning Commission may make reasonable recommendations to the petitioner regarding changes to the master development plan proposal, which, in the judgment of the Commission, shall cause the proposal to better conform to the requirements of the Comprehensive Plan, the applicable design guidelines and the intent of this chapter. The petitioner may resubmit the master development plan to the Planning Commission in consideration of the Planning Commission's comments.
- (3) The Planning Commission shall consider and comment on the findings required of the Town Council by Subsection C(2) and shall make a favorable or negative recommendation to the Town Council.
- (4) The Planning Commission shall forward the master development plan, with any revisions, together with written comments and recommendations and its floating zone comments, to the Town Council for action pursuant to the floating zone and approval process for a master development plan.

C. Town Council approval of floating zone and master development plan.

- (1) The Town Council shall review the master development plan and other documents, together with such comments and recommendations as may have been offered by the Planning Commission.
  - (2) The Town Council may approve or disapprove the proposed floating zone map amendment and associated master development plan. It shall follow the procedures set forth in Article XV for the approval of a floating zone. Concurrently with the location of a floating zone, the Town Council may approve the master development plan, which, in addition to the provisions of the applicable floating zone district, shall govern the subdivision and/or development of the property. In approving the floating zone Official Zoning Map amendment, the Town Council may approve the floating zone Official Zoning Map amendment if it finds that:
    - (a) The proposed floating zone amendment is consistent with the Comprehensive Plan;
    - (b) The proposed floating zone amendment is consistent with the stated purposes and intent of the applicable floating zone district;
    - (c) The proposed floating zone amendment complies with the requirements of this chapter;
    - (d) The plan is internally and externally compatible and harmonious with existing and planned land uses in the area and
    - (e) Existing or planned public facilities are adequate to service the proposed development.
  - (3) In the event that the Town Council approves a floating zone amendment without subdivision and approval of an associated master development plan, the subject property or properties may not be subdivided until the owner complies with the master development plan review and approval provisions of this chapter, and may not be developed except in conformance with a site plan as required by and in conformance with this chapter.
- D. Additional required procedures. In addition to the procedures set forth above, where applicable, the petitioner shall also comply with the Town's site plan approval procedures set forth in Article XVI of this chapter, as well as the Town's subdivision regulations. Any development, site plan, or subdivision approval for land in a floating zone district shall be consistent with the provisions of the applicable floating zone district and the specific master development plan applicable to the property, as approved or amended by the Town Council.
- E. Amendment of a master development plan.

- (1) The Planning Commission may approve any minor amendment of an approved master development plan at a regular meeting. An amendment will be considered minor if the Planning Commission determines that the amendment:
  - (a) Does not conflict with the applicable purposes and land use standards of this chapter;
  - (b) Does not prevent reasonable access of emergency vehicle access or deprive adjacent properties of adequate light and airflow; and
  - (c) Does not significantly change the general character of the land uses of the approved master development plan.
- (2) Any amendment of a master development plan that adversely impacts upon the delivery or the Town's cost of public utilities, public services, public infrastructure, or otherwise affects amenities available to the public or the public health and safety shall not be considered a minor amendment.

#### **Part G - PUD Planned Unit Development Floating Zone.**

##### **§ 128-70. Planned unit development (PUD) Procedures.**

The Town Council shall follow the procedures set forth in Article XV and § 128-72 for the approval of a floating zone.

##### **§ 128-71. PUD requirements.**

- A. Permitted uses. Planned unit developments are contemplated to be primarily residential. However, planned unit developments of sufficient size and appropriate character may have commercial development, which is incidental to the planned unit development and is intended primarily for the use of the residents of the planned unit development. Specifically permitted uses are as follows:
  - (1) Single-family detached units.
  - (2) Multifamily dwellings attached or detached, one- and two-family units, townhouses, and garden-type apartments.
  - (3) Apartments.
  - (4) An office, temporary or permanent, belonging to the developer and clearly incidental to the management and sales operations of the PUD.
  - (5) Temporary structures incidental to construction.
  - (6) In a PUD of over 50 acres or more, a planned commercial center may be permitted. Such a commercial center shall be an integral part of the plan for the PUD.



- (a) The total aggregate area of all the commercial establishments and their parking area shall be established in the approval of the general development plan, but in no case shall it be more than 20% of the gross area of the PUD.
  - (b) Planned commercial centers shall be a group of commercial uses approved by the Planning Commission that are compatible with the residential nature of the PUD and the remainder of the Town of Denton. These may include any retail, commercial, or office use listed as permitted, conditional, or special exception uses in the CBC Central Business Commercial district.
  - (c) No construction on the planned commercial center shall begin until 30% of the total planned residential units are completed.
- (7) Land and places for public assembly, recreational buildings, public buildings, and accessory buildings, or may require the reservation of lands for such uses if it is deemed they are advantageous or necessary for serving the planned unit development and the local community.

**B. Where permitted.**

- (1) Planned unit developments are permitted in the SR, TR, MI, MR, and UR Districts.
- (2) Planned unit developments may also be permitted in the RA District on properties east of the Choptank River.

**C. Maximum Density and Unit Type Mix.**

- (1) Density shall be calculated based on the adjusted tract acreage, the gross site area less existing street rights-of-way, utility easements, one-hundred-year floodplain, and wetlands.
- (2) The maximum allowable density in the PUD by unit type and unit type mix are as follows:

<b>Unit Type</b>	<b>Density (maximum du/acre)</b>	<b>Minimum Percentage</b>	<b>Maximum Percentage</b>
<b>In the SR, TR, RA, and MI Districts</b>			
Detached single-family dwelling	8	50	80
Two-family dwelling, Duplex	8	10	40
Townhouse	8	5	20
Multifamily	10	5	10
Apartments	15	5	10
<b>In the MR and UR Districts</b>			
Detached single-family dwelling	9	50	80
Two-family dwelling, Duplex	9	10	40

Unit Type	Density (maximum du/acre)	Minimum Percentage	Maximum Percentage
Townhouse	9	5	20
Multifamily	15	5	10
Apartments	20	5	10

- (3) At a minimum, each PUD development and each phase of a PUD shall have at least three of the five unit types. The Town Council, with a recommendation from the Planning Commission, may vary this phase requirement if satisfied that at build-out, three of five unit types are included in the overall PUD development.
- D. The setback, lot size, lot dimensions, lot coverage, height, and yard requirements in the planned unit development shall be established for each project by the Planning Commission. In establishing these requirements, the Planning Commission shall consider such factors as the proposed intensity of the project and the existing character of the neighborhood.
- E. Land coverage. The maximum amount of land that may be built over (covered) by parking lots, roads, sidewalks, plazas, buildings, or other structures shall be 70% of the net land area of the PUD.
- F. Area. The proposed PUD shall, in no case, contain less than three (3) acres of land.
- G. Open space. Common open space shall comprise not less than 25% of the gross area and shall comply with the provisions of Article XII. All open spaces shall be designated for the common use of all occupants of the PUD, and at least 50% of such spaces shall be developed as recreational areas.
- H. Parking. See Article VIII for off-street parking requirements.

## **§ 128-72. Administrative procedures.**

- A. Preliminary application shall be made to the Town Council and referred to the Planning Commission for stage one consideration of the PUD Zone and shall include, but not be limited to:
- (1) A general diagram showing the PUD's relation to the Town of Denton and major public access to the PUD (15 copies).
  - (2) The general development plan or concept plan setting forth preliminary information in Appendix I at the end of this chapter. In addition to such information, the Planning Commission may require, but shall not be limited to, the following:
    - (a) Elevations and percentages of each building type, number of units, and location of buildings.

- (b) Proposed convenience centers, open spaces, their size, their location, their uses, and their proposed ownership (Town and/or association).
    - (c) General statement concerning the provision of utilities (draft terms and provisions of a public works agreement).
    - (d) Statement of expected Town responsibilities.
    - (e) Tentative timetable and staging of development (schedule of construction).
    - (f) Applicant shall pay an application fee as previously established by the Town.
    - (g) Property and any other taxes on the property proposed to be developed shall be current.
  - (3) After the Planning Commission makes its findings, the application will be forwarded to the Town Council for consideration. If the Town Council finds that the proposal has merit, it will be conditionally approved.
- B. Preliminary site plan. The developer shall submit the following to the Planning Commission for its review after receiving conditional approval from the Town Council:
- (1) Fifteen (15) copies of a preliminary site plan shall be filed with the Town. The preliminary site plan shall comply with the requirements of this article and be accompanied by such other written or graphic material as may be necessary or desirable in aiding the decisions of the Town Council and the Planning Commission.
  - (2) The Planning Commission shall review the site plan for compliance with the requirements of this chapter. In their review of the preliminary site plan, the Planning Commission shall consult with such Town officials and its consultants as may be appropriate. It may offer such comments as may be appropriate.
  - (3) Preliminary site plan shall include but not be limited to the requirements set forth in Appendix I of this chapter.
  - (4) The preliminary site plan shall be accompanied by an estimated schedule of construction or timetable (acceptable to the Town Council and Planning Commission).
  - (5) The developer shall provide a statement detailing the means by which the PUD and all its various aspects shall be managed. This statement shall include deed restrictions and covenants designed to ensure the perpetuity of agreements.
  - (6) The preliminary site plan shall also include a management statement governing the construction, operation, and maintenance of:
    - (a) Sanitary and storm sewers, water mains, stormwater facilities, and other underground structures.

- (b) Streets, alleys, driveways, curb cuts, entrances and exits, parking and loading areas, and outdoor lighting systems.
- (c) Parks, parkways, cycleways, playgrounds, open spaces, fences, walls, screen planting, and landscaping and signs.
- (7) The Planning Commission and/or Town Council may establish additional requirements for preliminary site plans for the PUD.
- (8) After review and a public hearing on the proposed zoning, the Planning Commission shall return the site plan, together with comments and recommendations, to the Town Council for appropriate action.

C. Final review and approval procedure.

- (1) The Town Council shall review the final preliminary site plan and other documents.
- (2) The Town Council shall hold a public hearing in the manner required in Article XVII of this chapter.
- (3) The Town Council may approve or disapprove the proposed PUD zoning. In approval, the Town Council shall secure:
  - (a) A surety bond or equivalent to be filed for or deposited in escrow with the Town Council in an amount sufficient to ensure completion of all requirements established by the Town Council.
  - (b) A final site plan in the form of a final plat shall be prepared, filed, and recorded. The final plat shall comply with the specifications set forth in Appendix I, and applicable state, county, and Town laws, regulations, and ordinances governing the subdivision of land. (See Chapter 73, Land Subdivision.)
  - (c) Permits for building shall be issued in accordance with the schedule for construction approved by the Town Council as part of the final approval.
  - (d) When a PUD is to be developed in stages, each stage shall be processed as a separate development after first submitting and receiving approval of the PUD Zone for the entire project.
  - (e) As part of the final approval, the Town Council shall approve dates for initiation and completion of the PUD and/or its phases. Any departure from these dates shall constitute a material breach of contract, and outstanding bonds can be called in. The Town Council may waive for cause.
  - (f) For issuance of more than one residential building permit for the property, the applicant and Town shall execute a public works agreement that

memorializes the rights and obligations of the applicant and Town with respect to public and private improvements and rights-of-way.

D. Conflict with other articles.

- (1) Provisions of the PUD Zone, when found to conflict with other provisions of this chapter, shall supersede those other provisions with which they conflict.
- (2) Provisions of the PUD Zone, when found to conflict with other provisions of Chapter 73, Land Subdivision, shall supersede those other provisions with which they conflict.

**Article V - Permitted Uses.**

**§ 128-73. Applicability of regulations.**

Unless otherwise provided by law or in this chapter, no building or structure shall be constructed, erected, or extended, and no building, structure, or land shall be used or occupied except for the purposes permitted in this article.

**§ 128-74. Designations P, SE, and IRD in the table of permissible uses.**

- A. When used in connection with a particular use in the Table of Permissible Uses included in this Article, the letter "P" means that the use is permissible in the indicated zone. Permissible Uses are subject to permit or site plan requirements as outlined in Article XVI and may be subject to supplemental use standards as provided in Article VI.
- B. The letter "SE" means the use is subject to special exception approval by the Boards of Appeals.
- C. The letter "IRD" means the use may only be approved under the provisions of IRD Infill and Redevelopment Overlay District.
- D. Uses are subject to supplemental standards outlined in Article VI where applicable.

**§ 128-75. No more than one principal structure on a lot.**

- A. Every structure hereafter erected, reconstructed, converted, moved, or structurally altered shall be located on a lot of record.
- B. Except as provided herein, no more than one principal building shall be erected on a single lot.
- C. More than one principal structure may be located upon a lot in the following instances subject to the lot, yard, and density requirements and other provisions of this Ordinance:
  - (1) Institutional buildings.

- (2) Public or semi-public buildings.
  - (3) Multiple-family dwellings.
  - (4) Commercial or industrial buildings.
  - (5) Additional principal structures or uses in a mixed-use project with the prior approval of the Planning Commission and where the Planning Commission finds the cumulative off- and on-site impacts are addressed, e.g., parking, traffic, access.
  - (6) Cottage house development.
  - (7) Condominiums
  - (8) Mixed-use buildings
- D. Combination use – When a development proposal comprises two or more principal uses on one lot that requires different types of zoning review, a special exception permit will be required. Under some circumstances, a second principal use may be regarded as an accessory to the first, and thus, a combination use is not established. In addition, when two or more separately owned or separately operated enterprises occupy the same lot, and all such enterprises fall within the same principal use classification, this shall not constitute a combination use.

#### **§ 128-76. Use categories.**

This section establishes and describes the use categorization system used to classify principal uses in this Ordinance.

- A. Use categories. This Ordinance classifies principal land uses into major groupings. These major groupings are referred to as "use categories." The use categories are as follows:
- (1) Residential
  - (2) Public, Civic, and Institutional
  - (3) Commercial
  - (4) Wholesale, Distribution, and Storage
  - (5) Industrial
  - (6) Recycling
  - (7) Agricultural
  - (8) Other
  - (9) Accessory

- B. Use subcategories. Each use category may be further divided into more specific "subcategories." Use subcategories further classify principal land uses and activities based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions.
- C. Specific use types. Some use subcategories may be further broken down to identify specific types of uses regulated differently than the category or subcategory.
- D. Determination of use categories and subcategories.
  - (1) The Planning Commission is authorized to classify uses based on this Ordinance's use category, subcategory, and specific use type descriptions.
  - (2) If the Planning Commission cannot classify uses based on the use category, subcategory, and specific use type descriptions. Where such use is not explicitly prohibited from the district, the Planning Commission shall submit to the Board of Appeals a written request to determine the unclassified use per Article XIV.
  - (3) If the Board of Appeals determines that the use in question is similar and meets the intent of the principal permitted uses within the district, then it shall instruct the Planning Commission to issue a zoning certificate.
  - (4) If the Board of Appeals determines that the proposed use in the district is consistent with the character and intent of the uses permitted by special exception within the district, then the applicant may apply for a special exception in the usual manner.
  - (5) Once a permitted or special exception use has been allowed or disallowed by the Board, it shall be considered classified under the appropriate category in the district.
- E. Permissible uses and specific exclusions.
  - (1) The presumption established by this section is that all legitimate uses of land are permissible within at least one zoning district in the Town's planning jurisdiction. Therefore, because the categories of permissible uses set forth in § 128-87, Table of Permitted Uses, cannot be all-inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.
  - (2) Notwithstanding Subsection (1), all uses that are not included in § 128-87, Table of Permitted Uses, even given the liberal interpretation mandated by Subsection (1), are prohibited, nor shall § 128-87, Table of Permitted Uses, be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

- (3) Without limiting the generality of the preceding provisions, the following uses are specifically prohibited in all districts unless otherwise specified:
- (a) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the Town's Fire Prevention Code. See Chapter 56, Fire Prevention.
  - (b) Stockyards, slaughterhouses, and rendering plants.
  - (c) Use of a recreational vehicle (RV) as a temporary or permanent residence.
  - (d) Use of a motor vehicle or other portable storage container, including freight containers, in which, out of which, or from which any goods are sold or stored, any services are performed, or other business conducted. Notwithstanding anything to the contrary in this subsection, the use of a portable container or other freight container is permitted for storage purposes in the Industrial (I) and Mixed Industrial (MI) Districts only for industrial uses. Use of these for residential purposes is not permitted.
  - (e) Satellite simulcast betting, otherwise known as "off-track betting," as defined in § 11-815 of the Business and Regulations Article of the Maryland Annotated Code (1992) and any amendments to it.
  - (f) Manufactured homes, as defined in § 128-15 of this chapter, when placed or erected on an individual lot.
  - (g) Keeping on any property within the Town any wild, exotic, or vicious animal as a pet in any zoning district. Keeping on any property farm animals as pets, except horses and chickens, as specifically permitted in § 128-100.

F. More specific use controls. Whenever a development could fall within more than one use classification in the Table of Permitted Uses (§ 128-87), the classification that most closely and most specifically describes the development controls.

### **§ 128-77. Residential use category.**

#### **A. Household Living.**

Residential occupancy of a dwelling unit by a household. When dwelling units are rented, the tenancy is arranged month-to-month or more extended. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered lodging. The following are household living-specific use types:

- (1) Detached House - A detached house is a principal residential building occupied by one dwelling unit on a single lot with private yards on all sides. Detached houses are not attached to and do not abut other dwelling units. This category includes modular homes.



- (2) Attached House - An attached house is a dwelling unit that is attached to one or more dwelling units, each of which is joined together by a party wall or walls or is located on its lot with a shared or abutting wall at the dwelling units' shared lot lines. Each dwelling unit has its external entrance.
- (3) Two-family (Stacked Duplex) - Two dwelling units with two side yards located one over the other.
- (4) Duplex, side-by-side - Two dwelling units are attached side-by-side by a party wall and have one side yard adjacent to each dwelling unit.
- (5) Townhouse - Three or more dwelling units occupy a separate lot unless in a condominium, are attached side-by-side by party walls, and have a side yard adjacent to each end unit. The subcategory includes four-story townhomes, townhomes exceeding 40 feet in height. Four-story townhomes are a specialized category in residential architecture added to the permitted uses in the Denton Zoning Ordinance. These structures are characterized by their compact design, featuring attached homes that are arranged side-by-side across four floors. Units may be equipped with an interior garage, enhancing space efficiency and functionality. The entrances of these townhomes are typically located on the narrow side of the unit and commonly face either a street or an internal courtyard, promoting accessibility and community interaction.
- (6) Multifamily/Apartment - A multifamily/apartment/condo building is a residential building on a single lot occupied by three (3) or more dwelling units that share common walls and/or common floors/ceilings. This category includes standalone fourplex and triplex units. A standalone triplex or fourplex is a single multifamily unit on a separate lot designed to house three or four families.
- (7) Accessory Dwelling Unit - a separate complete housekeeping unit that is substantially contained within a single-family unit or a commercial structure but can be isolated from it.
- (8) Manufactured Housing Unit –As interpreted in this ordinance and consistent with State law, a manufactured home is a transportable structure that is more than 320 square feet, designed to be used as a dwelling, and includes the plumbing, heating, air-conditioning, and electrical system. When not in a mobile home park or subdivision, a manufactured home must meet all Town requirements for a detached single-family dwelling.
- (9) Mixed-use building, residential - A residential building that provides for shared use, with one use residential and the other either office, commercial, or retail. An example is a retail shop in a storefront building with one or more apartments above.
- (10) Mobile Home - A structure transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent

foundation when connected to the required utilities. Mobile homes, as differentiated from manufactured homes, are only permitted in an approved mobile subdivision or mobile home park.

- (11) Modular Home - A detached residential unit built to the specifications of the Town's building code, containing not less than 500 square feet of gross livable floor area in the initially manufactured unit, designed and intended for delivery by transportation on the highway for permanent assembly in a permanent and separately constructed foundation. A "modular home" must meet the requirements and definitions of the Maryland Industrialized Building and Mobile Homes Act as in effect as the date of passage of this Ordinance. Modular homes are regulated in the same manner as stick-built residential units.
- (12) Cottage housing - A grouping of small, single-family dwelling units clustered around a common area and developed with a coherent plan for the entire site. The cottage units may have other shared amenities, including shared common areas and coordinated design.
- (13) Mixed-use Building, commercial - A commercial building that provides for shared use, with one use residential and the other either office, commercial, or retail. An example is a retail shop in a storefront building with one or more apartments above.
- (14) Qualified projects developed by nonprofits – A type of residential development project mandated under the Housing Expansion and Affordability Act (HB 538) that gives special consideration to development projects intended to provide affordable housing. Projects must meet the following criteria to qualify:
  - (a) The project consists of a new construction or substantial renovation. Substantial renovation meets the criteria outlined within DHCD's Multifamily Rental Financing Program Guide.
  - (b) The project is on land, including land that is subject to a ground lease, that is either (a) wholly owned by a nonprofit organization or (b) includes improvements owned by an entity that a nonprofit organization controls.
  - (c) The project is deed-restricted to include twenty-five (25%) percent of units that are affordable dwelling units for Caroline County for at least forty (40) years

#### B. Group Living.

Residential occupancy of a building or any portion of a building by a group other than a household. Group living uses typically provide communal kitchen/dining facilities. Group living uses include convents, monasteries, nursing homes, assisted living facilities, shelter care facilities, retirement centers, homeless centers, and halfway houses. The group living subcategories are as follows:

- (1) Intermediate Care Facilities for Individuals with Intellectual Disabilities or Persons with Related Conditions – a facility licensed by the Maryland Department of Health and Mental Hygiene and shared by individuals with intellectual disabilities or persons with related conditions.
- (2) Group residential care facilities (Group Homes) - A dwelling that houses (3) or more unrelated individuals, including supervisory staff located in a residential zone. Such facilities enable residents to live as independently as possible in a home-like environment. The subcategory includes halfway houses that aim to assist in community transition and provide vocational training, counseling, and other services. Release to a halfway house is used in situations such as releasing mental patients and prisoners. People in addiction recovery also use them to adapt to sober living. They usually require residents to follow specific rules, such as sign-in and sign-out procedures and curfews. A halfway house may allow residents to work or study during the daytime and return at night. Residency requirements, purposes, and rules vary at each halfway house. The subcategory also includes small and large intermediate-care nursing homes.
- (3) Sheltered Care – An activity accessory to and affiliated with a religious facility providing maintenance and personal care for those in need.
- (4) Assisted Living, Continuing Care - Establishments primarily engaged in providing a range of residential and personal care services with on-site nursing care facilities for (1) the elderly and other persons who are unable to care for themselves fully and/or (2) the elderly and other persons who do not desire to live independently. Individuals live in various residential settings, where meals, housekeeping, social, leisure, and other services assist with daily living. Assisted living facilities with on-site nursing care facilities are included in this subcategory.

#### **§ 128-78. Public, civic, and institutional use categories.**

This category includes public, quasi-public, and private uses that provide unique services that benefit the public. The public, civic, and institutional subcategories are as follows:

- A. Cemetery - Land or structures used for burial or permanently storing dead or cremated remains. Typical uses include cemeteries and mausoleums. It also includes pet cemeteries.
- B. College or university - Institutions of higher learning that offer general or specialized study courses authorized to grant academic degrees.
- C. Community center - A structure, including its surrounding premises, that is owned, leased, or otherwise controlled by a unit of local government or a school district and that contains rooms or other facilities limited to use for purposes of meetings, gatherings, or other functions or activities carried on or performed by or under the supervision of a unit

of local government, a school district or a civic, educational, religious or charitable organization. Establishing a community center may include authorization for the incidental and accessory sale or resale of food, merchandise, or services in connection with and supporting the principal activity or function being carried on or performed by such unit of local government, school district, or organization.

- D. Fraternal organization - The use of a building or lot by a not-for-profit organization that restricts access to its facility to bona fide, annual dues-paying members and their occasional guests and where the primary activity is a service not carried on as a business enterprise.
- E. Governmental facility - Uses related to the administration of local, state, or federal government services or functions.
- F. Hospital - Uses providing patients with medical or surgical care and inpatient (overnight) care.
- (1) Health Clinics – Establishments that provide medical, dental, psychiatric, surgical, massage, or physical therapy or other health-related services primarily on an outpatient basis.
  - (2) Nursing care – Establishments licensed by the Maryland Department of Health providing comprehensive or extended care. The facility may offer nonacute inpatient care to residents (a) who have a disease, chronic illness, condition, disability of advanced age, or terminal disease requiring maximal nursing care without continuous hospital services and (b) who require medical services and nursing services rendered by or under the supervision of a licensed nurse together with convalescent, therapeutic, or rehabilitative services. These services may be provided in the residential setting in an approved group residential care facility or an institution serving a larger number of residents.
- G. Urgent Care Facilities - Medical establishments that provide immediate, non-emergency healthcare services for acute illnesses or injuries that require prompt attention but are not severe enough to warrant emergency room visits. They often operate extended hours, including evenings and weekends, and may offer diagnostic services (e.g., X-rays, lab tests), minor procedures, and treatment for conditions like infections, sprains, or minor cuts. Examples include standalone urgent care centers, chain-operated clinics, hospital-affiliated urgent care, and pediatric urgent care. Other names for urgent care facilities include:
- Walk-In Clinics
  - Immediate Care Centers
  - Minor Emergency Clinics
  - Express Care Clinics
  - Prompt Care Facilities
  - Acute Care Clinics

- Convenience Care Clinics
- H. Library - Collections of books, manuscripts, and similar materials for free public lending, studying, and reading.
- I. Museum or cultural facility - Museum-like preservation and exhibition of objects in one or more arts or sciences.
- J. Parks and recreation - Recreational, social, or multi-purpose uses associated with public parks and open spaces, including playgrounds, playfields, play courts, swimming pools, community centers, and other facilities typically associated with public parks and open space areas. It also includes public and private golf courses and country clubs.
- K. Religious assembly - Religious services involving public assembly customarily occurring in churches, synagogues, temples, mosques, and other facilities used for religious worship. This category includes buildings and all customary accessory uses or structures, including, but not limited to, a chapel, daycare center, school of general instruction, gymnasium, social hall, and social services programs.
- L. Safety service - Facilities provided by the Town, state, or federal government that provide fire, police, or life protection, together with the incidental storage and maintenance of necessary vehicles. Typical uses include fire stations and police stations.
- M. School - Schools at the primary, elementary, junior high, or high school levels providing basic, compulsory state-mandated education.
- N. Utilities and public service facility
- (1) Essential services - Underground or overhead gas, electrical, steam, or water transmission or distribution systems, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, towers, electric substations, telephone exchange buildings, gas regulator stations, and other similar equipment and accessories that are reasonably necessary to furnish utility services or for the public health, safety, or general welfare.
  - (2) Public utility - Uses or structures, except essential services provided to the general public, such as water, sewerage, sewage treatment, electricity, piped gas, or telecommunications.
  - (3) Alternative energy facilities - Energy production systems that generate energy from the byproducts of the principal use are considered accessory uses, including net-metered installations and installations that generate power to sell wholesale to the power grid.
- O. Alternative Energy Systems.

- (1) Wind Energy Conversion System - An electrical generating facility consisting of a wind turbine, generator, other accessory structures and buildings, electrical infrastructure, and other appurtenant structures and facilities.
  - (2) Solar Energy System (SES) – Solar collectors, panels, controls, energy storage devices, heat pumps, heat exchangers, and other materials, hardware, or equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation and distributed. Solar systems include solar thermal and photovoltaic.
- P. Wireless telecommunications - Towers, antennas, equipment, equipment buildings, and other facilities to provide wireless communication services. The following are specific types of wireless telecommunications uses:
- (1) Freestanding towers - A structure that supports equipment to transmit and/or receive telecommunications signals, including monopoles and guyed and lattice construction steel structures.
  - (2) Building or tower-mounted antennas - The physical device attached to a freestanding tower, building, or other structure through which electromagnetic, wireless telecommunications signals authorized by the Federal Communications Commission are transmitted or received.
  - (3) Satellite earth station, satellite dish: A parabolic antenna and associated electronics and support equipment for transmitting and/or receiving satellite signals.
  - (4) Small wireless facility – "Small cells" are low-powered wireless base stations that function like traditional cell sites in a mobile wireless network but typically cover targeted indoor or localized outdoor areas. "DAS" or "distributed antenna systems" use numerous antennae, commonly known as "nodes," similar in size to small cells and are connected to and controlled by a central hub. This category includes similar facilities, systems, or devices designed to facilitate a mobile wireless network within a localized area and attached to a support structure within sidewalks, streets, or private property.

#### **§ 128-79. Commercial use category.**

The commercial use category includes uses that provide a business service or involve selling, leasing, or renting merchandise to the public. The commercial use subcategories are as follows:

- A. Animal service - Uses that provide goods and services for the care of companion animals.
- (1) Grooming - Grooming dogs, cats, and similar companion animals, including dog bathing, clipping salons, and pet grooming shops.

- (2) Boarding or shelter/kennel - Animal shelters, care services, and kennel services for dogs, cats, and companion animals, including boarding kennels, pet resorts/hotels, pet daycare, pet adoption centers, dog training centers, and animal rescue shelters. For purposes of this Ordinance, the keeping of more than four (4) dogs, cats, or similar household companion animals over four (4) months of age or the keeping of more than two (2) such animals for compensation or sale is deemed a boarding or shelter-related animal service use and is allowed only in those zoning districts that permit such uses.
  - (3) Veterinary care - Animal hospitals and veterinary clinics.
- B. Assembly and entertainment - Uses that provide gathering places for participant or spectator recreation, entertainment, or other assembly activities. Assembly and entertainment uses may provide incidental food or beverage service. Typical uses include arenas, billiard centers, video game arcades, auditoriums, bowling centers, cinemas, and theaters.
- C. Commercial service - Uses that provide consumer or business services and repair and maintain various products.
  - (1) Building service - Uses that provide maintenance and repair services for all structural and mechanical elements of structures and the exterior spaces of a premise. Typical uses include contractor offices, janitorial, landscape maintenance, extermination, plumbing, electrical, HVAC, window cleaning, and similar services. A business that offers repair and maintenance service technicians who visit customers' homes or places of business is classified as a "building service," e.g., a computer technician. Outdoor storage of equipment and supplies only where explicitly permitted.
  - (2) Business support service - Uses that provide personnel, printing, copying, photographic, or communication services to businesses or consumers. Typical uses include employment agencies, copy and print shops, caterers, telephone answering services, and photo-developing labs.
  - (3) Consumer maintenance and repair service - Uses that provide maintenance, cleaning, and repair services for consumers on a site other than the customer's (i.e., customers bring goods to the repair/maintenance business). Typical uses include laundry and dry-cleaning pick-up shops, tailors, taxidermists, dressmakers, shoe repair, picture framing shops, lock-smiths, vacuum repair shops, electronics repair shops, and similar establishments. In addition, a business that offers repair and maintenance service technicians who visit customers' homes or places of business is classified as a "building service."
  - (4) Personal improvement service - Uses that provide various services associated with personal grooming, instruction, and maintenance of fitness, health, and well-being. Typical uses include barbers, hair and nail salons, day spas, health clubs,

yoga studios, martial arts studios, and businesses purporting to offer fortune-telling or psychic services.

- (a) Tattoo establishments are included in the personal improvement service use subcategory.
  - (5) Research Service - Uses engaged in scientific research and testing services leading to new products and processes. Such uses resemble office buildings or campuses and do not involve the mass production, distribution, or sale of products. Research services do not produce odors, dust, noise, vibration, or other external impacts that are detectable beyond the property lines of the subject property.
- D. Daycare - Uses providing care, protection, and supervision for children or adults regularly away from their primary residence for less than twenty-four (24) hours per day. Examples include state-licensed childcare centers, preschools, nursery schools, Head Start programs, after-school programs, and adult daycare facilities. In addition, daycare expressly includes state-accredited adult daycare facilities and facilities for childcare.
  - (1) Daycare center - A facility licensed by the State of Maryland that provides daycare for more than eight (8) children or any number of adults.
  - (2) Childcare family - A dwelling unit licensed by the State of Maryland in which daycare is provided for a maximum of eight (8) children, excluding natural, adopted, and foster children of the residents of the dwelling unit.
- E. Eating and drinking establishments – The eating and drinking establishments use type refers to establishments or places of business primarily engaged in selling prepared foods and beverages for on- or off-premises consumption. Typical uses include restaurants, short-order eating places or bars and cafés, cafeterias, ice cream/yogurt shops, coffee shops, and similar establishments, including a bar area customarily incidental and subordinate to the principal use as an eating establishment.
- F. Financial service - Uses related to the exchange, lending, borrowing, and safe-keeping of money. Typical examples are banks, credit unions, and consumer loan establishments.
- G. Funeral and mortuary service - Uses that provide services related to the death of humans or companion animals, including funeral homes, mortuaries, crematoriums, and similar uses.
- H. Lodging - Uses that provide temporary lodging for less than 30 days where rents are charged by the day or week. Lodging may provide food or entertainment on-premises. Lodging includes the following specific categories:
  - (1) Hotel and motel - An establishment for transients consisting of any number of sleeping rooms in permanent buildings, each room or suite of rooms having complete sanitary facilities and separate entrances, including hotel, motel, lodge,



tourist park, and similar establishments, but not including a boarding- or lodging house, inn or bed-and-breakfast establishment.

- (2) Bed and breakfast - A single-family, owner-occupied dwelling in which overnight sleeping rooms are rented on a short-term basis to transients and at which no meal other than breakfast is served to guests, which is included in their room charge.
  - (3) Boardinghouse and rooming - A private dwelling or part thereof where lodgings with or without meals are provided for compensation to persons not members of the resident family.
  - (4) Short-term Rentals - Any rental tenancy permitting the occupancy of a residential dwelling unit by persons unrelated by blood or marriage to the property owner (or the tenant of the property) for a specified period.
- I. Office - Uses in an enclosed building, customarily performed in an office, focusing on providing executive, management, administrative, professional, or medical services.
- J. Retail sales. Uses involving the sale, lease, or rental of new or used goods to the ultimate consumer within an enclosed structure unless otherwise specified.
- (1) Convenience goods - Retail sales use that sell or otherwise provide (1) sundry goods; (2) products for personal grooming and for the day-to-day maintenance of personal health or (3) food or beverages for off-premise consumption, including grocery stores and similar uses that provide incidental and accessory food and beverage service as part of their primary retail sales business. Typical uses include drug stores, grocery, specialty food stores, wine or liquor stores, gift shops, newsstands, and florists.
  - (2) Neighborhood center — Small-scale infill or redevelopment uses within existing neighborhoods that are limited to businesses that primarily cater to neighborhood residents, such as small grocery stores, personal and professional services, dry cleaners, video shops, cafes, tea rooms, small bakeries, and other uses that are deemed appropriate by the Planning Commission and Board of Appeals.
  - (3) Cannabis Enterprise – An entity licensed by the State of Maryland to acquire, possess, repackage, process, transfer, transport, sell, distribute, or dispense products containing cannabis, related supplies, related products including tinctures, aerosols, oils, or ointments, or educational materials. The category includes Medical Marijuana Dispensaries licensed by the Maryland Medical Cannabis Commission to acquire, possess, repackage, process, transfer, transport, sell, distribute, or dispense products containing medical cannabis, related supplies, and related products, including tinctures, aerosols, oils or ointments, or educational materials for use by a qualifying patient or caregiver. The category includes enterprises involving only retail sales and not including on-site consumption and enterprises involving growing, processing, transport, packaging, and warehousing.

- (4) Adult entertainment establishment.
  - (a) Adult-oriented business - Any business, operation, or activity a significant amount of which consists of the promotion, delivery, provision, or performance of adult entertainment or material, including, but not limited to, that occurring in, at, or in connection with a cabaret, lounge, night club, modeling studio, bar, restaurant, club, lodge, or similar establishment; or
  - (b) Adult book or video store – Adult-oriented business, including the sale, rental, transfer, loan, dissemination, distribution, provision, or promotion of adult entertainment or material in any format, form, or medium, including but not limited to, books, magazines, newspapers, photographs, movies, videos, DVDs, CDs or other audio/video recordings, other electronic recordings but not including coin-operated or pay-view-viewing.
- (5) Consumer shopping goods - Retail sales use that sell or otherwise provide clothing, fashion accessories, furniture, household appliances, and similar consumer goods, large and small, functional and decorative, for use, entertainment, comfort, or aesthetics. Typical uses include clothing stores, department stores, appliance stores, TV and electronics stores, bike shops, book stores, costume rental stores, uniform supply stores, stationery stores, art galleries, hobby shops, furniture stores, pet stores, and pet supply stores, shoe stores, antique shops, secondhand stores, record stores, toy stores, sporting goods stores, variety stores, video stores, musical instrument stores, office supplies and office furnishing stores and wig shops.
- (6) Building supplies and equipment - Retail sales use that sell or otherwise provide goods to repair, maintain, or visually enhance a structure or premises. Typical uses include hardware stores, home improvement stores, paint, wallpaper supply stores, and gardens.
- K. Self-service storage facility (e.g., mini-storage) - An enclosed use that provides separate, self-service storage facilities leased or rented to individuals or small businesses. Facilities are designated to accommodate only interior access to storage lockers or drive-up access from regular-sized passenger vehicles and two-axle non-commercial vehicles.
- L. Studio, instructional, or service - Uses in an enclosed building that provides instruction or training in music, dance, drama, fine arts, language, or similar activities. It also includes artists' studios and photography studios. See also "personal improvement service" in the commercial services use category.
- M. Trade school - Uses in an enclosed building that focuses on teaching the skills needed to perform a particular job. Examples include cosmetology schools, modeling academies, computer training facilities, vocational schools, administrative business training facilities,

and similar uses. Truck driving schools are classified as "trucking and transportation terminals" (wholesale, distribution, and storage use category).

- N. Vehicle sales and service. Uses that provide for the sale, rental, maintenance, or repair of new or used vehicles and vehicular equipment. The vehicle sales and service subcategory includes the following specific use types:
- (1) Commercial vehicle repair and maintenance - Uses, excluding vehicle paint finishing shops, that involve repairing, installing, or maintaining the mechanical components or the bodies of large trucks, mass transit vehicles, large construction or agricultural equipment, aircraft, watercraft, or similar large vehicles and vehicular equipment. This subcategory includes truck stops and truck fueling facilities.
  - (2) Commercial vehicle sales and rentals - Uses that provide for the sale or rental of large trucks, large construction or agricultural equipment, aircraft, or similar large vehicles and vehicular equipment.
  - (3) Fueling station - Uses engaged in retail sales of personal or commercial vehicle fuels, including natural gas fueling stations, rapid vehicle charging stations, and battery exchange facilities for electric vehicles.
  - (4) Personal vehicle repair and maintenance - Uses engaged in repairing, installing, or maintaining the mechanical components of autos, small trucks or vans, motorcycles, motor homes, or recreational vehicles, including recreational boats. It also includes uses that wash, clean, or otherwise protect these vehicles' exterior or interior surfaces. The subcategory does not include vehicle body or paint finishing shops.
  - (5) Personal vehicle sales and rentals - Uses that provide the sale or rental of new or used autos, small trucks or vans, trailers, motorcycles, motor homes, or recreational vehicles, including recreational watercraft. Examples include automobile dealers, auto malls, car rental agencies, and moving equipment rental establishments (e.g., U-Haul).
  - (6) Vehicle body and paint finishing shop - Uses primarily conduct vehicle bodywork and repairs or apply paint to vehicles' exterior or interior surfaces by spraying dipping flow coating or other similar means.

#### **§ 128-80. Wholesale, distribution, and storage use categories.**

This category includes uses that provide and distribute goods in large quantities, principally to retail sales, commercial services, or industrial establishments. In addition, long-term and short-term storage of supplies, equipment, commercial goods, and personal items are included. The wholesale, distribution & storage subcategories are as follows:

- A. Equipment and materials storage, outdoor - Uses related to outdoor storage of equipment, products, or materials, whether or not stored in containers.
  - (1) Contractor's shop - An establishment used for the indoor repair, maintenance, or storage of a contractor's vehicles, equipment, or materials, and may include the contractor's business office.
  - (2) Fuel storage – An establishment that includes "fuel storage tanks" or any vessel or tank that stores gases or liquids, including fuel products such as gasoline, diesel fuel, heating oil, natural gas, natural gas liquids, propane, synthetic gas, or similar products.
  - (3) Grain storage - Bulk storage, drying, or other processing of grain and livestock feed or storage and sale of fertilizer, coal, coke, or firewood with adequate control of dust and particulates during all operations.
- B. Trucking and transportation terminal - Uses engaged in the dispatching and long-term or short-term storage of trucks, buses, and other vehicles, including parcel service delivery vehicles, taxis, and limousines. Minor repairs and maintenance of vehicles stored on the premises are also included. Includes uses engaged in moving household or office furniture, appliances, and equipment from one location to another, including the temporary on-site storage of those items.
- C. Warehouse - Uses conducted within a completely enclosed building engaged in long-term and short-term storage of goods that do not meet the definition of a "self-service storage facility" or a "trucking and transportation terminal."
- D. Mini storage facilities - A building and/or site containing separate secured indoor storage units designed to be rented or leased for private storage of personal goods.
- E. Wholesale sales and distribution - Uses engaged in wholesale sales, bulk storage, and distribution of goods. Such uses may also include incidental retail sales and wholesale showrooms.
  - (1) Limited wholesale sales and distribution facilities, excluding fuels and other flammable liquids, solids, or explosives held for resale and the bulk storage or handling of fertilizer, grain, and feed.
  - (2) Wholesale sales and distribution facilities, including fuels and other flammable liquids, solids, or explosives held for resale and the bulk storage or handling of fertilizer, grain, and feed.

**§ 128-81. Industrial use category.**

This category includes uses that produce goods from extracted and raw materials or recyclable or previously prepared materials, including the design, storage, and handling of these products and the materials from which they are produced. The industrial subcategories are:

- A. Artisan industrial - On-site production of goods by hand manufacturing, involving hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations or storage. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing, and similar arts and crafts or very small-scale manufacturing with no negative external impacts on surrounding properties.
- (1) Micro-producers, wine, beer, or distilled spirits, coffee roasting. This category includes coffee-roasting establishments. It also includes micro-producers of beer, wine, and distilled spirits with limited on-site production of wine, beer, or distilled spirits permitted under a Class 7 micro-brewery license or Class 9 limited distillery license issued by the State and in compliance with the requirements of the Federal Alcohol and Tobacco Tax and Trade Bureau (TTB). Depending on the product produced and the specific permit and license held, the facility may be allowed limited sales for on-premises consumption, sell products to go and sell to a wholesaler for resale to restaurants and retailers. Uses accessories for on-site production, such as tasting rooms for the consumption of beer, wine, or distilled products, may be permitted on the premises if allowed by a state license and in conjunction with the principal on-site production use.
- B. Limited Industrial - Manufacturing and industrial uses that process, fabricate, assemble, treat, or package finished parts or products without explosive or petroleum materials. Uses in this subcategory do not involve assembling large equipment and machinery. As a result, they have minimal external noise, vibration, odor, hours of operation, and truck and commercial vehicle traffic impacts.
- (1) Medical cannabis processor - An entity licensed by the Maryland Medical Cannabis Commission that transforms medical cannabis into another product or extract, packages, and labels medical cannabis.
- C. General Industrial - Manufacturing and industrial uses that process, fabricate, assemble, or treat materials for the production of large equipment and machines, as well as industrial uses that, because of their scale or method of operation, regularly produce odors, dust, noise, vibration, truck/commercial vehicle traffic or other external impacts that are detectable beyond the property lines of the subject property.
- D. Junk or salvage yard - An area or building where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled for reclamation, disposal, or other like purposes, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles.
- E. Fuel storage – This subcategory includes fuel storage tanks with a capacity of 1,000 gallons or greater, individually or in aggregate, whether accessory to an industrial operation or the principal use of the property. This category does not include fuel storage tanks with a capacity of 1,000 gallons or less, either individually or in the aggregate, intended for residential home heating and cooking use only and located on the same lot as the principal use.

### **§ 128-82. Recycling use category.**

This category includes uses that collect, store, or process recyclable material for marketing or reusing the material in manufacturing new, reused, or reconstituted products.

- A. Recyclable material drop-off facility - An establishment that accepts recyclable consumer commodities directly from the consuming party and stores them temporarily before transferring them to recyclable material processing facilities. Recyclable commodities shall be limited to non-hazardous, non-special, homogeneous, non-putrescible materials such as dry paper, glass, cans, or plastic. The term "recyclable material drop-off facility" as used in this Ordinance shall not include general construction or demolition debris facilities and/or transfer stations, facilities located within a structure principally devoted to another use, facilities temporarily located on a lot under the authority of temporary use, and facilities for collecting used motor oil which are necessary to an automobile service station. Establishments that process recyclable material are classified as "recyclable material processing facilities."
- B. Recyclable material processing - Establishments that receive and process consumer-recyclable commodities for subsequent use in the secondary market.

### **§ 128-83. Agricultural use category.**

This category includes gardens, farms, orchards, and the like that involve the raising and harvesting of food and non-food crops.

- A. Agriculture, animal production - The (principal or accessory) use of land to keep or raise farm animals. Animal production is expressly prohibited in the Town.
- B. Agriculture, crop production - The use of land for growing, raising, or marketing plants to produce food, feed, fiber commodities, or non-food crops. Examples of crop agriculture include cultivation and tillage of the soil and harvesting agricultural or horticultural commodities. Crop agriculture does not include community gardens or raising or keeping farm animals.
- C. Agriculture, buildings, and structures – This category includes all buildings and structures associated with agriculture uses.
- D. Community garden - An area managed and maintained by a group of individuals to grow and harvest food crops or non-food crops (e.g., flowers) for personal or group consumption, donation, or sale that is occasional and incidental to the growing and harvesting of food crops. A community garden area may be divided into separate garden plots or orchard areas for cultivation by one or more individuals or farmed collectively by group members. In addition, a community garden may include common areas (e.g., hand tool storage sheds) maintained and used by the group. Community gardens may be principal or accessory uses located at grade (outdoors), roof, or building. Community gardens do not include the raising or keeping of farm animals.

- E. Indoor plant cultivation - A building or structure and the associated premises used to grow plants under a roof. The use may include accessory storage and processing of plants grown on-premises. Included in this category are greenhouses and hydroponic facilities.
  - (1) Medical cannabis licensed grower - An entity licensed by the Maryland Medical Cannabis Commission to grow medical cannabis.

#### **§ 128-84. Other use category.**

This category includes uses that do not fit the other use categories.

- A. Drive-in or drive-through facility - Any use with drive-through windows or drive-through lanes or that otherwise offers service to the occupants of motor vehicles. Typical uses include drive-through restaurants, drive-through pharmacies, and drive-in restaurants.
- B. Temporary uses. Use of a building or premises for a purpose that does not conform to the regulations prescribed by this Ordinance does not involve the erection of substantial buildings. However, it is permitted for a defined period.
  - (1) Temporary Use, Emergency – Structures and/or use for emergency public health and safety needs/land use activities.
  - (2) Temporary Use, Construction - On-site contractors' mobile homes used in conjunction with an approved construction project on the same site.
  - (3) Temporary Use, Sale - One trailer or using one building as a temporary field or sales office in connection with building development.

#### **§ 128-85. Accessory use category.**

- A. The category includes uses or structures subordinate to the principal use and customarily incidental to the principal use.
- B. Accessory structures, including but not limited to piers, docks, garages, and gazebos, may not be erected prior to the principal building.
- C. One additional single-family residence for the sole purpose of a farm caretaker home may be erected on a single lot used for agricultural uses in the Rural Agriculture (RA) district and meeting the definition of a "farm." No such structure shall be erected prior to the principal residence.
- D. See § 128-90 for additional use standards.

#### **§ 128-86. Special exceptions sometimes required.**

- A. Notwithstanding any other provisions of this article, whenever the Table of Permitted Uses provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible with a zoning permit, a special exception permit shall nevertheless be

required if the Director of Planning finds that the proposed use would have an extraordinary impact on neighboring properties or the general public.

- B. In making this determination, the Director of Planning shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

**§ 128-87. Permitted Uses Table.**



**Key:**

P – Permitted Use within a zoning district (all uses require site plan approval by the Planning Commission or staff as provided in Article XVI and may be subject to supplemental use standards as provided in Article VI)

SE – Special Exception from the Board of Appeals

IRD – Infill & Redevelopment Overlay Zone (site plan review and approval required)

<b>§ 128-87. Permissible Uses Tables.</b>	<b>Zoning District</b>											
<b>Permitted Use Categories and Subcategories</b>	<b>SR</b>	<b>TR</b>	<b>MR</b>	<b>UR</b>	<b>GC</b>	<b>CBC</b>	<b>CM</b>	<b>RHC</b>	<b>I</b>	<b>PN</b>	<b>MI</b>	<b>RA</b>
<b>Household Living</b>												
Detached single-family unit	P	P	P	P	P	P	P	----	----	P	P	P
Two-family unit	P	P	P	P	----	P	----	----	----	P	P	----
Duplex	P	P	P	P	P	P	----	----	----	P	P	----
Townhouse	----	----	P	P	SE	P	----	----	----	P	P	----
Four-story Townhouse	----	----	----	P	----	----	----	----	----	P	----	----
Multifamily/apartment/condo	----	----	P	P	SE	P	----	----	----	P	P	----
Standalone Tri-plex	----	IRD	IRD	P	----	----	----	----	----	----	P	----
Standalone Four-plex	----	IRD	IRD	P	----	----	----	----	----	----	P	----
Accessory dwelling units	P	P	P	P	P	P	----	----	----	P	P	----
Mixed-use building	IRD	IRD	IRD	P	P	P	----	P	----	P	P	----
Cottage housing development	P	P	P	P	----	----	----	----	----	P	P	----
Manufactured home park, or subdivision	----	----	SE	SE	----	----	----	----	----	----	----	P
<b>Manufactured Home</b>	P	P	P	P	P	P	P	----	---	P	P	P
<b>Qualified projects developed by nonprofits</b>	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	----
<b>Group Living</b>												
Intermediate Care Facilities for Individuals with Intellectual Disabilities or Persons with Related Conditions, small	P	P	P	P	----	----	P	----	----	P	---	----
Intermediate Care Facilities for Individuals with Intellectual Disabilities or Persons with Related Conditions, large	----	----	P	P	----	---	P	----	----	P	---	----
Group residential care facilities, small	P	P	P	P	----	----	P	----	----	P	---	----
Group residential care facilities, large	----	----	P	P	----	---	P	----	----	P	---	----
Assisted living, continuing care	SE	SE	SE	SE	---	---	P	----	----	P	---	----
Shelter Care	SE	SE	SE	SE	SE	----	SE	----	----	----	----	----

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<b>Public, Civic, and Institutional</b>												
Cemetery	----	----	----	----	----	----	----	----	----	----	----	P
College or university	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	----
Community center	P	P	P	P	----	----	----	----	----	P	P	----
Fraternal organization	P	P	P	P	P	P	----	----	----	----	----	----
Governmental facility	P	P	P	P	P	P	P	P	P	P	P	P
Hospitals and Clinics larger than 10,000 square feet	----	----	----	----	----	----	P	P	----	----	----	----
- Nursing, extended care facility	---	---	P	P	----	----	P	----	----	P	----	----
- Nursing home, intermediate care, large	----	----	P	P	---	---	P	---	---	P	---	---
- Nursing home, intermediate care, small	P	P	P	P	---	---	P	---	---	P	---	---
- Health Clinics less than 10,000 square feet	SE	SE	SE	SE	P	P	P	P	---	P	---	---
Urgent Care Facilities	----	----	----	----	----	----	----	P	----	----	----	----
Parks and recreation	P	P	P	P	P	P	----	----	----	P	----	P
Religious assembly	P	P	P	P	P	P	P	P	----	P	----	P
Safety service	P	P	P	P	P	P	P	P	P	P	P	P
School	P	P	P	P	P	P	----	P	----	P	----	----
Essential services	P	P	P	P	P	P	P	P	P	P	P	P
Public utility	P	P	P	P	P	P	P	P	P	P	P	P
Alternative energy facilities, wind energy conversion systems	----	----	----	----	----	----	----	P	P	----	P	----
Alternative energy facilities - solar energy power system or heating equipment	----	----	----	----	P	P	P	P	P	P	P	----
<b>Wireless Telecommunications</b>												
Building or tower-mounted antennas												
- 50 feet tall or less	P	P	P	P	P	P	P	P	P	P	P	P

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- More than 50 feet	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE	SE
Satellite dish	P	P	P	P	P	P	P	P	P	P	P	P
Small wireless facility		See Chapter 126, Town of Denton Code										
<b>Animal Services</b>												
Grooming	----	----	----	----	P	P	----	P	----	----	P	----
Boarding or shelter/kennel (Indoor vs. Outdoor?)	----	----	----	----	----	----	----	P	P	----	----	P
Veterinary care	----	----	----	----	P	P	----	P	----	----	P	----
<b>Assembly and entertainment</b>												
Assembly and entertainment establishments	----	----	----	----	P	P	----	P	----	----	P	----
<b>Commercial Service</b>												
Building service	----	----	----	----	P	----	----	P	P	----	P	----
Business support service	----	----	----	----	P	P	----	P	P	----	P	----
Consumer maintenance and repair service	----	----	----	----	P	----	----	P	P	----	P	----
Personal improvement service	----	----	----	----	P	P	P	P	----	P	P	----
Research Service	----	----	----	----	P	P	----	P	P	----	P	----
Daycare center	SE	SE	SE	SE	SE	---	P	SE	---	P	---	---
Eating and drinking establishments	----	----	----	----	P	P	----	P	----	----	P	----
Financial service	----	----	----	----	P	P	----	P	P	----	P	----
Funeral and mortuary service	----	----	----	----	----	P	----	----	P	----	----	----
Studio, instructional, or service	----	----	----	----	P	P	----	P	----	----	P	----
Trade school	----	----	----	----	P	P	----	P	P	----	P	----
<b>Lodging</b>												
Hotel and motel	----	----	----	----	P	----	----	P	----	----	----	----
Short-term rentals		See Chapter 98, Town of Denton Code										

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Bed and breakfast	P	P	P	P	P	P	----	----	----	P	P	----
<b>Office</b>												
Business and professional office	----	----	----	----	P	P	P	P	P	P	P	----
Medical, dental, and health practitioner	----	----	----	----	P	P	P	P	----	P	P	----
<b>Retail Sales</b>												
Convenience goods	----	----	----	----	P	P	P	P	----	P	P	----
Neighborhood Center	IRD	IRD	IRD	IRD	----	----	----	----	----	----	----	
Cannabis enterprises – retail sale only	----	----	----	----	SE	P	----	P	----	P	----	----
Adult entertainment establishment	----	----	----	----	----	----	----	----	P	----	----	----
Consumer shopping goods	----	----	----	----	P	P	P	P	----	----	P	----
Building supplies and equipment	----	----	----	----	----	----	----	P	P	----	P	----
<b>Vehicle Sales and Service</b>												
Commercial vehicle repair and maintenance	----	----	----	----	----	----	----	P	P	----	P	----
Commercial vehicle sales and rentals	----	----	----	----	----	----	----	P	P	----	P	----
Fueling station	----	----	----	----	P	P	----	P	P	----	----	----
Personal vehicle repair and maintenance	----	----	----	----	P	----	----	P	P	----	P	----
Personal vehicle sales and rentals	----	----	----	----	P	----	----	P	P	----	P	----
Vehicle body and paint finishing shop	----	----	----	----	----	----	----	P	P	----	P	----
<b>Wholesale, Distribution &amp; Storage</b>												
Equipment and materials storage, outdoor	----	----	----	----	----	----	----	----	P	----	P	----
Contractor's shop	----	----	----	----	P	----	----	P	P	----	P	----
Trucking and transportation terminal	----	----	----	----	----	----	----	----	P	----	----	----
Warehouse	----	----	----	----	----	----	----	P	P	----	P	----
Mini storage facilities	----	----	----	----	----	----	----	P	P	----	P	----

**Key:**

P – Permitted Use within a zoning district (all uses require site plan approval by the Planning Commission or staff as provided in Article XVI and may be subject to supplemental use standards as provided in Article VI)

SE – Special Exception from the Board of Appeals

IRD – Infill & Redevelopment Overlay Zone (site plan review and approval required)

<b>§ 128-87. Permissible Uses Tables.</b>	<b>Zoning District</b>											
<b>Permitted Use Categories and Subcategories</b>	<b>SR</b>	<b>TR</b>	<b>MR</b>	<b>UR</b>	<b>GC</b>	<b>CBC</b>	<b>CM</b>	<b>RHC</b>	<b>I</b>	<b>PN</b>	<b>MI</b>	<b>RA</b>
Limited wholesale sales and distribution facilities	----	----	----	----	----	----	----	P	P	----	P	----
Wholesale sales and distribution facilities.	----	----	----	----	----	----	----	P	P	----	----	----
<b>Industrial</b>												
Artisan industrial	----	----	----	----	----	----	----	----	P	----	P	----
Micro-producers, wine, beer, or distilled spirits, coffee roasting	----	----	----	----	P	P	----	P	----	P	P	----
Limited industrial	----	----	----	----	----	----	----	----	P	----	----	----
General industrial	----	----	----	----	----	----	----	----	P	----	----	----
Cannabis Enterprises, growing, processing, transport, packaging, warehousing, and the like	----	----	----	----	----	----	----	----	P	----	----	----
Bulk storage or wholesaling of fuels and other flammable liquids over 2,000 gallons	----	----	----	----	----	----	----	----	P	----	----	----
Bulk storage or wholesaling of fuels and other flammable liquids less than 2,000 gallons	----	----	----	----	----	----	----	----	P	----	----	----
Storage in bulk, drying, or other processing of grain and livestock feed or storage and sale of fertilizer, coal, coke, or firewood	----	----	----	----	----	----	----	----	P	----	----	----
<b>Recycling</b>												
Recyclable material drop-off facility	----	----	----	----	P	----	----	P	P	----	P	----
<b>Agriculture</b>												
Agriculture, animal production	----	----	----	----	----	----	----	----	----	----	----	----
Agriculture, crop production	----	----	----	----	----	----	----	----	----	----	----	P
Agriculture, buildings, and structures	----	----	----	----	----	----	----	----	----	----	----	P
Community garden	P	P	P	P	P	P	P	----	----	P	P	----
Indoor plant cultivation	----	----	----	----	----	----	----	P	P	----	P	P
<b>Other</b>												
Drive-in or drive-through facility	----	----	----	----	P	P	----	P	P	P	P	----

**Key:**

P – Permitted Use within a zoning district (all uses require site plan approval by the Planning Commission or staff as provided in Article XVI and may be subject to supplemental use standards as provided in Article VI)

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<b>§ 128-87. Permissible Uses Tables.</b>	<b>Zoning District</b>											
<b>Permitted Use Categories and Subcategories</b>	<b>SR</b>	<b>TR</b>	<b>MR</b>	<b>UR</b>	<b>GC</b>	<b>CBC</b>	<b>CM</b>	<b>RHC</b>	<b>I</b>	<b>PN</b>	<b>MI</b>	<b>RA</b>
Temporary Use, construction	P	P	P	P	P	P	P	P	P	P	P	P
Temporary uses, emergency	P	P	P	P	P	P	P	P	P	P	P	P
Temporary Use, sales	P	P	P	P	----	----	----	----	----	P	----	----
<b>Accessory Uses</b>												
Home Occupation	P	P	P	P	P	P	----	----	----	P	P	P
Portable storage containers, roll-off trash containers.	P	P	P	P	P	P	P	P	P	P	P	P
Boarding and rooming	P	P	P	P	P	P	P	----	----	P	P	P
Daycare, family/home	P	P	P	P	P	P	P	----	----	P	P	P
Garage/Yard sales	P	P	P	P	P	P	P	P	P	P	P	P

## **Article VI - Supplementary Use Regulations.**

### **§ 128-88. Purpose.**

The regulations set forth in this article qualify or supplement the district regulations appearing elsewhere in this chapter.

### **§ 128-89. Accessory dwelling units (ADUs)**

- A. Where permitted, there shall be no more than one accessory dwelling unit per lot, provided such accessory dwelling unit shall comply with the following standards.
- B. Location. An accessory dwelling unit may only be on the same lot as a detached single-family dwelling.
- C. Design Standards
  - (1) Purpose. Standards for creating accessory dwelling units address the following purposes:
    - (a) Ensure that accessory dwelling units are compatible with the desired character and livability of residential districts;
    - (b) Respect the general building scale and placement of structures to allow sharing of shared space on the lot, such as driveways and yards; and
    - (c) Ensure accessory dwelling units are smaller than the principal residential units.
  - (2) Creation. An accessory dwelling unit may only be created through the following methods:
    - (a) Converting existing living area, attic, or basement;
    - (b) Adding floor area to an existing dwelling;
    - (c) Construction of a stand-alone unit; or
    - (d) Adding onto or repurposing an existing accessory building (e.g., an apartment in an existing garage or converting an existing accessory building into an ADU).
  - (3) Parking.
    - (a) No additional parking space is required for the accessory dwelling unit if on-street parking is permitted and adequate.

- (b) One additional parking space located on or within one hundred (100) feet of the lot is required for the accessory dwelling unit: (1) when none of the roadways in abutting streets can accommodate on-street parking or (2) when the accessory dwelling unit is created at the same time as the principal dwelling.
- (4) Maximum Size. The size of an accessory dwelling unit may be no more than sixty (60) percent of the living area of the principal dwelling or one thousand (1,000) square feet of floor area, whichever is less.

## **§ 128-90. Accessory Structures.**

The following provisions and standards apply to all accessory structures as defined by this section for properties in residential and nonresidential zoned districts.

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

**ACCESSORY STRUCTURE** — A structure located on the lot, the size and use of which is subordinate and incidental to and associated with the principal structure. Examples of accessory structures are barns, garages, carports, playhouses, sheds, private greenhouses, gazebos, storage buildings, boathouses and docks, wind-generating devices, solar arrays, swimming pool pumphouses, radio and television receiving antenna towers and dishes, temporary and semi-permanent or permanent storage containers.

**ACCESSORY STRUCTURE, ATTACHED** — An accessory structure attached to the principal structure substantially, for example, by a roof.

**ACCESSORY STRUCTURE, DETACHED** — An accessory structure detached from the principal structure.

**ACCESSORY STRUCTURE, PERMANENT** — For this section, "permanent" shall mean any accessory structure located on a property for more than thirty (30) days.

**ACCESSORY STRUCTURE, TEMPORARY** — For this section, "temporary" shall mean an accessory structure located on a property for less than thirty (30) days.

**STORAGE CONTAINERS** — Any factory-built container or part thereof designed or used for freight or storage, including, but not limited to, PODs, Conex boxes, and sea-land containers.

**SUBSTANTIAL ALTERATION, RECONSTRUCTION, OR REPAIR** — Alteration, reconstruction, or repair of more than 50% of the structural supporting members of an accessory structure, measured by the length and width of the floor, wall, or roof where the reconstruction or repair is required.



- B. Applicability. Where there is a conflict between general and specific requirements, the specific and most restrictive requirement shall be applicable. Specific requirements for accessory structures are as follows:
- (1) Accessory structures located in environmentally protected or hazardous areas, such as critical areas, forest conservation, floodplains, and tidal and nontidal wetlands, shall be regulated by the applicable codes for size, location, and construction standards.
  - (2) Accessory structures located on a property in the Historic District Overlay shall be required to meet the Historic District design standards, in addition to the provisions of this section.
  - (3) Accessory structures greater than two hundred (200) square feet shall comply with Chapter 38, Building Construction, of the Town Code, in addition to the provisions of this section.
  - (4) Permanently attached accessory structures shall comply with Chapter 38, Building Construction, of the Town Code, in addition to the provisions of this section.
  - (5) Fences shall comply with the provisions of § 128-125 and § 128-126.
  - (6) All the provisions of the underlying zoning district shall apply unless modified by provisions of this section.
- C. Administration and approval process (see § 128-213).
- D. Development standards and approval criteria for property in residentially zoned districts.
- (1) Dimension, size, and location standards for residential zoned properties.
    - (a) Location. Accessory structures shall be located in the rear yard of the property. For this section, the rear of the property is deemed opposite the elevation of the principal structure facing a primary street. Exception: For properties where accessory structures are historically located in the front yard, or if technically unfeasible to locate an accessory structure in the rear yard because of stormwater, forest conservation, tidal and nontidal buffers, or other required easements and buffers, the Planning Commission shall approve the accessory structure location.
    - (b) Rear and side yard setbacks. The rear yard setback shall be five (5) feet, measured from the overhang of the roof structure to the rear property line, right-of-way, or easement line. The side yard setback shall be three (3) feet, measured from the overhang of the roof structure to the property line, right-of-way, or easement line.

- (c) Increased setback requirements. Accessory structures greater than two hundred (200) square feet and attached accessory structures shall be set back along the same plane as the principal structure or ten (10) feet from side and rear lot lines, whichever is greater.
- (2) Additional provisions for towers, antennas, wind-generating devices, and TV and satellite receiving dishes. All freestanding and detached towers, antennas, wind-generating devices, and TV-receiving dishes shall have setbacks equal to or greater than the height of the proposed structure. Suitable protective anti-climb fencing and a landscape planting screen shall be per § 128-152, Bufferyards, and shall be provided and maintained around these structures and accessory attachments.
- (3) Encroachments not permitted. No accessory structure shall encroach upon any adjoining property or public right-of-way, including but not limited to streets, alleys, and public or private easements.
- (4) Height. [Except as provided in subsection (5) following], the height of any accessory building may not exceed the height of the principal dwelling or twenty-two feet, whichever is more restrictive.
- (5) The Planning Commission may grant an exception to the height restriction in (4) preceding for the height of a proposed accessory building to a maximum height of 22 feet subject to the following findings:
  - (a) The design and location of the proposed accessory building are context-appropriate, as they align with the architectural character, scale, and streetscape patterns of the surrounding neighborhood, as encouraged by Appendix III, Part 2, Section D (Streetscape/Neighborhood) and Section E (Elements of Design). The building's silhouette, massing, and materials establish visual linkages with existing structures, ensuring compatibility with the immediate and broader neighborhood context.
  - (b) The proposed accessory building does not constitute a serious violation of the Design Guidelines outlined in Appendix III, Part 1 and Part 2. The building adheres to key principles, including harmonious integration with the site and adjoining properties (Part 1, Sections B and C), appropriate landscape treatment (Part 1, Section D), and cohesive building design (Part 1, Section E). Specific design elements, such as complimentary roof pitch, material selection, or landscaping, reflect the guidelines' emphasis on visual continuity and neighborhood character.

- (c) The proposed height of 22 feet is justified as it does not exceed the absolute maximum height permitted under the zoning standards and is compatible with the site's topography and surrounding development. The building's scale and placement minimize the visual impact on adjacent properties and the streetscape, as supported by Appendix III, Part 2, Section G (Siting, Location, and Topography) and Section H (Architectural Envelope).
- (d) Conditions of Approval.
  - (i) The applicant shall implement landscaping measures, such as, e.g. planting deciduous trees or screening with shrubs, to enhance the building's integration with the site and mitigate any visual impact, per Appendix III, Part 1, Section D.
  - (ii) Exterior materials and finishes shall be consistent with the principal dwelling and neighborhood character, as required by Appendix III, Part 1, Section E(3) and Part 2, Section J.
  - (iii) The applicant shall ensure that any exterior lighting complies with Appendix III, Part 1, Section E(7), and Part 2, Section I to avoid excessive brightness and maintain harmony with the surrounding area.
- (e) The applicant has the entire burden of proof to demonstrate the proposed accessory building meets the findings requirements of subsection (5). The applications shall include adequate information to address this burden of proof requirement and shall, at a minimum, include the following:
  - (i) A description of the proposed development site, i.e., a plot plan or survey plot.
  - (ii) A description of existing conditions in the vicinity of the site, including all adjacent properties. These descriptions shall include documenting photographs and an analysis of the prominent architectural features of adjacent properties and along adjacent block faces and shall address the following:
    - [a] site location and topography,
    - [b] street connections,
    - [c] pedestrian pathways,
    - [d] lot coverage and

- [e] building orientation
- (iii) A description of existing neighborhood architectural characteristics and features, including:
  - [a] massing and proportions,
  - [b] entryways,
  - [c] windows,
  - [d] garage doors,
  - [e] finishes and materials,
  - [f] ornamentation,
  - [g] roof detail, and
  - [h] color
- (iv) A description of the proposed accessory building, including:
  - [a] elevations of all proposed buildings,
  - [b] a description of how the proposed accessory building is compatible with the features described in (iii) above and
  - [c] A statement of how the proposed infill or redevelopment meets the development and compatibility standards in Design Guidelines in Appendix III and the findings requirements outlined in (5).
- (f) Notice and Public Hearing Requirements. Consideration of a special exception under this subsection requires public notice and a public hearing.
  - (i) Notice of the public hearing, property posting, and mailed notice shall be as provided in Article XVII.
  - (ii) Public Hearing Process. The Planning Commission must hold a public hearing where:
    - [a] The applicant presents the special exception request, including evidence of compliance with the proposed findings (context-appropriate design, no serious violation of Appendix III Design Guidelines, and 22-foot height limit).

- [b] Planning and Codes staff provide analysis or recommendations.
      - [c] The public can comment, raising concerns about impacts like aesthetics, privacy, or traffic.
    - (g) The Commission shall document its findings in writing, justifying the approval or denial based on the findings requirements in subsection (5) above.
  - (6) Nonconforming accessory structures. Substantial alterations from reconstruction or repair of nonconforming accessory structures shall require a variance granted by the Board of Appeals per § 128-181.
  - (7) Storage containers. Permanent storage containers shall not be located or installed on residential-zoned properties.
- E. Development standards and approval criteria for property in commercial, industrial, institutional, and all other zoned districts.
- (1) The Planning Commission shall approve permanent storage containers and accessory structures in all nonresidential zoned districts following the review procedures outlined in Article XVI.
  - (2) Permanent storage containers. In addition to the other approval criteria of this chapter, permanent storage containers in any commercial, mixed-use, or public lands zoning district shall comply with the following standards. Exception: The Planning Commission may modify and amend the requirements for temporary and permanent storage containers on non-residential zoned properties as a condition of the approval where such containers are an integral requirement of the business or use.
    - (a) One (1) permanent storage container shall be allowed for properties that are less than or equal to one (1) acre in size. A maximum of two (2) permanent storage containers may be allowed for properties greater than one (1) acre in size.
    - (b) Permanent storage containers shall be painted a neutral, earth-tone, or otherwise site-compatible color. The color shall be uniform for the entire storage container. If permanent storage containers will be placed within fifty (50) feet of each other on the same property, they shall be of the same color.
    - (c) Signs are prohibited on permanent storage containers, except those required to contain public safety information for the storage container.

- (d) Permanent storage containers shall be located and screened to minimize visibility from surrounding streets and neighboring properties.
  - (e) No permanent storage container shall violate applicable zoning standards and shall not encroach into pedestrian or vehicle circulation areas, required parking areas, landscape areas, emergency accessways, or vision clearance areas.
  - (f) No permanent storage container shall be allowed to be placed or remain in a state of disrepair. Examples of states of disrepair include but are not limited to, any damage that compromises the intended shape (i.e., disfigurement) and/or function of the storage container, significant rust, or graffiti.
  - (g) Use of a permanent storage container is restricted to storage only. Any form of human occupancy shall be prohibited.
  - (h) Permanent storage containers shall not be used for any primary use.
  - (i) A permanent foundation is not required. Still, permanent storage containers shall be placed on a level surface of asphalt, concrete, or other materials approved by the Director, his or her designee, or as applicable by the Planning Commission.
  - (j) Permanent storage containers shall not exceed a height of twenty (20) feet.
  - (k) Permanent storage containers shall not be stacked.
  - (l) Total storage shall not exceed a gross floor area per § 128-99, Outdoor storage.
- (3) Dimension, size, and location standards for property in commercial, industrial, institutional, and all other zoned districts.
- (a) Location. Accessory structures shall be located on the property as approved by the Director or his or her designee or as applicable by the Planning Commission.
  - (b) Front, rear, and side yard setbacks. Setbacks for accessory structures shall be a minimum of three (3) feet measured from the overhang of the roof structure for the rear yard, five (5) feet from the overhang of the roof structure for the side yards, and fifteen (15) feet from the overhang of the roof structure for the front yard, measured from the applicable property line, right-of-way, or easement line.
  - (c) Setback requirements for corner lots. For this section, the setback for

accessory structures on corner lot properties is as follows:

- [1] Primary street frontage: The setback for accessory structures shall be by the provisions for front yard setback established in §128-90E(3)(b) and shall be measured from the applicable property line, right-of-way, or easement line.
- [2] Secondary street frontage: The setback for accessory structures shall be per the provisions for side yard setback established in § 128-90E(3)(b) and measured from the applicable property line, right-of-way, or easement line.
- (d) Requirement for an increase in setback requirements. Setback requirements for front, rear, and side yards shall be increased from the minimum requirements established in § 128-90E(3)(b) of this section where, in the opinion of the Director, or his or her designee, or the Planning Commission determines the minimum requirements create an adverse impact to traffic, vehicular or pedestrian, parking, utilities, or environmentally sensitive areas, such as stormwater facilities, wetlands, or forest conservation areas.

#### **§ 128-91. Accessory uses.**

- A. The Permitted Uses Table (§ 128-87) classifies different principal uses according to their impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/tennis court complex is customarily associated with and integrally related to a residential subdivision or multifamily development. It would be regarded as an accessory to such principal uses, even though such facilities would require a separate permit if developed apart from a residential development.
- B. Accessory uses regulations.
  - (1) Accessory uses and structures are permitted with the lawfully established principal uses.
  - (2) The Planning Commission is authorized to determine when a use, building, or structure meets the criteria of an accessory use or accessory structure. To classify a use or structure as an "accessory," the Planning Commission must determine that the use or structure:
    - (a) is subordinate and incidental to the principal structure or principal use

served in terms of area and function.

- (b) provides a necessary function for or contributes to the comfort, safety, or convenience of occupants of the principal use; and
  - (c) is customarily found in association with the principal subject use or principal structure.
- (3) Accessory buildings may be established in conjunction with or after the principal building is completed. However, they may not be established before the principal building is in place.

C. For the purpose of interpreting Subsection B:

- (1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use.
- (2) To be commonly associated with a principal use, it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

D. Without limiting the generality of Subsections B and C, the following activities, so long as they satisfy the general criteria set forth above, are regarded explicitly as accessories to residential principal use:

- (1) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a "home occupation."
- (2) Hobbies or recreational activities of a noncommercial nature.
- (3) Yard or garage sales, so long as such sales are not conducted on the same lot for more than three (3) days (whether consecutive or not) during any ninety (90) days.

E. Without limiting the generality of Subsections B and C, the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts:

- (1) Storage outside a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.
- (2) Parking outside a substantially enclosed structure of more than four (4) motor vehicles between the front building line of the principal building and the street on



any lot used for residential purposes.

**§ 128-92. Industrial uses.**

- A. Adequate measures are taken to abate offensive odors, dust, smoke, noise, vibration, or similar nuisances.
- B. The facility's design, construction, and operation meet the requirements of appropriate State and federal regulatory agencies.
- C. Uses are subject to the outdoor storage regulations specified in § 128-99.

**§ 128-93. Industrial parks.**

- A. Industrial parks shall be located on a site that is at least one (1) acre in size.
- B. The lot on which the industrial park is located must have a minimum frontage of one hundred (100) feet on a public street.
- C. The lot on which the industrial park is located must have a depth of at least one hundred (100) feet.
- D. The project shall have a unified arrangement of buildings, service areas, parking, and landscaped areas.
- E. Materials, massing, and facade design for the project shall be harmonious with the neighborhood's character.
- F. The internal circulation system shall be designed to minimize through traffic and traffic conflicts within the project.
- G. The vehicular plan shall provide for safe pedestrian movement.
- H. From the public view, the applicant shall design and site buildings to screen unsightly site elements such as shipping and loading areas, equipment storage areas, dumpsters, etc.
- I. All operations (except for permitted outdoor storage) shall be in a wholly enclosed building.
- J. The release, disposal, or storage of waste materials shall not be visible off-site. All trash and refuse shall be stored in self-enclosed storage areas.
- K. In addition to the requirements of § 128-99, outdoor storage shall be subject to the following:
  - (1) The Planning Commission may approve outdoor storage of materials and vehicles

during site plan review and approval provided the use is accessory to the principal use.

(2) Outdoor storage areas may not be in the required front yard.

L. An impact statement shall be submitted with the site plan, which explains:

(1) All buildings and structures' proposed architectural design (graphic or narrative).

(2) The proposed hours of operation.

(3) The provisions for control of toxic and offensive odors.

(4) The air pollution, water quality, and noise control measures to be taken.

(5) The type and amount of traffic expected to be generated.

M. Landscaping shall be provided per Article X of this chapter.

#### **§ 128-94. Temporary emergency, construction, or repair residences.**

A. Temporary residences used on construction sites of nonresidential premises shall be removed immediately upon the completion of the project.

B. Permits for temporary residences to be occupied pending the construction, repair, or renovation of the permanent residential building on a site shall expire within six (6) months after the date of issuance, except that the Director of Planning may renew such permit for one (1) additional period not to exceed three (3) months if it is determined that such renewal is reasonably necessary to allow the proposed occupants of the permanent residential building to complete the construction, repair, renovation, or restoration work necessary to make such building habitable.

#### **§ 128-95. Manufactured Homes.**

A manufactured home outside a mobile park or mobile home subdivision shall be permitted provided:

A. The manufactured home complies with all Denton code requirements applicable to residential units.

B. The manufactured home is attached to a permanent foundation.

C. The ownership interests of the manufactured home and the parcel of land it is affixed to are identical.

- D. An affidavit of affixation has been recorded with the clerk of the court for Caroline County as provided in Title 8B Manufactured Homes, Subtitle 2 Conversion to Real Property, Section 8B-202 Affidavit of Affixation.

**§ 128-96. Manufactured home parks.**

The following regulations shall apply to manufactured home parks in any district where manufactured home parks are permitted:

- A. Access to the manufactured home park shall be from a major collector street or arterial street; the number and location of access drives shall be controlled for traffic safety and protection of surrounding properties; no manufactured home space shall be designed for direct access to a street outside the boundaries of the manufactured home park. Interior access drives shall be as specified in the Denton Department of Public Works Standard Specifications and Details for Public Works Construction.
- B. The site's topography facilitates proper drainage and ensures that adequate stormwater facilities are provided.
- C. The minimum width and/or depth of the manufactured home park shall be two hundred (200) feet, and the minimum total area shall be ten (10) acres.
- D. The minimum area for a manufactured home site for parking one manufactured home shall be 3,500 square feet with no dimension less than forty (40) feet and with corners of each site visibly marked and numbered by a permanent marker.
- E. The manufactured home park shall contain at least 1,000 square feet per manufactured home for community facilities, including play space, utility rooms, parking, and access roads. Any service or utility building shall be located on a minimum lot of 10,000 square feet.
- F. Refer to Article XII Common Open Space for required open space.
- G. Setbacks, buffer strips, and screening.
  - (1) All manufactured homes shall be located at least twenty-five (25) feet from any park property boundary line on a public street.
  - (2) All manufactured home parks shall be provided with screening, such as fences or natural growth along the property line bounding the development.
  - (3) No manufactured home shall be parked closer than twenty-five (25) to any other manufactured home or service building, and no part of a manufactured home shall extend closer than five (5) feet to the boundaries of an individual manufactured home site.

- H. Off-street parking spaces for automobiles shall be provided in the ratio of two (2) spaces per manufactured home in locations convenient to individual manufactured homes or groups of manufactured homes.
- I. Service or utility buildings are permitted within the park for use as sanitary, postal, trailer supplies, manufactured home park office, convenience items, or laundry; provided, however, that all use of the facilities shall be designed solely for occupants of the park.
- J. All access roads, parking areas, and walkways shall be illuminated at night. Illumination shall not cast any glare beyond the perimeter of the development.
- K. Walks.
  - (1) All manufactured home parks shall be provided with safe, convenient all-season pedestrian access of adequate width for the intended use, which shall be durable and convenient to maintain.
  - (2) Common walk system. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of five (5) feet parallel to the streets.
  - (3) Individual walks. All manufactured home stands should be connected to common walks, streets, driveways, or parking spaces. Such individual walks shall have a minimum width of two (2) feet.
- L. Manufactured home lots.
  - (1) Generally. The limits of each manufactured home lot should be marked on the ground by suitable means. The location of lot limits on the ground should be the same as shown on the final accepted site plans.
  - (2) Manufactured home stands. The manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the home. The stand shall not heave, shift, or settle unevenly under the weight of the manufactured home due to frost action, inadequate drainage, vibration, or other forces acting on the structure.
  - (3) Driveways. Improved driveways should be provided on lots where necessary for convenient access to mobile homes. The minimum width shall be ten (10) feet.
  - (4) Parking spaces. The design criteria for automobile parking shall be based on two (2) parking spaces for each mobile home lot.
  - (5) Outdoor living area. Each manufactured home lot should have an outdoor living and service area. Such areas should be improved as necessary to ensure reasonable privacy and comfort. The minimum area should not be less than three

hundred (300) square feet with a dimension of fifteen (15) feet.

- (6) Accessory structures remain, as per the definition, dependent upon the manufactured home and shall not be used as complete independent living units with permanent provisions for sleeping, cooking, and sanitation. Such structures shall be erected, constructed, or occupied on a manufactured home lot as specified in this subsection:
  - (a) Accessory structures shall be designed to enhance the appearance of the manufactured home park.
  - (b) Accessory structures shall not obstruct required openings for light and ventilation of the manufactured home and shall not prevent the inspection of manufactured home equipment and utility connections.

M. Manufactured home unit standards.

- (1) The unit should appear to have a permanent and continuous masonry or brick construction foundation. The permanent masonry or brick foundation shall be left exposed or skirted with other masonry or brick.
- (2) The unit is at least twenty (20) feet wide. For single-wide units, the width can be made up with a porch or carport addition of at least 2/3 of the length of the unit.
- (3) The unit has a gabled roof with a minimum pitch of 4/12.
- (4) The roofing material must be shingle or other conventional residential roof material.
- (5) The unit is constructed under the latest HUD Manufactured Home Construction and Safety Standard of 1976 and Public Safety Article, § 12-305, Annotated Code of Maryland, Industrialized Building and Manufactured Homes Act.
- (6) The unit must be manufactured after January 1, 2001, and comply with the amended National Manufactured Housing Construction and Safety Standards Act of 1974.
- (7) The tongue, axles, transporting lights, and removable towing apparatus must be removed before occupancy.
- (8) The unit must have a permanent landing and steps with handrails at each exterior doorway.

N. Community maintenance standards.

- (1) The owner or manager of the manufactured home park shall provide adequate

supervision to maintain the park in compliance with this Article and keep its facilities and equipment in good repair and clean and sanitary condition.

- (2) The owner or management shall notify the park residents of all applicable provisions of this Article and inform them of their duties and responsibilities under this Article.
- (3) The owner or management shall supervise the placement of each manufactured home on its lot, which shall include securing its stability and installing all utility connections.
- (4) The owner or management shall maintain a register containing the names of all park residents, identified by lot number or street address. Such register shall be available to any authorized person inspecting the park.
- (5) The resident shall comply with all applicable requirements of this Article and shall maintain his manufactured home, lot, and its facilities and equipment in good repair and clean and sanitary condition.
- (6) The resident shall be responsible for the proper placement of each manufactured home on its lot, which shall include securing its stability and installing all utility connections following the owner's or management's instructions.

#### **§ 128-97. Manufactured home subdivisions.**

The following regulations shall apply to manufactured home subdivisions in any district where manufactured home subdivisions are permitted:

- A. Access to the manufactured home subdivision shall be from a major collector street or arterial street, and all access drives shall be controlled to facilitate traffic movement, minimize traffic hazards, and protect surrounding properties.
- B. Any interior access drives shall be as specified in the Denton Department of Public Works Standard Specifications and Details for Public Works Construction.
- C. Site plan and design standards for manufactured home subdivisions.
  - (1) Minimum total area: ten (10) acres.
  - (2) Perimeter setbacks:
    - (a) Minimum setback of any structure from adjacent roads to subdivision: twenty-five (25) feet.
    - (b) Minimum setbacks from adjoining property lines to subdivision: twenty (25) feet.

- D. The minimum lot size for a manufactured home shall conform in all respects to the minimum lot size for a single-family dwelling for the zone in which the subdivision is located.
- (1) Each home site shall be defined by landscape plantings and/or low-level decorative fencing.
  - (2) Site area (yard) setbacks:
    - (a) Front: twenty-five (25) feet.
    - (b) Side: ten (10) feet.
    - (c) Rear: ten (10) feet.
- E. All interior access drives shall be privately owned and maintained by the owner/operator of the manufactured home subdivision. The minimum structure setback from internal access drives is twenty-five (25) feet.
- F. Adequate sanitary facilities shall be required for the development, including a water supply system for fire protection.
- G. All utilities, including but not limited to electric, cable television, and telephone lines, shall be placed underground.
- H. A manufactured home subdivision shall be enclosed on all sides with a permanently maintained natural or artificial barrier/buffer, such as a sight-obscuring wall or fence or a continuous opaque buffer of trees or shrubs at least six (6) feet tall. The Planning Commission may also increase all or part of the perimeter buffer requirement if it is in the best interest of the surrounding neighborhood. Structures that meet this standard may be located within the required perimeter structure setback.
- I. Open space. Refer to Article XII Common Open Space.
- J. All access roads, parking areas, and walkways shall be illuminated at night. Illumination shall not cast any glare beyond the perimeter of the development.
- K. Refuse collection areas shall be screened from the public.
- L. Pedestrian walkways shall be required to connect manufactured home sites with parking areas, park facilities and recreation, and open space areas.
- M. Walks.
- (1) All manufactured home subdivisions shall provide safe, convenient, all-season

pedestrian access of adequate width for the intended use, which shall be durable and convenient to maintain.

- (2) Common walk system. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. Such common walks shall have a minimum width of five (5) feet and shall be parallel to the streets.

N. Manufactured home unit standards.

- (1) The unit should appear to have a permanent and continuous masonry or brick construction foundation. The permanent masonry or brick foundation shall be left exposed or skirted with other masonry or brick.
- (2) The unit is at least twenty (20) feet wide. For single-wide units, the width can be made up with a porch or carport addition of at least 2/3 of the length of the unit.
- (3) The unit has a gabled roof with a minimum pitch of 4/12.
- (4) The roofing material must be shingle or other conventional residential roof material.
- (5) The unit is constructed under the latest HUD Manufactured Home Construction and Safety Standard of 1976 and Public Safety Article, § 12-305, Annotated Code of Maryland, Industrialized Building and Manufactured Homes Act.
- (6) The unit must be manufactured after January 1, 2001, and comply with the amended National Manufactured Housing Construction and Safety Standards Act of 1974.
- (7) The tongue, axles, transporting lights, and removable towing apparatus must be removed before occupancy.
- (8) The unit must have a permanent landing and steps with handrails at each exterior doorway.
- (9) Minimum manufactured home gross floor area: six hundred (600) square feet.

O. Every manufactured home and all enclosed extensions or structural additions shall be installed upon an approved anchor tie-down system and securely anchored to prevent the home from shifting or overturning. Some opaque skirting shall suitably hide the undercarriage of every manufactured home.

P. Manufactured homes may not be used exclusively for storage purposes.

Q. One accessory building is permitted for each manufactured home. Such building shall be located on the individual manufactured home site and shall not exceed exterior



dimensions of twelve (12) feet by twelve (12) feet and shall not exceed ten (10) feet in height.

- R. Retail manufactured home sales lots are prohibited within a manufactured home subdivision.
- S. Recreational vehicles shall not be occupied as living quarters within the subdivision.

#### **§ 128-98. Townhouses.**

The following regulations shall apply to townhouses in any district where townhouses are permitted:

- A. The townhouse building shall comply with the minimum lot requirements contained in this chapter. Still, each dwelling unit of a townhouse need not be located on a lot complying with minimum lot area per family requirements in the Table of Density and Dimensional Regulations, § 128-127, provided the average for all dwelling units in the building equals or exceeds the minimum requirements and provided no lot is created with lot area less than 2,000 square feet, exclusive of a parking lot area. (Refer to Subsection G of this section.)
- B. Lot frontage, measured at a building line, for individual townhouse dwelling units may be reduced to not less than eighteen (18 feet). Lot width for end units shall be adequate to provide required front and side yards.
- C. For the side yard regulations, a townhouse building shall be considered one building on one lot with side yards required for end units only, per the Table of Density and Dimensional Regulations, § 128-127. Any side yard adjacent to the line of a lot occupied by a detached single-family dwelling or a single-family residential district shall not be less than twenty-five (25) feet.
- D. No detached garage, carport, or other detached accessory building over 120 square feet shall be permitted on a lot occupied by a townhouse; however, common space may be set aside on the site for a shared storage facility for the use of individual complex residents not to exceed 120 square feet per unit. Townhome common storage facilities must be for residential storage only and be incorporated into the overall site design.
- E. Not more than six (6) dwelling units shall be included in any one townhouse building. The Planning Commission may permit more than six (6) dwelling units in four-story townhouse buildings.
- F. Provision satisfactory to the Town and provided by the Town Attorney shall be made to ensure that nonpublic areas for the common use and enjoyment of occupants of townhouses, but not in individual ownership by such occupants, shall be maintained satisfactorily without expense to the general public.

- G. Required off-street parking shall be provided on the lot or within one hundred (100) feet of the lot.
- H. A site plan complying with the requirements of this chapter shall accompany an application for approval of a townhouse development.
- I. Open Space. Refer to Article XII, Common Open Space.
- J. In addition to the preceding, four-story townhouses are subject to the following:
  - (1) Not more than four units may be stacked, and townhouse buildings may not exceed 60 feet in building height,
  - (2) Space above the first four floors may not contain living space. This upper zone can be utilized for essential building features such as structural supports, mechanical equipment, or decorative architectural elements, including pitched roofs that can enhance the aesthetic appeal of the units.
  - (3) An interior garage parking space may occupy the first floor of any townhome building.
  - (4) Setbacks and/or buffer screening may be required adjacent to residential units of three stories or less.

**§ 128-99. Outdoor storage.**

Outdoor storage (where permitted) in districts must meet the following requirements:

- A. Outdoor storage is limited to 10% of the existing lot, excluding existing buildings. The Planning Commission may increase the total area for outdoor storage up to 25% of the total site area where it finds that the size of the lot and its location (e.g., a large lot located in an industrial park) warrants an increase.
- B. The outdoor storage area(s) must be surrounded by an opaque, uniformly finished fence or wall seven (7) feet tall.
- C. Such wall or fence shall be maintained in good order; advertisements are prohibited thereon.
- D. The items stored within the wall or fence shall not exceed, or be stacked to exceed, seven (7) feet in height.
- E. Storage of cars and trucks within walled or fenced storage areas used in connection with the permitted trade or business onsite is permitted in the GC and RHC districts. Storage of heavy equipment is prohibited.
- F. In the I and MI Districts, storage of cars, trucks, and heavy equipment used in the trade or

business is permitted within the fences or walls.

**§ 128-100. Farm animals.**

**A. Horse stables.**

- (1) Horse stables for personal pleasure shall be permitted only when the property on which they are located has a minimum of three (3) unconstrained acres (without steep slopes, wetlands, or other environmental constraint) and a stable setback minimum of 250 feet from the front property line and all neighboring residences. One horse or pony is permitted per three (3) unconstrained acres.
- (2) Commercial or private stables and riding stables shall be permitted, provided that the lot area is twenty (20) unconstrained acres or more (without steep slopes, wetlands, or other environmental constraint) and that any buildings for keeping of animals shall be located at least 200 feet from any side or rear lot lines, and that there shall be housed on the premises no more than one horse or pony for each unconstrained acre of land.

**B. Chickens within the Town of Denton. Keeping chickens is subject to conditions required by the Planning Commission and subject to the following:**

- (1) No person shall keep chickens within the Town without obtaining approval from the Town of Denton Planning Commission and a license from the Denton Planning and Codes Department. Only owner-occupied single-family residences will be allowed to be licensed to keep chickens.
- (2) The property owner shall register the chickens through the Maryland Poultry Premises Registration Program and provide the Town with an annual copy of such registration.
- (3) A maximum of four (4) chickens are to be kept for personal household enjoyment only; no selling of eggs or any by-products is allowed—no roosters, crowing hens, breeding, or hatching of chickens allowed.
- (4) The property shall be a minimum of 10,000 square feet. An area in the rear yard up to two hundred (200) square feet shall be fenced to prevent predation unless the rear yard is already fenced or the property owner demonstrates that a coop or covered enclosure that serves the same purpose will be installed.
- (5) All coops and enclosures must be located in rear yards only and a minimum of twenty (20) feet from neighboring property line(s). No coops or enclosures are allowed within the 100-foot Critical Area Buffer or similar environmental buffer.
- (6) All chickens must be secured in a coop or covered enclosure at all times; no free roaming is allowed.

- (7) Coops and enclosures to be a minimum of four (4) square feet per bird, with a maximum total allowable footprint of forty (40) square feet. Coops and enclosures shall not exceed six (6) feet in height above grade.
- (8) All coops shall be elevated, constructed, and maintained in a manner that is free from all odors and to prevent rodents from being harbored underneath, within, or within the walls of the enclosure. All feed is to be secured in rodent- and predator-proof containers.
- (9) All coops or enclosures shall be kept in a clean and sanitary condition at all times, and the owner of an enclosure shall, as often as is necessary, remove the accumulations of manure or other excreta to prevent the same from attracting flies or rodents, becoming a public nuisance or health concern.
- (10) The property owner is responsible for disposing of manure or other excreta in an approved manner. Composting is allowed in sealed containers at least twenty (20) feet from adjoining properties; no ground composting is allowed. Manure, excreta, litter, or carcasses shall not be disposed of in the household waste. No composted material may be applied in the 100-foot Critical Area Buffer or stream buffers.
- (11) No person may slaughter chickens in the Town of Denton.
- (12) If at any time it appears that the keeping of chickens creates a nuisance, the Town's Code Enforcement Officer will issue a written warning outlining the consequences and fines per Resolution No. 861 if another infraction occurs.
- (13) Upon the fourth infraction within twelve (12) months, the license to keep chickens will be revoked, fines will be levied as outlined in the fee schedule, and an order for the owner to abate the nuisance and/or remove the chicken(s) from the Town of Denton. If the owner fails to abate the notice within seven days, the Town's Code Enforcement Officer may summarily remove the chickens and abate the nuisance at the owner's expense.
- (14) If an owner has had a license revoked, no new license will be issued for five (5) years.
- (15) The Town of Denton Code reserves the right to at least two unannounced inspections yearly and any other inspections as required if complaints arise.
- (16) The Mayor and Council shall establish the fees for licensing and violations from time to time by duly adopted resolution.

**§ 128-101. Commercial greenhouses and nurseries.**

- A. Commercial greenhouses and nurseries shall be permitted, provided that no structure shall be closer than one hundred (100) feet to all property lines and adequate onsite parking exists.
- B. Commercial greenhouses and nurseries for growing cannabis may only be permitted in the (I) Industrial District.

**§ 128-102. Hospitals or clinics for large or small animals.**

- A. Hospitals or clinics for animals that include large animals shall be located at least two hundred (200) feet from any lot lines.
- B. Any treatment rooms, cages, pens, or kennels shall be maintained within a completely enclosed building and operated and maintained in such a way as to produce no objectionable odors or sounds outside the walls.
- C. Disposal of medical waste shall be through approved, safe means and shall be separate from regular trash disposal.

**§ 128-103. Home occupations.**

The Town recognizes some citizens' desire and/or need to use their residence for business activities to reduce travel and provide another economic development tool. It also recognizes the need to protect the surrounding areas from the adverse impacts generated by these business activities. Home occupations are the accessory use of a residence involving the conduct of an art or profession, the offering of a service, the conduct of a business, or the production of handicrafts on a residential site. The use is incidental and secondary to the use of the dwelling for residential purposes. It shall not change the character of the residential use or adversely affect the uses permitted in the residential district of which it is a part.

- A. Description of Type 1 and Type 2 Home Occupation. There are two types of home occupations. Type 1 and Type 2 uses are allowed as home occupations only if they comply with this Ordinance's requirements.
  - (1) Type 1. A Type 1 home occupation is one wherein the residents use their home as a place of work; however, no employees or customers come to the site. Examples include, but are not limited to, artists, craftspeople, writers, and consultants. Type 1 home-based businesses also allow a home to be used as a business address but not as a place of work.
  - (2) Type 2. A Type 2 home occupation is where employees or customers/clients come to the site. Examples are counseling, tutoring, and other such instructional services.

- (3) The Zoning Administrator shall determine whether or not a proposed home occupation is a Type 1 or Type 2 home occupation.
  - (4) A Type 1 home occupation is permitted in all districts without a permit.
- B. The Planning Director shall issue a specific letter of confirmation for Type 2 home occupation that conforms to the following minimum requirements.
- C. All proposed home occupation uses, including the expansion or replacement of an existing use or structure, shall conform to the performance standards below and all other applicable laws and regulations of the county, State, and federal government.
  - (1) The home occupation and its associated structures shall conform to all applicable standards for the zoning district.
  - (2) The home occupation shall not cause the residential appearance or character of the premises to differ from the surrounding residential area. Home occupations shall not be conducted in such a manner as to produce noise, dust, vibration, glare, smoke, odor, electrical interference, fire hazard, traffic, or any other nuisance not typically experienced in the zoning district in which the property is located.
  - (3) No use shall require internal or external construction features or the use of electrical, mechanical, or other equipment that would change the fire rating of the structure or in any way significantly increase the fire danger to neighboring structures or residences.
  - (4) Signs shall be limited to one permanent, nonilluminated sign of not more than four (4) square feet. Signs shall conform to the signage provisions of this chapter.
  - (5) No outside storage or material, goods, supplies, or equipment related to the operation of the home occupation shall be allowed.
  - (6) Merchandise shall be limited only to products manufactured or substantially altered on the premises or to incidental supplies necessary for the conduct of the home occupation. Items shall not be purchased off-site for resale.
  - (7) Any need for parking generated by the home occupation shall be off-street and in the side or rear yard of the structure. The Director of Planning shall determine the number of parking spaces required based on parking requirements for uses similar to those in this chapter.
  - (8) No commercial vehicle shall be used in connection with the home occupation for delivery of goods to or from the premises or parked on the property. This provision does not preclude the delivery of mail or packages by the Postal Service or by private or public shipping and courier services.

- (9) Home occupations that attract customers, clients, or students to the premises shall not be allowed in multifamily dwelling units.

**§ 128-104. Childcare establishments.**

Childcare establishments, wherever permitted, shall comply with the following:

- A. Applicants shall be licensed by the State and comply with applicable State regulations
- B. A family childcare shall not have more daycare children than the number that appears on the certificate of registration issued by the Maryland State Department of Education of Child Care. A copy of the license must be provided to the Department of Planning and Codes.
- C. Family childcare providers are required to file an administrative site plan application with the Department of Planning and Codes for approval prior to operating the child daycare.
- D. Daycare establishments shall provide appropriate fencing or other safeguards to protect children when outdoors, as may be required by the approving authority.

**§ 128-105. Health Clinics.**

Health clinics less than 10,000 square feet of gross floor, where permitted, are subject to the following:

- A. Disposal of waste shall be through approved, safe means and shall be separate from regular trash disposal.
- B. Accessory services, including laboratories and pharmacies for the use of patients visiting medical practitioners in the clinic, shall be permitted as part of the clinic facility, subject to the following specific conditions:
  - (1) All entrances to parts of the building in which these accessory services are provided shall be from within the building, and any direct access from the street is prohibited.
  - (2) The hours during which these services are provided shall be the same as those during which medical practitioners are receiving patients.

**§ 128-106. Farm caretaker home.**

A farm caretaker home shall comply with all of the following requirements.

- A. The house shall be located on a farm of at least twenty (20) acres in the Rural Agriculture (RA) District.

- B. There may be no more than one farm caretaker house on each single-family farm, excluding farm worker dormitory use.

**§ 128-107. Neighborhood centers.**

Neighborhood centers, where permitted, shall comply with the following:

- A. Commercial uses in neighborhood centers shall be limited to businesses that primarily cater to neighborhood residents, such as small grocery stores, personal and professional services, dry cleaners, video shops, cafes, tea rooms, small bakeries, and other uses that are deemed appropriate by the Planning Commission or Board of Appeals.
- B. Residential units may be included in commercial structures, e.g., apartments over storefronts.
- C. The amount and scale of commercial development in neighborhood centers do not significantly diminish the economic viability of established commercial areas and do not detract from the character or livability of the neighborhood. The size of individual neighborhood center commercial buildings shall be limited to no more than 3,000 square feet of gross floor area.
- D. Neighborhood centers containing commercial uses shall be separated by at least 1/4 mile unless the neighborhoods have sufficient population to make both centers economically viable or comprise distinct trade areas.
- E. Neighborhood centers shall be located and oriented to avoid glare, noise, aesthetics, and traffic impacts for nearby residents.
- F. The scale, design, and exterior materials of commercial structures in neighborhood centers shall be compatible with surrounding residential structures.
- G. The primary entrance to commercial uses shall be oriented to the street, and the secondary entrance to the parking lot unless another arrangement provides better access from the neighborhood.
- H. Commercial and service buildings in neighborhood centers shall be located at or very near the sidewalk edge, with direct access along the street frontage.
- I. Parking spaces for the businesses at neighborhood centers shall be provided both on-street and behind the buildings.
- J. The backside of neighborhood centers shall be designed to be inviting to pedestrians and provide direct access to the neighborhood.



**§ 128-108. Multifamily housing and apartments.**

- A. Multifamily housing in the Central Business Commercial Zone, at a minimum, shall comply with the following design standards:
  - (1) There must be adequate off-street parking.
  - (2) Build-up and build-to lines apply to structures.
  - (3) It must meet minimum landscape requirements.
- B. Apartments. When more than one apartment building is built, no building shall be closer than twenty-five (25) feet from any other apartment building.
- C. Multifamily buildings: condominiums, townhomes, duplexes, and mixed-use buildings with separate ownership of roof structures and shingles must be designed and built with a vertical plane delineating the roofline of each unit. The roofs shall not be on a common plane without being divided by a parapet or an approved preformed vertical metal flashing with a minimum of 1-inch rise and 8-inch horizontal extensions installed from eave to ridge. Roofs designed with a minimum 6-inch step would also meet the delineation requirements.
- D. The following are exempt from § 128-108(C):
  - (1) Any multifamily building in a condominium regime that establishes roof structures and shingles as a common element to be repaired or replaced as a common expense.
  - (2) Any multifamily building containing townhouses or duplexes whose roof structures and shingles are to be repaired or replaced by a homeowner's association as a common expense of the owners of the townhouses or duplexes as provided in a recorded declaration of covenants and restrictions.

**§ 128-109. Adult-oriented businesses.**

- A. Viewing booths and live viewing booths are prohibited in all zoning districts.
- B. In addition to any buffer, bufferyard, setback, or other design criteria generally applicable to permitted uses in the Industrial Zoning Districts, an adult-oriented business must meet the following setback criteria:
  - (1) The closest portion of a building or structure in which an adult-oriented business is located shall not be within 1,000 feet of the boundary of any parcel of land that is zoned residentially.
  - (2) The closest portion of a building or structure in which an adult-oriented business

is located shall not be within 1,000 feet from the boundary of any parcel of land containing a school, place of worship, park or recreation facility, daycare center, or daycare home.

- (3) For this section, measurement shall be made in a straight line without regard to intervening structures or objects.
- C. An adult-oriented business shall provide or cause to be provided, for all exterior areas, including, but not limited to, parking lots or areas, loading docks, and sidewalks, sufficient lighting to illuminate the exterior areas of the business to an illumination level of not less than two footcandles and shall be equipped with video surveillance cameras that monitor the exterior portions of the premises from a management station located within the business.
- D. An adult-oriented business may not erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.
- E. An adult-oriented business must post appropriate signage prohibiting parking at the premises for persons other than patrons of the business and prohibiting the use of the exterior of the premises for other than ingress, egress, parking, and solid waste deposit/processing for bona fide employees and patrons of the business.
- F. In the case of adult-oriented businesses other than adult book or video stores, and to the extent not regulated under the Annotated Code of Maryland (or successor provisions thereof), said businesses shall be constructed and maintained in such manner that the conduct, promotion, delivery, provision, or performance of adult entertainment or material is not visible in any way or manner, or to any degree, from outside the building.
- G. No adult-oriented business may be conducted on the same parcel as, in the same building as, or in conjunction with any hotel, motel, motor court, motor hotel, lodge, inn, bed-and-breakfast facility, boardinghouse, or in any structure or portion thereof not generally open to the public and freely accessible to patrons at all times.
- H. An adult-oriented business shall not have displayed on or about the exterior of any building in, or premises on, which an adult-oriented business is located any sign, advertisement, or depiction visible to the general public, wherever located, containing any adult-oriented entertainment or material.

#### **§ 128-110. Farmers' markets.**

- A. All farmers' markets and their vendors shall comply with all federal, State, and local laws relating to the operation, use, and enjoyment of the market premises.
- B. All farmers' markets and their vendors shall obtain all required operating and health permits, and these permits (or copies) shall be in the possession of the farmers' market

operator or the vendor, as applicable, on the site of the farmers' market during all hours of operation.

- C. All farmers' markets shall have a representative of the operator authorized to direct the operations of all vendors participating in the market on the site during all hours of operation.
- D. All farmers' markets shall establish and maintain rules of operation governing the eligibility of vendors, products that may be sold, the conduct of vendors, setup of the market, etc.

**§ 128-111. Cottage Housing Development (CHD).**

- A. The following definitions shall apply to this subsection.
  - (1) Cluster - A group of four (4) to twelve (12) cottages arranged around a shared open space.
  - (2) Common open space - An area improved for passive recreational use or gardening. Shared open spaces must be owned and maintained through a homeowners' or condominium association or similar mechanism.
  - (3) Cottage - A single-family detached dwelling unit part of a cottage housing development.
  - (4) Cottage Housing Development – A cluster of four (4) to twelve (12) cottages developed under a single master land development plan or as part of another land development plan.
  - (5) Footprint - The gross floor area of a cottage's ground-level story.
- B. Minimum Land Area. The minimum land area shall be one (1) acre.
- C. Density.
  - (1) The maximum allowable density is one (1) unit per 3,600 square feet.
  - (2) The Planning Commission may permit more than one cottage housing development on a parcel of record or assembled two (2) acres or larger parcels.
- D. Cottage clusters. The minimum and the maximum number of cottage units permitted shall be as follows:
  - (1) Minimum units per cluster: 4
  - (2) Maximum units per cluster: 12
- E. Community Assets.

- (1) Common open space. Each cluster of cottages shall provide common open space as provided in Article XII Common Open Space. In addition:
  - (a) Each cluster of cottages shall have a common open space to provide residents with a sense of openness and community.
  - (b) Each common open space area shall be in one continuous and usable piece.
  - (c) To be considered part of the minimum open space requirement, an area of common open space must have a minimum dimension of twenty (20) feet on all sides.
  - (d) The common open space shall be at least three thousand (3,000) square feet in area, regardless of the number of units in the cluster.
  - (e) Required common open space may be divided into no more than two separate areas per cluster.
  - (f) At least two sides of the common open area shall have cottages along its perimeter.
  - (g) Parking areas, yard setbacks, private open spaces, and driveways do not qualify as common open spaces.

(2) Community Building

- (a) Community buildings are permitted.
- (b) Community buildings shall be incidental in use and size to dwelling units.
- (c) The height of the community building shall be no more than one story.

F. Ownership.

- (1) Community buildings, parking areas, and shared open spaces shall be owned and maintained by the residents through a condominium association, a homeowners' association, or a similar mechanism. They shall not be dedicated to the Town.
- (2) Ownership documents shall be reviewed and approved by the Town Attorney.

G. Design.

(1) Cottage Size

- (a) The gross floor area of each cottage shall not exceed 1,200 square feet.
- (b) Cottage areas that do not count toward the gross floor area or footprint calculations are:
  - (i) interior spaces with a ceiling height of six feet or less, such as in a second-floor area under the slope of the roof;

- (ii) basements;
  - (iii) architectural projections—such as bay windows, fireplaces, or utility closets—no greater than twenty-four (24) inches in depth and six (6) feet in width;
  - (iv) attached unenclosed porches; and
  - (v) garages or carports;
- (2) Unit Height. The maximum height of cottage housing units shall be twenty-six (26) feet.
- (3) Orientation of Cottages
  - (a) Each dwelling unit shall be clustered around a shared open space. Each unit shall have a primary entry and covered porch oriented to the common open space.
  - (b) Lots can abut either a street or an alley.
  - (c) Each unit abutting a public street (not including alleys) shall have a façade, secondary entrance, porch, bay window, or other architectural enhancement oriented to the public street.
- (4) Cottage Setbacks
  - (a) The minimum setbacks for all structures (including cottages, parking structures, and community buildings) in a CHD are:
    - (i) Ten (10) feet from any public right-of-way.
    - (ii) Ten (10) feet from any other structure.
  - (b) Cottages shall be no more than twenty-five (25) feet from the common open area, measured from the façade of the cottage to the nearest delineation of the common open area.
  - (c) No part of any structure in the CHD (including but not limited to cottages, parking structures, and community buildings) shall be more than one hundred fifty (150) feet, as measured by the shortest clear path on the ground, from fire department vehicle access.
- (5) Porches
  - (a) Cottage units shall have covered front porches. The front porch shall be oriented toward the common open space.
  - (b) Covered porches shall have at least sixty (60) square feet.
- (6) Basements. Cottages may have basements.

H. Parking.

(1) Minimum Number of Off-Street Parking Spaces

- (a) Units up to seven hundred (700) square feet: one (1) space per dwelling unit.
- (b) Units 701-1,000 square feet: One and a half (1.5) spaces per dwelling unit, rounded up to the whole number.
- (c) Units with more than one thousand (1,000) square feet: two (2) spaces per dwelling.
- (d) Additional guest parking shall be included. A minimum of one-half (0.5) guest parking spaces per dwelling unit, rounded up to the whole number, shall be provided for each cottage cluster. Guest parking may be clustered with resident parking; however, the spaces shall include clear signage identifying them as reserved for visitors.
- (e) The requirement for off-street parking may be waived or reduced by the Planning Commission if sufficient on-street parking is available.

(2) Parking Design

- (a) Parking shall be separated from the common area and public streets by landscaping and/or architectural screening. Solid board fencing shall not be allowed as an architectural screen.
- (b) Parking areas shall be accessed only by a private driveway or a public alley.
- (c) The design of garages and carports, including rooflines, shall be similar to and compatible with the cottage units.
- (d) Parking areas shall be limited to five (5) contiguous spaces.

I. Walkways.

- (1) There should be sidewalks along all public streets.
- (2) A system of interior walkways shall connect each cottage, parking area, and sidewalks abutting any public streets bordering the development.
- (3) Walkways and sidewalks shall be at least five (5) feet in width.

J. Flexibility. The Planning Commission may approve minimal modifications to the design standards outlined in subsections G through I where they find the modification(s) do not materially change the project design from that intended by the standard(s).

k. Project Plan Application and Approval.

- (1) Information: The following must be submitted as part of the application. This information must be presented on plans of professional quality.
  - (a) A tabulation of the total acreage of the site and the percentages to be designated for various uses, i.e., parking, residential units, open space or shared space, streets, etc.
  - (b) The proposed circulation pattern includes private driveways, public and private streets, and pedestrian paths.
  - (c) Parks, shared open spaces, playgrounds, and other public or private recreation facilities and improvements proposed within the project.
  - (d) Project plan; general location of all dwellings and other structures.
  - (e) Typical exterior design is presented as exterior perspectives or elevations for all building types.
  - (f) Conceptual landscaping plans showing all plant material's types, sizes, and locations.
  - (g) The dimensional parking layout shows the location of individual parking stalls and all areas of ingress or egress.
  - (h) Evidence that the applicant has sufficient control over the subject property to effectuate the proposed plan in the manner presented.
- (2) The Planning Commission will review the application to determine if it is complete or requires additional information. The Planning Commission will post the property and conduct a public hearing on the application following the provisions of Article XVII of this Ordinance if it is complete.
- (3) Planning Commission Review: The Planning Commission may approve, approve with conditions, or deny the application. In granting such approval, the Planning Commission may impose specific conditions as site development, phasing, and building construction or maintenance and operation as it deems necessary to protect the health, safety, and welfare of the Town's residents.

L. Amendments and Modifications.

- (1) Any amendments to the development plan shall be accomplished in the same manner as the original application.
- (2) Revised text and/or plans shall be submitted to the Planning Commission and reviewed like the initial application.

M. Variations to Zone Permitted

- (1) The Planning Commission may permit variations from the development standards of the existing zone, provided the variations are expressly approved and adopted as part of the approved development plans and other supporting documents.
- (2) Variations shall not include changes in the permitted uses allowed by the zone except to the extent set forth herein.

**§ 128-112. Drive-through and drive-in facilities.**

- A. Purpose. The regulations of this section are intended to help ensure that:
  - (1) There is adequate on-site maneuvering and circulation area for vehicles and pedestrians;
  - (2) Vehicles awaiting service do not impede traffic on abutting streets; and
  - (3) Impacts on surrounding uses are minimized.
- B. Applicability. The regulations apply to new developments, the addition of drive-through and drive-in facilities to existing developments, and the relocation of existing drive-through facilities.
- C. Stacking spaces required. Stacking lanes must be provided in accordance with the minimum requirements of Table C.

**Table C: Stacking Space Requirements**

Use	Minimum Number of Stacking Spaces Required
Bank/financial institution	4 spaces per drive-through lane
Car wash	2 spaces per approach lane, plus 2 drying spaces at the end of each bay
Vehicle repair/maintenance	2 per service bay
Gasoline pump	2 spaces per pump per side, including spaces at the pump
Restaurant, drive-thru	8 total spaces, with at least 3 spaces between the order and pick-up station
Other	3 spaces per lane, ordering station, or machine

- D. Stacking lane dimensions, design, and layout.
  - (1) Stacking lanes must be designed so that they do not interfere with parking movements or safe pedestrian circulation. Stacking lanes must have a minimum width of ten (10) feet. Spaces are calculated based on a width of 8.5 feet and a depth of 18 feet.
  - (2) All stacking lanes must be identified through such means as striping, pavement design, curbing, and/or signs approved by the Planning Commission.



- E. Setbacks. Stacking lanes must be set back at least twenty-five (25) feet from any abutting residential zoning district and at least ten (10) feet from all other lot lines.
- F. Noise. Sound attenuation walls, landscaping, or other mitigation measures may be required to ensure that drive-through facilities will not have adverse noise-related impacts on nearby residential uses.
- G. Site plans. Site plans must show the location of drive-through windows and associated facilities, e.g., communications systems and access aisles, as well as adjacent residential uses. Plans also shall show how drive-through windows are identified, e.g., signage, pavement markings, etc.

### **§ 128-113. Cannabis Enterprises.**

- A. Cannabis enterprises involving only retail sales and not including on-site consumption are permitted by conditional use in the following districts: the Regional Highway Commercial (RHC) District, the Central Business Commercial (CBC) District, and the Planned Neighborhood (PN) District. Cannabis enterprises involving only retail sales, not including on-site consumption, are permitted by special exception in the General Commercial (“GC”) District. Cannabis enterprises involving growing, processing, transport, packaging, warehousing, and the like are permitted in the Industrial (I) District. All cannabis enterprises are subject to the following conditions:
  - (1) The State of Maryland licenses the enterprise.
  - (2) No cannabis dispensary, as defined by Title 36 of the Alcoholic Beverages and Cannabis Article of the Maryland Annotated Code, may be located within five hundred (500) feet of a pre-existing school, licensed childcare center, registered family childcare home, playground, recreation center, library, public park, or place of worship.
  - (3) No cannabis dispensary, as defined by Title 36 of the Alcoholic Beverages and Cannabis Article of the Maryland Annotated Code, may be located within one-half mile of any other licensed cannabis dispensary.
  - (4) No cannabis dispensary, as defined by Title 36 of the Alcoholic Beverages and Cannabis Article of the Maryland Annotated Code, may be located within one hundred (100) feet of an area zoned for residential use.

### **§ 128-114. Qualified Projects Developed by Nonprofits.**

The Board of Appeals may approve a special exception in any zoning district, except the RA District, for a qualified project controlled by a §501(C)(3) nonprofit that has been designated as such for at least 3 years, subject to the following:

- A. “Controlled by” in this application means a business structure in which the nonprofit organization is a managing member, general partner, or otherwise controlling entity with a for-profit member or partner, as demonstrated by an attorney licensed in Maryland.
- B. The “qualified project” under this section meets all of the following three criteria:
  - (1) The project consists of a new construction or substantial renovation. Substantial renovation means the project meets the criteria outlined within DHCD’s Multifamily Rental Financing Program Guide, including the following:
    - (a) Total hard construction costs of rehabilitation for projects must be at least \$25,000 per unit.
    - (b) The project provides an improved visual impact on the neighborhood, upgrades aging fixtures, and updates ventilation standards.
  - (2) The project is on land, including land that is subject to a ground lease, that is either (a) wholly owned by a nonprofit organization or (b) includes improvements owned by an entity that a nonprofit organization controls.
  - (3) The project is deed-restricted to include twenty-five (25%) percent of units that are affordable dwelling units for Caroline County for at least forty (40) years.
- C. Qualified projects developed by nonprofits in the SR Residential District.
  - (1) May include duplex, triplex, quadplex, cottage cluster, or town house units.
  - (2) Height, area, and bulk requirements for the MR Residential district outlined in § 128-127 shall apply.
- D. Qualified projects developed by nonprofits in the MR Residential district and the PN Planned Neighborhood Development floating zone.
  - (1) A qualified project shall have a density limit that exceeds 30% of the density otherwise allowed in the MR District.
  - (2) In the MR Residential District, the Board of Appeals may vary other development standards, e.g., height, setback, bulk, parking, loading, dimensional, area, or other requirements, if such limitations or requirements are demonstrated to be unreasonable. An unreasonable limitation or requirement is one that an applicant demonstrates amounts to a de facto denial of the project by having a substantial adverse impact on either (a) the viability of an affordable housing development in a qualified project, (b) the degree of affordability of units in a qualified project; or (c) the allowable density or number of units of the qualified project.
  - (3) In the PN Planned Neighborhood Development floating zone, the approved PUD Master Plan and Design Guidelines shall include flexible development standards for qualified projects developed by nonprofits to ensure the feasibility of an

affordable housing development and the degree of affordability of units. The achievable density shall be six (6) dwelling units per acre or more.

- E. Qualified projects developed by nonprofits in the CBC, CM, GC, RHC, MI, and I Districts.
  - (1) May include detached single-family, duplex, triplex, quadplex, cottage cluster, or townhouse units.
  - (2) Height, area, and bulk requirements for the MR district outlined in §128-127 shall apply subject to a public health assessment approved by the Maryland Department of Housing and Community Development.
  - (3) the Board of Appeals may vary other development standards, e.g., height, setback, bulk, parking, loading, dimensional, area, or other requirements, if such limitations or requirements are demonstrated to be unreasonable. An unreasonable limitation or requirement is one that an applicant demonstrates amounts to a de facto denial of the project by having a substantial adverse impact on either (a) the viability of an affordable housing development in a qualified project, (b) the degree of affordability of units in a qualified project; or (c) the allowable density or number of units of the qualified project.

#### **§ 128-115. Multifamily Units in the UR District**

- A. The Planning Commission may approve a building height exceeding 40 but not exceeding 60 feet if it determines that such additional height is compatible with the surrounding neighborhood and will not adversely affect public health, safety, or welfare.
- B. Not more than four floors of living space may be stacked.
- C. Space above the first four floors may not contain living space. This upper zone can be utilized for essential building features such as structural supports, mechanical equipment, or decorative architectural elements, including pitched roofs that can enhance the aesthetic appeal of the units.
- D. In reviewing applications for multifamily dwellings exceeding 40 feet in height, the Planning Commission shall consider the following factors:
  - (1) Neighborhood character: How well the proposed building fits in with the existing neighborhood in terms of building heights, styles, and Density.
  - (2) Building design: The design, size, and overall shape of the proposed building in comparison to surrounding buildings.
  - (3) Impacts: The potential effects of the building on traffic, parking availability, and the need for public services (like water, sewer, and schools).

- (4) Open Space: Whether the development includes enough open space and recreational areas for residents.
  - (5) Effects on neighbors: Whether the building will cast excessive shadows or have other negative impacts on nearby properties.
- E. The Planning Commission may also consider the potential for the proposed development to contribute to the availability of affordable or workforce housing in the community.

### **§ 128-116. Urgent Care Facilities.**

Approval of urgent care facilities is subject to the following conditions:

- A. Site Access for Emergency Vehicles.
  - (1) Direct Access: The facility must have direct access from a public street, preferably a major thoroughfare, to ensure rapid response times for emergency vehicles.
  - (2) External Access: The minimum width of primary access lanes connecting the public street to the facility is 24 feet.
  - (3) Internal Access: The layout shall ensure unobstructed passage, adequate room for turns, and avoid tight corners or obstacles.
  - (4) Designated Staging Area: A dedicated parking or staging area for emergency vehicles, separate from patient and staff parking, must be provided. This area should be at least 300 square feet to accommodate one ambulance.
  - (5) Signage and Lighting: Clear, visible signage must be installed at the facility's entrance and along access routes to guide emergency vehicles.
- B. Traffic Impact and Management.
  - (1) Traffic Study Requirement: The applicant must submit a traffic impact study.
  - (2) Study Objectives: The study must evaluate the facility's effect on local traffic patterns and demonstrate that the facility will not cause congestion or delay emergency response times, particularly during peak hours.
  - (3) Internal Access Verification: The study must verify that the internal access ways provide for the safe and efficient operation of emergency vehicles.
  - (4) Mitigation Measures: If the study identifies potential congestion, the applicant must implement mitigation measures, such as additional turning lanes or traffic calming devices, as approved by the Denton Planning Commission.

C. Emergency Preparedness and Internal Layout.

- (1) Emergency Plan: The applicant must submit a plan detailing procedures for handling emergencies, including coordination with local fire, police, and ambulance services. The plan should outline protocols for patient transfer to hospitals if needed.
- (2) Internal Layout: The facility's internal layout must meet applicable standards or guidelines to facilitate patient movement and evacuation during emergencies.

D. Signage and Visibility.

- (1) Emergency Signage: Signs indicating the emergency entrance must be at least 2 feet by 2 feet and use reflective materials for visibility. This emergency signage does not count against other permitted signage.
- (2) Wayfinding: Internal and external wayfinding signs must guide emergency personnel to critical areas, such as treatment rooms or exits, enhancing operational efficiency. This emergency signage does not count against other permitted signage.
- (3) Lighting Standards: Exterior lighting must provide uniform illumination across access routes and parking areas, with no dark spots that could hinder emergency operations, ensuring safety for both standalone and in-building facilities.

E. Review by Emergency Services.

- (1) Mandatory Review: The site plan and traffic impact study must be submitted to the Denton Fire Department and Caroline County Department of Emergency Management Agency for review. Approval is required to confirm compliance with emergency access and safety standards.
- (2) Feedback Incorporation: The applicant must address any concerns raised by emergency services, such as adjusting access routes or adding signage, before final approval, ensuring practical functionality

F. Demonstration of Site Appropriateness.

- (1) Site Suitability Analysis: The applicant must provide a narrative and site plan demonstrating the site's suitability for an urgent care facility. This narrative should address the following:
  - (a) Proximity to Residential Areas: Measures to mitigate impacts, such as buffering or noise control.

- (b) Infrastructure Availability: Adequate utilities (water, sewer, electricity) and road capacity to support the facility.

G. Additional Considerations for Facilities in Existing Buildings.

- (1) Internal Layout Coordination: For facilities located within existing buildings, the internal layout must allow for efficient patient flow and emergency access without disrupting other tenants, including ensuring clear pathways to the facility's entrance.
- (2) Building Infrastructure: The applicant must verify that the building's infrastructure, including electrical, plumbing, and HVAC systems, can support the urgent care facility's operational needs.
- (3) Fire Safety Updates: The building's fire safety and emergency evacuation plans must be updated to include the urgent care facility, in coordination with the building owner or management, to ensure compliance with safety standards.

H. Implementation.

- (1) Application Process: Applicants must submit a detailed site plan as provided in Article XVI, a traffic study, and an emergency plan as part of the zoning approval process.
- (2) Flexibility for Future Needs: The ordinance allows for minor modifications to the site plan (e.g., additional signage or layout adjustments) with administrative approval, provided they enhance emergency access or residential compatibility, accommodating both standalone and in-building facilities.

**§ 128-117. Reserved.**

**Article VII - Density and Dimensional Regulations.**

**§ 128-118. Minimum lot size.**

- A. The Planning Commission may reduce the minimum lot area and dimensions required for a lot or lots proposed for detached single-family residential dwellings in the SR, TR, CBC, MI, and MR Zoning Districts upon a finding that:
- (1) The proposed reduction shall result in residential development that is compatible and harmonious with existing and planned land uses in the area, and no lot will be created that is so narrow or otherwise so irregularly shaped that it would be impractical to construct a residence thereon; or
  - (2) The proposed reduction shall result in a compatible and harmonious residential development with existing and planned land uses. The reasonable development of a proposed development site is limited by existing natural site features such

as nontidal wetlands, floodplains, or other sensitive features. Reasonable development, for this section, does not guarantee maximum possible development under this chapter. Achieving the maximum possible density is not sufficient justification alone for permitting a reduction in the minimum lot area and dimensions.

- B. The reduction in lot size and dimensions allowed shall be the minimum required in all cases and shall not result in any lot for a detached single-family residential dwelling with an area of less than 5,000 square feet. This provision shall not be construed as permitting a density over the maximum permitted residential density outlined in §128-127.
- C. All lot size or dimension reductions shall be noted on any recorded subdivision plat.

**§ 128-119. Residential density and minimum lot area.**

- A. The "Density, Maximum Dwelling Units Per Acre" column in § 128-127 (Table of Density and Dimensional Regulations) shall be used to determine the number of dwelling units permissible on a tract of land.
- B. Except as may be provided in § 128-118 (Minimum lot size) and Article IV, Part C IRD Overlay Zone, every lot developed for residential purposes shall at least have the number of square feet per dwelling unit indicated in the Table of Density and Dimensional Regulations (§ 128-127).

**§ 128-120. Minimum lot widths.**

- A. No lot shall be created that is so narrow or otherwise so irregularly shaped that it would be impracticable to construct on it a building that:
  - (1) Could be used for purposes that are permissible in that zoning district; and
  - (2) Could satisfy any applicable setback requirements for that district.
- B. Without limiting the generality of the preceding standard, the Table of Density and Dimensional Regulations (§ 128-127) indicates minimum lot widths recommended and deemed presumptively to satisfy the standard outlined in Subsection A. The lot width shall be measured along a straight line connecting the points at which a line that demarcates the required setback from the street intersects with lot boundary lines at opposite sides of the lot.

**§ 128-121. Building setback requirements.**

- A. Subject to § 128-124 and the other provisions of this section, no portion of any building shall be located on any lot closer to any lot line or to the street right-of-way

line than is authorized in the Table of Density and Dimensional Regulations (§ 128-127).

- (1) If the street right-of-way line is readily determinable (by reference to a recorded map, set markers, or other means), the setback shall be measured from such right-of-way line. If the right-of-way line is not so determinable, the setback shall be measured from the street center line, and fifteen (15) feet shall be added to the setback depth indicated in the table.
  - (2) As used in this section, the term "lot boundary line" refers to lot boundaries other than those that abut streets.
  - (3) As used in this section, the term "building" includes any substantial structure that, by its size, scale, dimensions, bulk, or use, tends to constitute a visual obstruction or generate activity similar to that usually associated with a building. Without limiting the generality of the previous, the following structures shall be deemed to fall within this description:
    - (a) Gas pumps and overhead canopies or roofs.
    - (b) Fences running adjacent to along lot boundaries adjacent to public street rights-of-way if such fences exceed six (6) feet in height and are substantially opaque.
  - (4) Notwithstanding any other provision of this chapter, a sign may be erected on or affixed to a structure that has a principal function that is something other than the support of the sign (e.g., a fence) but does not constitute a building as defined in this chapter, only if such sign is located to comply with the setback requirement applicable to freestanding signs in the district where such sign is located.
  - (5) Setbacks for freestanding signs shall be a minimum of ten (10) feet.
  - (6) Accessible ramps or accessories required to comply with the Americans with Disabilities Act are exempt from the building setback requirements.
- B. Whenever a lot in a nonresidential district has a common boundary line with a lot in a residential district, and the property line setback requirement applicable to the residential lot is greater than that applicable to the nonresidential lot, then the lot in the nonresidential district shall be required to observe the property line setback requirement applicable to the adjoining residential lot.
- C. Setback distances shall be measured from the property line or street right-of-way line to a point on the lot that is directly below the nearest extension of any part of the building that is substantially a part of the building itself and not a mere appendage to it (such as a flagpole, etc.).



- D. Whenever a private road that serves more than three (3) lots or more than three (3) dwelling units or that serves any nonresidential use tending to generate traffic equivalent to more than three (3) dwelling units is located along a lot boundary, then:
- (1) If the lot is not also bordered by a public street, buildings, and freestanding signs shall be set back from the center line of the private road just as if such a road were a public street.
  - (2) If a public street also borders the lot, then the setback distance on lots used for residential purposes shall be measured from the inside boundary of the traveled portion of the private road.

**§ 128-122. Building height limitations.**

- A. For purposes of this section:
- (1) The height of a building shall be the vertical distance measured from the mean elevation of the finished grade at the front of the building to the highest point of the building.
  - (2) A point of access to a roof shall be the top of any parapet wall or the lowest point of a roof's surface, whichever is greater. Roofs with slopes greater than 75% are regarded as walls.
- B. Subject to the remaining provisions of this section, building height limitations in the various zoning districts shall be as indicated in the Table of Density and Dimensional Regulations (§ 128-127).
- C. Subject to Subsection D, the following features are exempt from the district height limitations outlined in Subsection B:
- (1) Chimneys, church spires, elevator shafts, and similar structural appendages not intended as places of occupancy or storage.
  - (2) Flagpoles and similar devices.
  - (3) Heating and air-conditioning equipment, solar collectors, and similar equipment, fixtures, and devices.
  - (4) Cooling towers.
  - (5) Elevator bulkheads.
  - (6) Fire towers.
  - (7) Grain elevators.
  - (8) Public monuments.
  - (9) Public and semipublic ornamental towers and spires.

- (10) Radio and television broadcasting antennas and towers.
  - (11) Silos.
  - (12) Smokestacks.
  - (13) Stage towers or scenery lofts.
  - (14) Tanks.
  - (15) Public water towers and standpipes.
- D. The features listed in Subsection C are exempt from the height limitations outlined in Subsection B if they conform to the following requirements:
- (1) Such features may consume not more than 1/3 of the total roof area.
  - (2) The features described in Subsection C(3) above must be set back from the edge of the roof a minimum distance of one (1) foot for every foot by which such features extend above the roof surface of the principal building to which they are attached.
  - (3) The Planning Commission may authorize or require that parapet walls be constructed (up to a height not exceeding that of the features screened) to shield the features listed in Subsections C(1) and (2) from view.
- E. Notwithstanding Subsection B, in any zoning district, the vertical distance from the ground to the point of access to a roof surface of any nonresidential building or any multifamily residential building containing four or more dwelling units may not exceed fifty (50) feet unless the Fire Chief certifies to the permit-issuing authority that such building is designed to provide adequate access for fire-fighting personnel or the Building Inspector certifies that the building is otherwise designed or equipped to provide adequate protection against the dangers of fire.
- F. Towers and antennas are allowed in all zoning districts to the extent authorized elsewhere in this chapter.
- G. Public or semipublic buildings, hospitals, institutions, places of religious assembly, or schools may be erected to a height not exceeding sixty (60) feet when permitted in a district.

**§ 128-123. Modification of area regulations.**

- A. Yards, generally.
- (1) Every part of a required yard shall be open to the sky, except as authorized by this article, and except ordinary projections of sills, belt courses, window air-conditioning units, chimneys, cornices, and ornamental features which may

project to a distance not to exceed twenty-four (24) inches into a required yard, and at a height not obstructing any public way, street, or thoroughfare.

- (2) Fences are subject to the provisions of § 128-125.
- (3) Permanently fixed, accessory, open, and uncovered home barbecue grills may occupy a rear yard, provided that the rear setback shall not be located closer than five (5) feet to the rear lot line and three (3) feet to a side lot line.
- (4) Accessory buildings that are not a part of the main building, although an open breezeway may connect them, may be constructed in a rear yard, provided that such accessory building does not occupy more than forty (40) percent of the area of the required rear yard and provided that it is not located closer than five (5) feet to the rear lot line and not closer than three (3) feet to a side yard lot line.
- (5) Accessory swimming pools, open and uncovered, may occupy a rear or side yard, provided they are not located closer than six (6) feet to a rear lot line or ten (10) feet to a side lot line.
- (6) A satellite antenna larger than 24 inches in diameter may be erected in a rear yard only as an accessory use subject to the following restrictions:
  - (a) May only be erected after the construction of the principal structure and after obtaining a building permit. Satellite antennae are encouraged to be close to the principal structure for screening and concealment from view.
  - (b) Normally, only one (1) antenna shall be erected per principal building. Where more than one satellite antenna is necessary, the Planning Commission shall require screening to the maximum extent possible.
  - (c) It may be erected as a freestanding structure mounted on the ground and thoroughly stabilized and tied down following best building practices and conformance with the latest code-regulating installation.
    - (i) A satellite antenna may be mounted on the roof of a building if used for educational purposes relating to a public or private school or a public service operation. Satellite antennas shall be screened or located to minimize view from any public way, street, or thoroughfare.
    - (ii) For this section, a private school shall be a private educational facility that meets state accreditation for education.
    - (iii) For this section, the Town shall determine a public service operation, which may include agencies such as police, fire, governmental, and health services.

- (iv) It must be constructed by a recognized manufacturer in the trade and professionally installed, meeting all Federal Communications Commission safety standards, and be U.L. approved.
- (v) Shall be reasonably screened or located to minimize view from the public thoroughfare and the ground level of adjacent properties. All screening shall be maintained as approved initially; if not, any permit granted for the satellite is subject to revocation.
- (vi) Height, area, and bulk requirements shall be:
  - [a] Maximum height: ten (10) feet from the ground to the highest point of the installed antenna.
  - [b] Maximum diameter: eight (8) feet.
  - [c] Minimum rear setback: distance equal to the height of the satellite (maximum ten (10) feet).
  - [d] Minimum side setback: distance equal to the satellite's height or the required side setback for the principal structure, whichever is greater.
- (d) Antennas less than twenty-four (24) inches in diameter may be mounted on the roof of a building of a noneducational or public and semipublic services nature. Satellite antennas shall be screened or located to minimize view from any public way, street, or thoroughfare.
- (e) Properties within the Historic District require review and approval for the placement and screening of antennas.

B. Front yards.

- (1) Where an official line has been established for the future widening or opening of a street or major thoroughfare upon which a lot abuts, then the depth of a front or side yard shall be measured from such official line to the nearest line of the building.
- (2) The required front yard shall be provided on through lots on each street.
- (3) There shall be a primary front yard of fifteen (15) feet on the side street of a corner lot; however, the buildable width of a lot of record shall not be so reduced to render it unusable. The Director of Planning shall be guided by the development pattern in the vicinity of the lot in question in determining which is the primary street or secondary street (side) and the appropriate setback for such lots of records.

- (4) Where twenty-five (25) percent or more of the street frontage, or where twenty-five (25) percent or more of the street frontage within four hundred (400) feet of the property in question, is improved with buildings that have a front yard (with a variation of six (6) feet or less) that is greater or less than the required front yard in the district, no building shall project beyond the average front yard so established; provided, however, that a depth of front yard of more than fifty (50) percent over the depth of the required front yard in the district in which the lot is located shall not be required. Where forty (40) percent or more of the street frontage is improved with buildings with no front yard, no front yard shall be required.
- (5) The Planning Commission may establish a build-to-line in residential neighborhoods where most residences are close to the street. Where established, the build-to line shall dictate the placement of a building or structure from the street right-of-way line on which the building fronts. On a corner lot, the build-to line applies to both sides, which have street frontage. The front porch shall be placed on the build-to line. Variations of twenty-five (25) percent of the distance from the street right-of-way to the build-to line may create variety in the streetscape. Whenever a building does not front on a right-of-way, the build-to line shall be measured from the edge of the pavement of an accessway in front of or on the side of the building.

C. Side yards.

- (1) Where dwelling units are erected above business structures in business districts, no side yards are required except such side yards as may be required in the district regulations for a business or industrial building.
- (2) For the side yard regulations, a group of business or industrial buildings separated by common or party walls shall be considered one building occupying one lot.
- (3) The minimum depth of side yards for schools, libraries, places of religious assembly, community houses, and other public and semipublic buildings in residential districts shall be twenty-five (25) feet, except where a side yard is adjacent to a business or industrial district, in which case the depth of that yard shall be as required in the chart of Article VII for the district in which the building is located.

D. Rear yards. Open or partially or semi-enclosed fire escapes, outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues may project into the required rear yards for a distance of not more than five (5) feet, but only where the same are so placed as not to obstruct light and ventilation.

- E. Authority to vary setbacks. For all infill and redevelopment applications in the SR, TR, MR, CBC, and MI Districts, the Planning Commission may vary the front yard, side yard, or rear yard setbacks outlined in this chapter if it finds that:
- (1) The property owner complies with the Town's Design Guidelines as applicable (See Appendix III at the end of this chapter) and
  - (2) The proposed setbacks do not affect the adjacent property's privacy, sunlight, or views nor restrain the adjacent property's potential for future development.

**§ 128-124. Density on lots where portion dedicated to Town.**

- A. Subject to the other provisions of this section, if any portion of a tract lies within an area designated on any officially adopted Town plan as part of a proposed public park, greenway, or bikeway, and before the tract is developed, the owner of the tract, with the concurrence of the Town, dedicates to the Town that portion of the tract so designated, then when the remainder of the tract is developed for residential purposes, the permissible density at which the remainder may be developed shall be calculated regarding the dedicated portion of the original lot as if it were still part of the proposed development.
- B. For purposes of subdivision or development of the remainder of a tract, the developer need not set aside usable open space to the extent that an equivalent amount of land has previously been dedicated to the Town.

**§ 128-125. Corner visibility.**

- A. No sign, fence, wall hedge, planting, or other obstruction to vision extending to a height three (3) feet above the established street grade shall be erected, planted, or maintained within the area of a corner lot (corner visibility zone) that is included between the lines of the intersecting streets and a straight line connecting them at points thirty (30) feet distant from the intersection of the street unless otherwise approved by Planning Commission or the Director of Planning. (See Ch. 128-15 Definitions and Appendix IV, Lot Types, and Yard Requirements, Corner Visibility, and Fence Height Illustrations)
- B. Intersections of alleys or driveways with streets.
- (1) There shall be a clear line of site at the intersection of all street or access driveway intersections sufficient along the predominant highway or street to avoid the hazard of collision between a vehicle starting to cross the highway or street or turning into the intersecting highway from a stop position and a vehicle on the through road operating at design speed and appearing after the crossing or turning movement has begun.

- (2) Generally, the corner visibility zone for intersections of alleys or driveways with streets is a triangle with 10-foot sides extending from the intersection of the alley or driveway and the street measured along the curb line and the edge of the alley or driveway and a straight line connecting these two points.
  - (3) The corner visibility zone for intersections of alleys or driveways with sidewalks is a triangle with five-foot sides extending from the intersection formed using the edge of the sidewalk furthest from the street and the edge of the alley or driveway and a straight line connecting these two points.
  - (4) At intersections onto highways with speeds exceeding thirty (30) miles per hour, the Planning Commission may require a study conducted by a transportation professional using methods acceptable to the Maryland State Highway Administration to establish the appropriate intersection traffic visibility requirement.
- C. Government signs, signposts, traffic control devices, utility control devices, and poles are exempt from the height limits within the corner visibility zone.

**§ 128-126. Fencing, walls, and hedges.**

- A. Any fence or wall located in the front yard shall be limited in height to four (4) feet from road grade, except in I/MI Districts where a fence seven (7) feet high from road grade may be erected twenty (20) feet from the front property line.
- B. Fences, walls, and hedges must be set back at least one (1) foot from sidewalks. Otherwise, fences, hedges, or walls must either be located on the property line or setback at least two (2) feet from the property line.
- C. No fence shall be erected in a front yard in a residential district unless the fence is uniformly less than 50% solid.
- D. Side and rear yard fences, hedges, and walls not exceeding seven (7) feet above the elevation of the ground are not subject to accessory structure setbacks.
- E. Fences, hedges, and walls over four (4) feet high in front yards must be set back at least twenty-five (25) feet from the front property line in residential zoning districts. In the RHC, I, and MI Districts, the fence height shall not exceed four (4) feet from grade for the first twenty (20) feet from the front property line.
- F. Swimming pools shall be regulated by the Town of Denton Building Code, Chapter 38, Building Construction, Art. II, Building Code.
- G. This subsection applies to the location of fences over four (4) feet high for through and corner lots with a rear or side yard (per Code definitions- see Appendix IV). In such cases, the front yard depth shall be as determined by the Code Enforcement Officer subject to the following limitations:

- (1) At least one front yard of twenty-five (25) feet is assumed in which a fence, hedge, or wall may not exceed a height of four (4) feet. This standard shall apply in zoning districts and for uses where no front yard is specified in § 128-127, Table of Density and Dimensional Regulations.
  - (2) The other front yard on such lot shall be assumed to be not less than ten (10) feet deep or aligned with the corner of the building.
- H. Materials and composition.
- (1) The finished side of the fence shall face the outside of the property.
  - (2) The following fences and fencing materials are expressly prohibited:
    - (a) barbed wire,
    - (b) pointed top fences less than three (3) feet in height,
    - (c) electrically charged fences,
    - (d) poultry fences,
    - (e) temporary fences such as snow, expandable, and collapsible fences, except during construction of a building or structure, and
    - (f) all chain link fences, except in I and MI districts.
  - (3) Factory-painted and coated "garden fence" is allowed when attached to a structural wooden fence and is limited to the height and width of the structure. All entrances or gates shall open into the property.
- I. All fences or walls must be erected to avoid infringing upon a public right-of-way or easements. None shall be erected to interfere with vehicular or pedestrian traffic or interfere with visibility on corner lots and/or other structures or vehicles, whether stationary or transitory, on public or private property.
- J. Any fence, wall, or similar structure that may cause a nuisance, fire hazard, dangerous condition, or public safety obstruction is prohibited.
- K. Every fence or wall shall be maintained in a condition of reasonable repair. It shall not be allowed to become and remain in a condition of disrepair, damage, unsightliness, or constitute a nuisance, whether public or private. Any fence or wall that has become dangerous to public safety, health, or welfare or unsightly through improper maintenance or neglect is considered a public nuisance. The Code Enforcement Officer shall commence proper proceedings for the abatement thereof.
- L. Fences and walls in the Historic District shall be subject to Historic Review, and a Historic Review Application must be filed.



- M. Nonconforming fences may be repaired or replaced provided the degree of nonconformity is not increased, i.e., no taller, no more solid, and in the same location as currently exists. If replaced, fences shall comply with the corner visibility zone requirements in § 128-125 and the Materials and Composition provisions of the preceding subsection H.
- N. Exceptions
- (1) The Planning Commission is authorized to approve fences for public projects that do not meet the standards outlined in the subsection.
  - (2) The Planning Commission shall consider the following criteria when evaluating requests for fence deviations for public projects:
    - (a) Public Safety and Security: The extent to which the proposed fence is necessary to ensure the safety and security of the public or the public project.
    - (b) Functional Requirements: The extent to which the proposed fence is necessary for the proper functioning of the public project.
    - (c) Impact on Surrounding Area: The potential impact of the proposed fence on the surrounding neighborhood, including visual impact, noise, and traffic.
    - (d) Accessibility and Usability: The impact of the proposed fence on the accessibility and usability of public spaces.
    - (e) Necessity: Proof that the standard fence regulations cannot meet the project's needs due to safety, security, or functional requirements unique to the public project.
    - (f) Alternative Solutions: Consideration of alternative solutions that would minimize the need for deviations from standard fence regulations.
  - (3) Public Notice and Hearing
    - (a) The Planning Commission shall hold a public hearing to consider the application for a fence deviation.
    - (b) Public notice shall be provided in accordance with § 128-215.
  - (4) Conditions of Approval. The Planning Commission may impose conditions on the approval of a fence deviation, including:
    - (a) Restrictions on the height or materials of the fence.
    - (b) Requirements for landscaping or screening.

- (c) Time limits for construction.
- (d) Requirements for ongoing maintenance.
- (5) All approved measurements must be noted on applicable plans and made part of the official record.
- (6) Appeal. Decisions of the Planning Commission regarding fence deviations for public projects may be appealed in accordance with § 128-179.

**§ 128-127. Table of Density and Dimensional Regulations.**

§ 128-127 Table of Density and Dimensional Regulations											
District/Use	Minimum Lot Area and Dimensions				Density	Minimum Yard Area Requirements				Maximum Height	
	Lot Area (square feet)	Lot Area Per Dwelling Unit (square feet)	Width (feet)	Depth (feet)	Residential Density (maximum du/acre)	Front (feet)	Rear (feet)	Side (Aggregate) (feet)	Side (Individual) (feet)	(feet)	(stories)
<b>SR</b>											
Single-family	7,200	7,200	70	100	6	20	20	20	10	40	3
Duplex <sup>2</sup>	14,000	7,000	35	100	6	20	20	20	10	40	3
<b>TR</b>											
Single-family	7,000	7,000	70	100	6	20	20	20	10	40	3
Duplex <sup>2</sup>	10,000	5,000	35	100	6	20	20	20	10	40	3
<b>MR</b>											
Single-family	6,000	6,000	60	100	8	20	20	20	10	40	3
Duplex <sup>2</sup>	8,000	4,000	30	100	8	20	20	20	10	40	3
Townhouse <sup>2,8</sup>	12,000	4,000	16	100	10	20	20	20	10	40	3
Multifamily <sup>2,10</sup>	12,000	2,500	—	—	15	20	20	25	10	40	3
<b>UR</b>											
Single-family	6,000	6,000	60	100	8	20	20	20	10	40	3
Duplex <sup>2</sup>	8,000	4,000	30	100	8	20	20	20	10	40	3
Townhouse <sup>2,8</sup>	12,000	4,000	16	100	10	20	20	20	10	60	4
Multifamily <sup>2,10</sup>	12,000	2,500	—	—	15	20	20	25	10	40 <sup>10</sup>	3 <sup>10</sup>
<b>GC</b>											
Nonresidential	—	—	—	—	—	—	Note 3	—	Note 3	50	4
Single-family	7,000	7,000	70	100	6	20	20	20	10	40	3
Duplex <sup>2</sup>	8,000	4,000	35	100	8	20	20	20	10	40	3
Townhouse <sup>2,8</sup>	12,000	4,000	16	100	10	20	20	20	10	40	3
Multifamily <sup>2,10</sup>	12,000	2,500	—	—	15	20	20	25	10	40	3
<b>CBC</b>											
Nonresidential & mixed-use building	—	—	—	—	—	—	Notes 3,4	—	Notes 3,4	40	3

§ 128-127 Table of Density and Dimensional Regulations											
District/Use	Minimum Lot Area and Dimensions				Density	Minimum Yard Area Requirements				Maximum Height	
	Lot Area (square feet)	Lot Area Per Dwelling Unit (square feet)	Width (feet)	Depth (feet)	Residential Density (maximum du/acre)	Front (feet)	Rear (feet)	Side (Aggregate) (feet)	Side (Individual) (feet)	(feet)	(stories)
Single-family	6,000	6,000	60	100	8	20	20	20	10	40	3
Duplex <sup>2</sup>	8,000	4,000	30	100	8	20	20	20	10	40	3
Townhouse <sup>2,8</sup>	12,000	4,000	16	100	10	20	20	20	10	40	3
Multifamily <sup>2,10</sup>	12,000	2,500	—	—	15	20	20	25	10	40	3
<b>CM</b>											
Nonresidential	—	—	—	—	—	—	Notes 3,4	—	Notes 3,4	40	3
Single-family	7,000	7,000	70	100	6	20	20	20	10	40	3
Duplex <sup>2,5</sup>	7,000	3,500	35	100	6	20	20	20	10	40	3
Townhouse <sup>2,8</sup>	12,000	4,000	16	100	8	20	20	20	10	40	3
<b>RHC</b>											
Nonresidential & mixed-use building	20,000	n/a	100	125	n/a	50	20	50	20	50	4
<b>I</b>											
Nonresidential	—	n/a	—	—	n/a	50	20	50	20	50	4
<b>MI</b>											
Nonresidential & mixed-use building	—	n/a	—	—	n/a	—	20	50	20	50	4
Single-family	7,000	7,000	70	100	6	20	20	20	10	40	3
Duplex <sup>2,5</sup>	7,000	3,500	35	100	6	20	20	20	10	40	3
Townhouse <sup>2,8</sup>	12,000	4,000	16	100	10	20	20	20	10	40	3
Multifamily <sup>2,10</sup>	12,000	2,500	—	—	15	20	20	25	10	40	3
<b>RA</b>											
Nonresidential, excluding farming	—	n/a	—	—	n/a	—	Note 3	—	Note 3	40	3

§ 128-127 Table of Density and Dimensional Regulations											
District/Use	Minimum Lot Area and Dimensions				Density	Minimum Yard Area Requirements				Maximum Height	
	Lot Area (square feet)	Lot Area Per Dwelling Unit (square feet)	Width (feet)	Depth (feet)	Residential Density (maximum du/acre)	Front (feet)	Rear (feet)	Side (Aggregate) (feet)	Side (Individual) (feet)	(feet)	(stories)
Main residence <sup>7</sup>	2 acres	2 acres	—	—	0.5	25	25	50	25	40	3
Farm caretaker home <sup>7</sup>	10 acres	10 acres	—	—	0.2	25	20	20	10	30	2
<p>NOTES:</p> <p>§ 128-127 Notes to the table</p> <p><sup>1</sup> Reserved</p> <p><sup>2</sup> Side yards for duplex, townhouse, and multifamily development refer to yard requirements for structures, not individual units.</p> <p><sup>3</sup> There shall be a side yard not less than 10 feet in width on the side of a lot adjoining a residential district. There shall be a rear yard not less than 20 feet in depth on the rear side of a lot adjoining a residential district.</p> <p><sup>4</sup> On an interior lot, there shall be a side yard not less than 10 feet in width on the side of a lot adjoining a residential district. On an interior lot, there shall be a rear yard not less than 10 feet in depth on the rear of a lot adjoining a residential district.</p> <p><sup>5</sup> Dwelling units of a duplex may be sold separately if separate utilities are provided.</p> <p><sup>6</sup> Minimum lot and yard requirements shall not be applicable to accessory apartments when incidental to principal commercial uses in the Central Business Commercial (CBC) District.</p> <p><sup>7</sup> Main residence and farm caretaker home shall be located on the same parcel. Only one caretaker home shall be allowed.</p> <p><sup>8</sup> Townhouse development is subject to the regulations contained in § 128-98.</p> <p><sup>9</sup> Multifamily development is subject to the regulations contained in § 128-108.</p> <p><sup>10</sup> The Planning Commission may permit four-story multifamily buildings up to 60 feet as provided in § 128-115.</p>											

## **Article VIII - Parking, Loading, and Unloading Area Requirements.**

### **§ 128-128. Definitions.**

Unless otherwise specifically provided or unless clearly required by the context, the words and phrases defined below shall have the meanings indicated when used in this section.

**CIRCULATION AREA** — That portion of the vehicle accommodation area used for access to parking or loading areas or other facilities on the lot. Essentially, driveways and other maneuvering areas (other than parking aisles) comprise the circulation area.

**DRIVEWAY** — That portion of the vehicle accommodation area that consists of a travel lane bounded on either side by an area that is not part of the vehicle accommodation area.

**GROSS FLOOR AREA** — The total area of a building measured by calculating the floor area of each floor level intended for occupancy or storage by taking the outside dimensions of the building at each floor and summing all floor areas.

**LOADING AND UNLOADING AREA** — That portion of the vehicle accommodation area used to satisfy the requirements of § 128-139.

**PARKING AREA AISLES** — That portion of the vehicle accommodation area consisting of lanes providing access to parking spaces.

**PARKING SPACE** — A portion of the vehicle accommodation area set for the parking of one vehicle.

**VEHICLE ACCOMMODATION AREA** — That portion of a lot that is used by vehicles for access, circulation, parking, and loading and unloading. It is comprised of the total circulation areas, loading and unloading areas, and parking areas (spaces and aisles).

### **§ 128-129. Number of parking spaces required.**

- A. All developments in all zoning districts other than the Central Business Commercial (CBC) District shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.
- B. Except for projects that only require a simplified site plan pursuant to § 128- 203, where the Director of Planning will determine the applicable parking standards, parking space requirements in the CBC District will be determined by the Planning Commission. When adequate off-street parking cannot practically be provided on-site in the CBC District, the Planning Commission may require the developer to provide a fee in lieu of parking. The Town shall use such fees collected to construct municipal parking elsewhere in the district.

- C. The presumptions established by this article are that a development must comply with the parking standards set forth in Subsection F to satisfy the requirement stated in Subsection A, and any development that does meet these standards complies. However, the Table of Parking Requirements is only intended to establish a presumption and should be flexibly administered, as provided in § 128-131.
- D. When a determination of the number of parking spaces required by the Table of Parking Requirements results in a requirement of a fractional space, any fraction of 1/2 or less may be disregarded. In contrast, a fraction in excess of 1/2 shall be counted as one (1) parking space.
- E. The Town recognizes that the Table of Parking Requirements set forth in Subsection F cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirements using this table as a guide.
- F. Table of Parking Requirements.

Use	Parking Requirement
Detached single-family unit	2 spaces per dwelling unit with 3 bedrooms or less, plus 1/2 space per each additional bedroom
Two-family unit, Duplex	2 spaces per dwelling unit with 3 bedrooms or less, plus 1/2 space per each additional bedroom
Townhouse, multi-family/apartment/condo, standalone tri-plex, standalone four-plex	1 space per efficiency unit; 1 1/2 spaces per each one-bedroom unit; 2 spaces per each two-bedroom unit; 2 1/2 spaces per three-bedroom unit, plus 1/2 space per each additional bedroom
Accessory dwelling units	1 space
Mixed-use building	1 space per 400 sf of nonresidential use and 2 spaces per residential use
Cottage housing development	See § 128-111 (Cottage Housing Development).
Manufactured home, manufactured home park, or subdivision	2 spaces per dwelling unit
Intermediate Care Facilities for Individuals with Intellectual Disabilities or Persons with Related Conditions, small	1 space per employee, plus 1 space per 2 occupants
Group residential care facilities, small	1 space per employee, plus 1 space per 2 occupants
Group residential care facilities, large	1 space per employee, plus 1 space per 2 occupants
Assisted living, continuing care	1 space per 2 beds, plus 1 space per each employee of the largest shift
Shelter Care	1 space per employee, plus 1 space per 2 occupants
Cemetery	1 space per employee
College or university	1 space per 5 seats in the main auditorium or 8 spaces per classroom, whichever is greater
Community center	1 space per 300 square feet of floor area, minimum 5 spaces
Fraternal organization	1 space per 5 persons rated capacity
Governmental facility	1 space per 300 square feet of floor area, minimum 5 spaces
Hospitals and clinics larger than 10,000 square feet	1 space per 2 patient beds

Use	Parking Requirement
- Nursing, extended care facility	1 space per 2 beds, plus 1 space per each employee of the largest shift
- Nursing home, intermediate care, large	1 space per 2 beds, plus 1 space per each employee of the largest shift
- Nursing home, intermediate care, small	1 space per 2 beds, plus 1 space per employee of the largest shift
- Health Clinics less than 10,000 square feet	4 spaces per professional (e.g., doctor, dentist)
Daycare Centers	1 space per 5 persons rated capacity
Parks and recreation	1 space per 5 persons rated capacity
Religious assembly	1 space per 5 seats or bench seating capacity (for seats in the main auditorium only)
Safety service	2 spaces
School	1 space per 10 seats in the main auditorium or 1 space per classroom, whichever is greater
Essential services	1 space
Public utility	1 space
Alternative energy facilities, wind energy conversion systems	1 space
Alternative energy facilities - solar energy power system or heating equipment	1 space
Freestanding towers	1 space
Building or tower-mounted antennas	As required for the building use
Grooming	1 space per 400 square feet gross floor area
Boarding or shelter/kennel (Indoor vs. Outdoor?)	1 space per 400 square feet gross floor area
Veterinary care	1 space per 400 square feet gross floor area
Game room, dance hall, skating rink, swimming pool, auditorium or exhibition center (without fixed seats), indoor racquet court, indoor athletic and exercise facility and similar uses	1 space per 5 persons rated capacity
Movie theaters	1 space per 4 seats
Bowling alley	6 spaces per lane
Building service	1 space per 400 square feet gross floor area
Business support service	1 space per 400 square feet gross floor area
Consumer maintenance and repair service	1 space per 400 square feet gross floor area
Personal improvement service	1 space per 400 square feet gross floor area
Research Service	1 space per 400 square feet gross floor area
Daycare center	1 space per 5 persons rated capacity
Eating and drinking establishments, including restaurants, fast-food restaurants, cocktail lounges, taverns, nightclubs, and other establishments for the consumption of food or beverages on or off-premises	1 space per 100 square feet of enclosed gross floor area, minimum 5 spaces, and 1 space per 200 square feet of unenclosed outdoor dining area in excess of the enclosed gross floor area
Financial service	8 spaces per parlor or 1 space per 50 square feet of floor area, whichever is greater
Studio, instructional, or service	1 space per 400 square feet gross floor area
Trade school	1 space per 300 square feet of gross floor area, minimum 5 spaces



Use	Parking Requirement
Hotel and motel efficiency unit	1 space per hotel guest room
Hotel and motel guest suite	1 1/2 spaces for the first 50 units; 1 space per each unit above 50 units
Bed and breakfast	1 space per guest room, plus 1 space
Business and professional office	1 space per 300 square feet of gross floor area, minimum 5 spaces
Medical, dental, and health practitioner	4 spaces per professional (e.g., doctor, dentist)
Convenience and consumer goods, establishments under 5,000 square feet	1 space per 200 square feet of gross floor area, minimum 5 spaces
Convenience and consumer goods, shopping centers, shopping plazas, retail stores, personal service establishments, and food stores greater than 5,000 square feet	<p>a. 1 space per 225 square feet gross floor area, except movie theaters</p> <p>b. When restaurants, fast-food establishments, cocktail lounges, taverns, nightclubs, or other establishments for the consumption of food or beverages on or off premises are located in a shopping center and comprise less than 25% of the gross floor area of the shopping center, the parking requirement shall be that for the shopping center.</p> <p>c. When restaurants, fast-food establishments, cocktail lounges, taverns, nightclubs, or other establishments for the consumption of food or beverages on or off premises are located in a shopping center and comprise greater than 25% of the gross floor area of the shopping center, the parking requirement shall be provided for those uses in accordance with the separate requirements. The parking calculation shall be computed separately for the retail and eating and drinking establishments, then combined.</p>
Neighborhood Center	1 space per 300 square feet gross floor area
Adult entertainment establishment	1 space per 200 square feet of gross floor area, minimum 5 spaces
Building supplies and equipment	1 space per 300 square feet of gross floor area, minimum 5 spaces
Commercial vehicle repair and maintenance	1 space per 2 employees on the maximum working shift, plus 1 per service bay
Commercial vehicle sales and rentals	1 space per 2 employees on the maximum working shift
Fueling station	1 space per 2 employees on the maximum working shift
Personal vehicle repair and maintenance	1 space per 2 employees on the maximum working shift plus 1 per service bay
Personal vehicle sales and rentals	1 space per 2 employees on the maximum working shift
Vehicle body and paint finishing shop	1 space per 2 employees on the maximum working shift plus 1 per service bay
Equipment and materials storage, outdoor	1 space per 200 square feet of customer service area
Contractor's shop	1 space per employee, plus 1 space per 9,000 square feet gross floor area
Trucking and transportation terminal	1 space per employee
Warehouse	1 space per 400 square feet gross floor area
Mini storage facilities	1 space per employee, plus one space per 10 storage units
Limited wholesale sales and distribution facilities	1 space per 400 square feet gross floor area
Wholesale sales and distribution facilities.	1 space per 400 square feet gross floor area

Use	Parking Requirement
Artisan industrial	1 space per 400 square feet gross floor area
Limited industrial	1 space per 400 square feet gross floor area
General industrial	1 space per 400 square feet gross floor area
Boarding and rooming	1 space per guest room
Other unlisted	§ 128-130.

### **§ 128-130. Unlisted uses and establishment of other parking ratios.**

- A. The Planning Commission is authorized to establish required minimum off-street parking ratios for unlisted uses and in those instances where the authority to establish a requirement is expressly granted in § 128-129B.
- B. Such ratios may be established based on a similar use/parking determination as described in § 128-129F, on parking data provided by the applicant or information otherwise available to the Planning Commission.
- C. Parking data and studies must include parking demand estimates based on reliable data from comparable uses or external data. The data must come from credible research organizations, e.g., the Institute of Transportation Engineers (ITE) or the American Planning Association (APA). Comparability will be determined by density, scale, bulk, area, type of activity, and location. Parking studies must document the source of all data used to develop recommended requirements.

### **§ 128-131. Flexibility in administration required.**

- A. The Town recognizes that, due to the particularities of any given development, the inflexible application of the parking standards set forth in § 128-129F may result in a development either with inadequate parking space or parking space far in excess of its needs. The former situation may lead to traffic congestion or parking violations in adjacent streets as well as unauthorized parking in nearby private lots. The latter situation wastes money as well as space that could more desirably be used for valuable development or environmentally useful open space. Therefore, the approving authority may permit deviations from the presumptive requirements of § 128-129F and may require more parking or allow less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in § 128-129A.
- B. A deviation from the presumptive requirements of § 128-129F may be established based on a similar use/parking determination on parking data provided by the applicant or information otherwise available to the Planning Commission. Parking data and studies provided by the applicant must include parking demand estimates based on reliable data from comparable uses or external data. The data must come from credible research organizations, e.g., the Institute of Transportation Engineers (ITE) or the American

Planning Association (APA). Comparability will be determined by density, scale, bulk, area, type of activity, and location. Parking studies must document the source of all data used to develop recommended requirements.

- C. Without limiting the generality of the preceding, the permit-issuing authority may allow deviations from the parking requirements set forth in § 128-129F when it finds that:
  - (1) A residential development is irrevocably oriented toward senior citizens 62 years or older.
  - (2) A business is primarily oriented to walk-in trade.
  - (3) The proposed development is in the IRD Infill and Redevelopment Overlay Zone.
- D. Whenever the permit-issuing authority allows or requires a deviation from the presumptive parking requirements set forth in § 128-129F, it shall enter on the face of the permit the parking requirement that it imposes and the reasons for allowing or requiring the deviation.
- E. If the permit-issuing authority concludes, based upon information it receives in the consideration of a specific development proposal, that the presumption established by § 128-129F for a particular use classification is erroneous, it shall initiate a request for an amendment to the Table of Parking Requirements in accordance with the procedures set forth in this chapter, Article XV, Amendments.

#### **§ 128-132. Parking space dimensions.**

- A. Subject to Subsections B and C, each parking space shall contain a rectangular area at least twenty (20) feet long and nine (9) feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs or aisles, so long as the parking spaces so created contain within them the rectangular area required by this section.
- B. In parking areas containing ten (10) or more parking spaces, up to 20% of the parking spaces need to contain a rectangular area of only 7 1/2 feet in width by 15 feet in length. If such spaces are provided, they shall be conspicuously designated as reserved for small or compact cars only.
- C. Wherever parking areas consist of spaces set aside for parallel parking, the dimensions of such parking spaces shall be not less than twenty-two (22) feet long by nine (9) feet wide.

#### **§ 128-133. Required widths of parking area aisles and driveways.**

- A. Parking area aisle widths shall conform to the following table, which varies the width requirement according to the angle of parking.

	<b>Parking Angle</b>	<b>Aisle Width (feet)</b>				
	0°	30°	45°	60°	90°	

	Parking Angle	Aisle Width (feet)			
One-way traffic	13	11	13	18	24
Two-way traffic	19	20	21	23	24

- B. Driveways shall be not less than ten (10) feet in width for one-way traffic and eighteen (18) feet in width for two-way traffic, except that ten-foot-wide driveways are permissible for two-way traffic when the driveway is no longer than fifty (50) feet, it provides access to not more than six (6) spaces, and sufficient turning space is provided so that vehicles need not back into a public street.

**§ 128-134. General design requirements.**

- A. Unless no other practicable alternative is available, vehicle accommodation areas shall be designed so that, without resorting to extraordinary movements, vehicles may exit such areas without backing onto a public street. This requirement does not apply to parking areas consisting of driveways that serve one or two dwelling units, although backing onto arterial and major collector streets is discouraged.
- B. Vehicle accommodation areas of all development shall be designed so that sanitation, emergency, and other public service vehicles can serve such developments without the necessity of backing unreasonable distances or making other dangerous or hazardous turning movements.
- C. Every vehicle accommodation area shall be designed so that vehicles are separated from walkways, sidewalks, streets, or alleys by a wall, fence, curbing, or other protective device and cannot extend beyond the perimeter of such area onto adjacent properties or public rights-of-way. Such areas shall also be designed so that vehicles do not extend over sidewalks or tend to damage any wall, vegetation, or other obstruction.
- D. Circulation areas shall be designed so that vehicles can proceed safely without posing a danger to pedestrians or other vehicles and without interfering with parking areas.
- E. Off-street parking facilities shall be drained to prevent standing water and damage or flooding to abutting property and public streets and alleys, surfaced with erosion-resistant material, and incorporate the best management practices of Chapter 106, Stormwater Management. Off-street parking areas shall be maintained in a clean, orderly, and dust-free condition at the expense of the owner or lessee and not used for the sale, repair, dismantling, or servicing of any vehicles, equipment, or materials.

**§ 128-135. Vehicle accommodation area surfaces.**

- A. Vehicle accommodation areas that include lanes for drive-in windows or contain parking areas that are required to have more than ten (10) parking spaces and that are used regularly at least five (5) days per week shall be graded and surfaced with asphalt,

concrete or other material that will provide equivalent protection against potholes, erosion, and dust, in accordance with Town specifications.

- B. Vehicle accommodation area surfaces shall be as required in the Town of Denton, Department of Public Works, Standard Specifications, and Details for Public Works Construction. Porous pavers may be allowed if consistent with the Town specifications and approved by the Town.
- C. Vehicle accommodation areas that are not provided with the type of surface specified in Subsection A shall be graded and surfaced with crushed stone, gravel, or other suitable material to provide a surface that is stable and will help to reduce dust and erosion. Bricks, stones, railroad ties, or other similar measures shall define the perimeter of such parking areas. In addition, whenever such a vehicle accommodation area abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the vehicle accommodation area that opens onto such streets) shall be paved as provided in Subsection A for a distance of fifteen (15) feet back from the edge of the paved street. Single-family or two-family residences or other uses that are required to have only one or two parking spaces and abut a paved street without a sidewalk shall be paved as provided in Subsection A for five (5) feet back from the edge of a paved street.
- D. Parking spaces in areas surfaced in accordance with Subsection A shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with Subsection B shall be demarcated whenever practical.
- E. Vehicle accommodation areas shall be properly maintained in all respects. Without limiting the preceding, vehicle accommodation area surfaces shall be kept in good condition (free from potholes, etc.), and parking space lines or markings shall be kept clearly visible and distinct.

**§ 128-136. Joint use of required parking spaces.**

- A. One parking area may contain required spaces for several different uses, but except as otherwise provided in this section, the required space assigned to one use may not be credited to any other use.
- B. To the extent that developments apply to make joint use of the same parking spaces to operate at different times, the same spaces may be credited to both uses. For example, if a parking lot is used in connection with an office building on Monday through Friday but is generally 90% vacant on weekends, another development that operates only on weekends may be credited with 90% of the spaces on that lot. Or, if a church parking lot generally occupies only 50% of its capacity on days other than Sunday, another development may make use of 50% of the church lot's spaces on those other days.
- C. If the joint use of the same parking spaces by two or more principal uses involves satellite parking spaces, then the provisions of § 128-137 (Satellite parking) are also applicable.

**§ 128-137. Satellite parking.**

- A. If the number of off-street parking spaces required by this section cannot reasonably be provided on the same lot where the principal use associated with these parking spaces is located, then spaces may be provided on adjacent or nearby lots under separate ownership in accordance with the provisions of this section. These off-site spaces are referred to in this section as "satellite parking spaces."
- B. All such satellite parking spaces (except spaces intended for employee use) must be located within four hundred (400) feet of a public entrance of a principal building housing the use associated with such parking or within four hundred (400) feet of the lot on which the use associated with such parking is located if the use is not housed within any principal building. Satellite parking spaces intended for employee use may be located within any reasonable distance on adjacent or nearby lots under separate ownership. Public street parking spaces shall not be permitted as accommodation for retail and office employee use.
- C. The developer wishing to take advantage of the provisions of this section must present satisfactory written evidence that he has permission from the owner or other authorized person in charge of the satellite parking spaces to use such spaces. The developer must also sign an acknowledgment that the continuing validity of his permit depends upon his continuing ability to provide the requisite number of parking spaces.
- D. The developer who obtains satellite parking spaces in accordance with this section shall not be held accountable for ensuring that the satellite parking areas from which they obtain their spaces satisfy the design requirements of this article except as a requirement to fulfill the number of parking spaces.

**§ 128-138. Special provisions for lots with existing buildings.**

- A. Notwithstanding any other provisions of this chapter, whenever there exists a lot with one or more structures on it constructed before the effective date of this chapter and a change in use that does not involve any enlargement of a structure is proposed for such lot, and the parking requirements of § 128-129 that would be applicable as a result of the proposed change cannot be satisfied on such lot because there is not sufficient area available on the lot that can practicably be used for parking, then the developer need only comply with the requirements of § 128-129 to the extent the parking space is practicably available on the lot where the development is located, and satellite parking space is reasonably available as provided in § 128-137.
- B. It shall be a continuing condition of the permit authorizing development on such lot that the developer obtains satellite parking when it does become available should satellite parking subsequently become reasonably available.

**§ 128-139. Loading and unloading areas.**

- A. Subject to Subsection F, whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations safely and conveniently.
- B. The loading and unloading area must be of sufficient size to accommodate the numbers and types of vehicles that are likely to use this area, given the nature of the development in question. At a minimum, loading and unloading areas must be 12 feet by 35 feet and have an overhead clearance of 14 feet from street grade.
- C. The following table indicates the number ~~and size~~ of spaces that, presumptively, satisfy the standard set forth in this subsection. However, the permit-issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the previous standard.

<b>Gross Floor Area of Building (square feet)</b>	<b>Number of Spaces<sup>1</sup></b>
1,000 to 19,000	1
20,000 to 79,999	2
80,000 to 127,999	3
128,000 to 191,000	4
192,000 to 255,999	5
256,000 to 319,999	6
320,000 to 391,999	7
For each additional 72,000 square feet or fraction thereof	1

- D. Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way and complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.
- E. No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.
- F. Whenever there exists a lot with one or more structures constructed before the effective date of this chapter, a change in use that does not involve any enlargement of a structure is proposed for such a lot the loading area requirements of this section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading. The developer needs to comply with this section only to the extent reasonably possible.

**§ 128-140. Bicycle parking facilities.**

New commercial, institutional, office, industrial, and recreation uses shall provide bicycle parking facilities.



## **Article IX – Signs.**

### **§ 128-141. Purpose and Intent.**

Signs perform an important function in identifying and promoting properties, businesses, services, residences, events, and other matters of interest to the public. This Article intends to regulate all signs within the Town of Denton to ensure that they are appropriate for their respective uses, in keeping with the appearance of the affected property and surrounding environment, and protective of the public health, safety, and general welfare by:

- A. Setting standards and providing uniform controls that permit reasonable use of signs and preserve the existing character of Denton.
- B. Prohibiting the erection of signs in such numbers, sizes, designs, illumination, and locations as may create a hazard to pedestrians and motorists.
- C. Avoiding excessive conflicts from large or multiple signs, so that permitted signs provide adequate identification and direction while minimizing clutter, unsightliness, and confusion.
- D. Establishing a process for the review and approval of sign permit applications.

### **§ 128-142. General sign regulations.**

- A. For this Article, signs are recognized to present unique problems and conditions. Therefore, the following regulations and restrictions are intended to ensure that signs, which, because of their nature, size, structure, design, color, lighting, or location, will not create an adverse effect on surrounding properties and the community in general.
- B. After the effective date of this Article and unless herein excepted, no sign shall be erected, constructed, posted, painted, altered, maintained, or relocated except as provided in this section and these regulations until a permit has been issued by the Director of the Department of Planning and Codes, henceforth known as "the Director," or his/her designee. The Director or his/her designee shall be responsible for providing an application. Before any permit is issued, an application shall be filed, together with a sketch, drawing, or specification as may be necessary to fully advise and acquaint with the location, construction, materials, manner of illuminating, securing, or fastening, and number of signs for which approval is sought.
- C. For this Article, signage area, height, and location shall be in accordance with the following:
  - (1) The signage area shall be based on the entire area of the sign with a single continuous perimeter enclosing the extreme limits of the sign surface. The signage area for individual letters and logos shall be measured individually, and the total area of all letters and logos shall constitute the signage area. Signage support and

framework shall not be included in the signage area calculation. Signs with two faces no more than two feet apart shall be considered as one signage area.

- (2) Sign height shall be measured from the adjacent grade, paved walk, or vehicular surface to the lowest and/or highest point of the sign.
  - (3) Setbacks for freestanding signs shall be a minimum of ten (10) feet.
  - (4) No sign shall be installed or constructed extending over or above the roof or parapet of a building or into a public right-of-way or street.
- D. The Director or his/her designee shall remove or cause to be removed any sign erected or maintained in conflict with these regulations if the owner or lessee or responsible party of either the site or the sign fails to correct the violation within thirty (30) days after receiving a written notice of violation from the Director or his/her designee. Removal of a sign shall not affect any proceedings instituted prior to removal of such sign, including but not limited to formal enforcement activities and/or imposition of fines.
- E. Any unpaid expenses associated with enforcement activities, including the imposition of fines and the cost of correcting violation(s), shall be subject to lien against the property. The procedure for an appeal of violation(s) is established in accordance with Chapter 94, Property Maintenance.
- F. Nonconforming signs may not be enlarged, substantially altered, moved, or replaced except to bring the sign into conformity with these regulations. For this Article, a nonconforming sign may be repaired and renovated to the original sign specifications.
- G. The Board of Appeals, pursuant to the authority and procedures set forth in Article XIV, Citizen Boards, may grant variances to these regulations as established in § 128-181.
- H. Restrictions.
- (1) No signs, banners, pennants, streamers, spinners, or similar devices constructed of cloth, fabric, cardboard, metal, or other like material displayed for purposes shall be erected except where the Director or his/her designee has authorized such use or is otherwise permitted by these regulations.
  - (2) No sign shall be constructed, erected, or otherwise installed within a required buffer area, forested, or similar conservation easements or area or create a hazard or unsafe condition, including but not limited to the safety of vehicular and pedestrian traffic.
  - (3) All signs and supporting structures shall be maintained in good condition and appearance. After due notice has been given, the Director or their designee may cause to be removed any sign which shows gross neglect or becomes dilapidated.
  - (4) Where permitted by these regulations, illumination shall meet the standards and regulations as provided for in Article XI, Outdoor Lighting.

- (5) All signs shall comply with the yard setback requirements of the district in which they are located, except that freestanding signs shall be setback a minimum of ten (10) feet from the front property line.
- (6) The owner and/or tenant of the premises shall be held responsible for any violation of these regulations. Where a sign has been erected in accordance with these regulations, the sign company shall be relieved of further responsibility under these regulations.
- (7) Except in the Historic Overlay Zone, where Historic and Architectural Review Commission review and approval is required, repainting and changing the message of a sign shall not, in and of itself, be considered a substantial alteration.
- (8) For the purposes of enhancing the visibility of a sign, no person may damage, trim, destroy, or remove trees, shrubs, or vegetation located within:
  - (a) The right-of-way of any public street or road without express written authorization of the owner of the right-of-way;
  - (b) On any other property other than under direct ownership or control of where the sign is located; or
  - (c) In any area where such vegetation is required as part of the Critical Area regulations.
- (9) Off-site signage. "Off-site signage" shall mean signage of any material or vehicle advertising a business, event, or activity that is not physically and permanently located on the lot or parcel where signage is displayed. No off-site signage is allowed except as permitted in § 128-146, Sign Types and Dimensional Regulations, and § 128-142I of this Code.
- (10) Temporary signage. Unless permitted by the regulations under § 28-142I of this Code, temporary signage shall be defined as any signage, temporary in nature, including vehicles or signage constructed or fabricated of posters, paper, plastic, cardboard, fabric, or similar types of materials, installed for ninety (90) days or less. Any signage installed and in use for greater than ninety (90) days shall be determined as permanent and shall comply with this Code.
- (11) Vehicle signage. No vehicle shall be used as permanent signage, on-site or off-site, except as permitted in § 128-143, Sign types and dimensional regulations, and the following:
  - (a) For this Code, vehicle signage permitted by § 128-143 is considered permanent if located on a parcel or lot more than the time as established in § 128-142H(10) of this Code.
  - (b) All vehicle signage, whether the use is temporary or permanent, shall be properly licensed and registered, operable, maintained in clean and good

condition, and parked or stored on a fully stabilized surface intended for vehicles. "Stabilized surface" shall mean any surface such as asphalt, concrete, gravel, grass-pave, or similar construction for the parking, storage, or driving of vehicles.

- I. Use regulations. The following sign uses, and no other, are permitted, provided the regulations as set forth in Subsections C and H are met:
- (1) Professional, accessory use, or name signs indicating the profession or activity of a dwelling, or signs indicating the private nature of a driveway or property, providing that no more than two such signs shall be located along one road frontage and that the combined area on one side of such sign or signs shall not exceed two (2) square feet.
  - (2) Identification signs, announcement signs, or bulletin boards relating to a religious institution, educational facility, hospital, municipal or government facility, charitable or civic institution, or facility, providing that not more than one sign shall be placed on any street frontage of any one property.
  - (3) Official signs erected by a public authority or public utility, such as, but not limited to, highway signs, railroad crossing, hazard, and other signs that may be required by a governmental or public utility authority or agency in connection with the identification, operation or protection of property, persons, or activity.
  - (4) Property owners may place warning signs to warn of dangers, such as, but not limited to, hidden driveways and traffic directions on private drives.
  - (5) Directional signs relating to a use located in the Town may be erected off-site. These signs shall not include more than the name, direction, and nature of the business activity referred to. Each sign shall have not more than four (4) square feet on each side.
  - (6) Legal notices, such as, but not limited to, signs used to post property to prevent trespassing, hunting, trapping, etc.
  - (7) Signs for drive-thru service, including but not limited to menu boards, order stations, instructional, and directional signs, are permitted without limitation.
  - (8) Temporary signs as provided in subsection (J).
  - (9) Permitted signs outlined in § 128-143.
- J. Temporary Signs.
- (1) Temporary Signs located on private property are exempt from standard permit requirements. Temporary signs that comply with the requirements of this subsection shall not be included in the determination of the type, number, or area of signs allowed on a property.

(2) Size and Number.

- (a) Non-Residential Property: Four small temporary signs are permitted per property on all non-residential properties.
  - (i) Type: Freestanding sign or wall sign.
  - (ii) Area: Each small temporary sign shall have a maximum area of six (6) square feet.
  - (iii) Height: Small temporary signs that are freestanding shall have a maximum height of six (6) feet.
- (b) Residential Property: Four small temporary signs are permitted per property on all residential properties.
  - (i) Type: Freestanding sign or wall sign.
  - (ii) Area: Each small temporary sign shall have a maximum area of six (6) square feet.
  - (iii) Height: Small temporary signs that are freestanding shall have a maximum height of six (6) feet.

(3) Duration and Removal

- (a) All temporary signs must be removed within ninety (90) days of the date of installation.
- (b) The Town or the property owner may confiscate signs installed in violation of this chapter. Neither the Town nor the property owner is responsible for notifying sign owners of the confiscation of an illegal sign.

(4) Permission: the party posting the temporary signs is solely responsible for obtaining the permission of the property owner before posting their temporary sign.

(5) Municipal Notification: Temporary signs are exempt from the standard permit requirements.

(6) Installation and Maintenance.

- (a) All temporary signs must be installed such that in the opinion of the Town, they do not create a safety hazard.
- (b) All temporary signs must be made of durable materials and shall be well-maintained.

- (c) Temporary signs that are frayed, torn, broken, or that are no longer legible will be deemed unmaintained and required to be removed.
- (7) Illumination: Illumination of any temporary sign is prohibited.
- (8) For Sale or Rent.
  - (a) In addition to the temporary signs provided for in subsection J(2), up to two (2) additional temporary signs may be located on a property when the owner consents and that property or unit is being offered for sale or rent through a licensed real estate agent or if for sale or rent by the owner through public advertising.
    - (i) No more than one (1) sign may be installed per street frontage on a property by any one real estate organization. The sign shall be removed promptly when the properties are sold or rented.
  - (b) The additional temporary sign provided for in this subsection shall apply to both non-residential and residential properties.
  - (c) The duration standard provided in subsection J(3) shall not be applicable.
- (9) In addition to the temporary signs provided for in subsection J(2), temporary nonilluminated political signs of sixteen (16) square feet in area or less are permitted in any zoning district.
  - (a) Signs shall be removed within fifteen (15) days after the applicable political event.
  - (b) Removal shall be the responsibility of the candidate or erector of the sign.
- K. Temporary special event, sale, and grand opening signs for which the Town has issued a permit shall be erected in accordance with the following:
  - (1) In addition to the temporary signs permitted in J(2), a carnival, fair, circus, festival, or similar event may locate temporary banners, flags, pennants, streamers, and similar signs provided
    - (a) Signs are displayed not sooner than four (4) weeks prior to the event and removed no more than three (3) days after the event or as specified in the permit, whichever is longer.
    - (b) Total signage area per sign is limited to 32 square feet.
    - (c) Signs advertising such events may be erected and located off-site, provided no more than a total of four (4) signs are erected or installed, one

sign per any given parcel, not exceeding thirty-two (32) square feet in signage area per sign, and written property owner permission is obtained.

- (2) Banners, flags, pennants, streamers, and similar signs may be erected and installed for special sales and grand openings, provided signage does not indicate prices subject to the following:
  - (a) Signs shall be removed no more than three (3) days after the event or as specified in the permit, whichever is longer.
  - (b) Total signage area per sign is limited to 32 square feet.
  - (c) Signs advertising such events may be erected and located off-site, provided no more than a total of four (4) signs are erected or installed, one sign per any given parcel, not exceeding thirty-two (32) square feet in signage area per sign, and written property owner permission is obtained.
- (3) Flag and pennant signs shall be in accordance with the following standards:
  - (a) Shall not exceed eight (8) square feet for each 10 linear feet of street frontage;
  - (b) In connection with a commercial promotion or as an advertising device, providing only such information to identify the business located on the property;
  - (c) Shall be maintained in accordance with the safety and maintenance standards of these regulations.

#### **§ 128-143. The Official Tables of Sign Types and Dimensional Regulations.**

- A. The Official Tables of Sign Types and Dimensional Regulations is now included as an attachment to this Article.
- B. Where reference is made to tables in the Official Tables of Sign Types and Dimensional Regulations included in 128 Appendix V, the applicable standard(s) shall apply.

#### **§ 128-144. Variances.**

Pursuant to the authority and procedures set forth in Article XIV, § 128-181, the Board of Appeals may grant variances to the limitations set forth in these regulations.

#### **§ 128-145. Master Sign Plans.**

- A. Subject to following, the Planning Commission may approve a Master Sign Plan for a new shopping center, big-box store, commercial medical center in the Regional Highway Commercial (RHC) zoning district, and industrial park that complies with the standards referenced in the Official Tables of Sign Types and Dimensional Regulations, Tables 5C

and 5D as part of the site plan approval process where it determines the Master Sign Plan will ensure an attractive and harmonious appearance throughout the center or big-box store.

- (1) A Master Sign Plan shall include a detailed overall design and treatment of signs throughout the shopping center, big-box store, commercial medical center, or industrial center. At a minimum, the Master Sign Plan shall include:
    - (a) Sign dimensions
    - (b) Materials
    - (c) Lighting illumination used for the sign
    - (d) Color scheme
    - (e) Lettering or graphic style
    - (f) Location of each sign
    - (g) Exceptions allowed, e.g., standardized corporate identity signage for anchor stores
  - (2) All signs within the shopping center, big-box store, commercial medical center, or industrial park shall be controlled by written agreement between the owners and tenants.
  - (3) The Planning Commission may only allow the size and number of signs to exceed what otherwise would be required where the referenced tables state as determined by the Planning Commission. The Planning Commission may not allow freestanding signs exceeding a height of thirty (30) feet.
- B. Comprehensive sign redevelopment. The Planning Commission may approve a Master Sign Plan as provided in A for individual signage in existing shopping centers, big-box stores, commercial medical centers, and industrial parks.
- (1) "Comprehensive sign redevelopment" shall be defined as any design change of all signage in the center.
  - (2) Sign redevelopment. For this section, "sign redevelopment" shall mean the comprehensive design and replacement of all existing signs in a shopping center, big-box store, industrial center, and commercial center in conformance with an approved Master Sign Plan.
- C. Amendment. A master sign plan may be amended by filing a new master sign plan that conforms with all requirements of this Ordinance.



## **§ 128-146. Fees.**

For establishment and payment of fees, any signage review by the Planning Commission shall be based on the fee as established for a minor site plan review. Signage permit fees shall be considered a separate fee from this review.

## **Article X Environmental Standards, Landscaping, Shading and Buffers.**

### **§ 128-147. Shading.**

#### **A. The Town finds that:**

- (1) Trees are proven producers of oxygen, a necessary element for human survival;
- (2) Trees appreciably reduce the ever-increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air we breathe;
- (3) Trees transpire considerable amounts of water each day and thereby purify the air much like the air-washer devices used on commercial air conditioning systems;
- (4) Trees have an essential role in neutralizing wastewater passing through the ground from the surface to groundwater tables and lower aquifers;
- (5) Trees, through their root systems, stabilize the groundwater tables and play an essential and influential part in soil conservation, erosion control, and flood control;
- (6) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas; and
- (7) For the reasons indicated in Subsection A(6), trees substantially impact land desirability and property values.

#### **B. Based upon the findings outlined in Subsection A, the Town Council declares that it is not only desirable but essential to the health, safety, and welfare of all persons living or working within the Town's planning jurisdiction to require the planting of new trees in certain types of developments.**

### **§ 128-148. Landscape plans.**

#### **A. A landscape plan must accompany all applications for development and construction activities subject to this article's landscape and screening regulations. No building permit**

or similar authorization may be issued until the approving authority determines that this article's landscaping and screening regulations have been met.

- B. The landscaping plan shall include sufficient information to demonstrate the function and intent of the landscaping to be provided and its suitability for the zoning district in which it is located and the project for which it has been designed. The landscaping plan shall, at the minimum, include the following:
- (1) The location, general type, size, and quality of existing vegetation, including specimen trees and trees with an eighteen (18) inch or greater diameter at breast height.
  - (2) The existing vegetation to be retained.
  - (3) The methods and details for protecting existing vegetation during construction and the approved sediment and erosion control plan.
  - (4) Location and variety of the proposed vegetation.
  - (5) Plant lists or schedules with the botanical and common name, required and proposed quantities, spacing, height, and caliper of all proposed landscape material at planting and maturity.
  - (6) The location and description of other landscape improvements, such as earthen berms, walls, fences, screens, sculptures, fountains, street furniture, lights, and courts or paved areas.
  - (7) Planting and installation details as necessary to ensure conformance with all required standards.
  - (8) A maintenance plan describing irrigation, pruning, replacement of dead material, and other care procedures.

#### **§ 128-149. Alternative compliance.**

To encourage creativity in landscape and screening design and to allow for flexibility in addressing atypical, site-specific development/redevelopment challenges when administering the landscape requirements of this Article, the Planning Commission is authorized to approve alternative compliance landscape plans when it is determined that one or more of the following conditions are present:

- A. The site has space limitations or an unusual shape that makes strict compliance impossible or impractical;
- B. Conditions on or adjacent to the site, such as topography, soils, vegetation, or existing structures or utilities, are such that strict compliance is impossible, impractical, or of no value in terms of advancing the general purposes of this article;

- C. The project is being considered under the provisions of the IRD Infill and Redevelopment Overlay District;
- D. Safety considerations such as intersection visibility, utility locations, etc., make alternative compliance necessary or
- E. Creative, alternative landscape plans will provide an equal or better means of meeting the intent of this article's landscaping and screening regulations.

**§ 128-150. Required trees along dedicated streets.**

- A. Along both sides of all newly created streets that are constructed per Chapter 73, Land Subdivision, the developer shall either plant or retain sufficient trees so that between the paved portion of the street and a line running parallel to and fifty (50) feet from the center line of the street, there is for every thirty (30) foot of street frontage at least an average of one (1) deciduous tree that has or will have when fully mature, a trunk at least twelve (12) inches in diameter.
- B. Trees, when planted, shall have a caliper of at least 2.5 inches measured at 4.5 feet from ground level and no branches below six (6) feet. All trees shall be staked appropriately at the time of planting.

**§ 128-151. Parking area screening and landscaping.**

- A. Parking areas of more than five vehicles that adjoin or are faced by a residential district shall be effectively screened on each side by an ornamental wall, fence, or compact evergreen hedge. Such screen shall be not less than four (4) feet or more than six (6) feet in height and be maintained in good condition without any advertising. No part of any parking space shall be closer than five (5) feet to any street line. Any lighting used to illuminate any parking area shall be arranged to direct the light away from adjoining premises in any residential district and public roads and comply with lighting standards outlined in Article XI.
- B. Parking facilities with more than ten (10) parking spaces shall comply with the requirements below:
  - (1) Interior landscaping. For surface parking facilities, at least ten (10) percent of the parking facility shall be permanently landscaped.
  - (2) Interpretation: computation of interior landscaping requirement. The interior landscaping requirement shall be computed based on the net parking facility. For this section, the "net parking facility" shall include parking stalls, access drives, aisles, walkways, dead spaces, and required separations from structures but shall not include required street setbacks or access driveways or walkways within such setbacks.

- (3) Planting beds. All landscaping shall be contained in planting beds. Each planting bed shall have a minimum area of twenty-five (25) square feet and shall be enclosed by appropriate curbing or similar device at least six (6) inches wide and six (6) inches in height above the paving surface.
- (4) Plant materials. Surface parking facilities shall contain at least one (1) tree for each 2,000 square feet required parking area. In addition to the required trees, each planting bed shall contain appropriate ground cover or shrubbery. Nonplant material such as statuary or fountains may be used in landscaped areas, provided it does not dominate the planting bed. Native or indigenous plants shall be used to the maximum extent practical.
- (5) Installation/maintenance. Landscaping shall be installed and continuously maintained by the owner.
- (6) Site plan requirements. All required site plans for parking facilities shall contain detailed landscaping and maintenance plans. The landscaping plan shall be as provided in § 128-148.

#### **§ 128-152. Bufferyards.**

##### **A. Purpose.**

- (1) One of zoning's most essential functions is dividing land uses into districts with similar character and compatible uses. All uses permitted in any district generally have similar nuisance characteristics. Bufferyards will operate to minimize the negative impact of any future use on neighboring uses.
- (2) The bufferyard combines setback depth and landscaped screening. The width of the bufferyard, in combination with the type and amount of plantings required, is designed to effectively "separate" incompatible land uses at adjoining zoning district boundaries. Street bufferyards are required to screen parking lots along public streets and roads.

##### **B. Location of bufferyards.** Bufferyards shall be located on the outer perimeter of a lot or parcel that is a zoning district boundary and along the perimeter of parking lots adjacent to public roads and streets. However, bufferyards shall not be located on any portion of an existing or dedicated public or private street or right-of-way.

##### **C. Determination of required bufferyard.** The following procedure shall be used to determine the type of bufferyard required on a lot or parcel:

- (1) Identify whether the site's portion or property line constitutes a zoning district boundary. If it does, determine the zoning on both sides of the property.
- (2) Determine whether the land on the adjoining property is vacant or developed or whether a subdivision plat or site plan has been approved.

- (3) Determine the bufferyard required on each boundary (or segment thereof) of the subject parcel by referring to the tables of required bufferyards (Subsection E) and responsibilities for bufferyards (Subsection D).

**D. Responsibility for bufferyards.**

- (1) Preexisting development is exempt from bufferyard requirements.
- (2) When a new development, redevelopment, or expansion of a development is constructed on a lot adjoining a zoning district boundary, the developer shall install 1/2 of the total required bufferyard if the land in the adjoining district is vacant. When the vacant parcel is subsequently developed, the developer shall install the second half of the required bufferyard.
- (3) When a new development is constructed on a lot adjoining a zoning district boundary, the developer shall install the total required bufferyard if the land in the adjoining district has been previously developed without a bufferyard.
- (4) Existing plant materials and/or land on the perimeter of the preexisting development lot may contribute to the total bufferyard required between that and the adjoining developing lot.
- (5) New plant materials shall be native or indigenous plants to the maximum extent practical.

**E. Tables of required bufferyards.**

**(1) Bufferyards Between Adjacent Zoning Districts**

<b>ZONE</b>	<b>SR</b>	<b>TR</b>	<b>MR</b>	<b>UR</b>	<b>GC</b>	<b>CBC</b>	<b>CM</b>	<b>RHC</b>	<b>I</b>	<b>MI</b>	<b>RA</b>	<b>PN</b>
<b>SR</b>	---	---	B <sup>1</sup>	B <sup>1</sup>	---	---	B	C	D	A	D	A
<b>TR</b>	---	---	A <sup>1</sup>	A <sup>1</sup>	B	B	B	C	D	A	D	A
<b>MR</b>	---	---	---	---	B	A	A	C	D	C	D	A
<b>UR</b>	---	---	---	---	B	A	A	C	D	C	D	A
<b>GC</b>	---	---	---	---	---	---	A	---	C	---	---	---
<b>CBC</b>	---	---	---	---	---	---	---	---	---	---	---	---
<b>CM</b>	---	---	---	---	---	---	---	---	---	---	---	---
<b>RHC</b>	---	---	---	---	---	---	---	---	---	---	---	C
<b>I</b>	---	---	---	---	---	---	---	---	---	---	---	---
<b>MI</b>	---	---	---	---	---	---	---	---	---	---	---	---
<b>RA</b>	---	---	---	---	---	---	---	---	---	---	---	D
<b>PN</b>	---	---	---	---	---	---	---	---	---	---	---	---

**NOTES:**

- <sup>1</sup> Bufferyards only required between single-family attached and multifamily/single-family detached homes.

- Bufferyards are either not required or not applicable (districts not contiguous or streets between).
- F. Parking Lot Perimeter Bufferyard Adjacent to Streets. The perimeter of any parking lot for more than six (6) vehicles adjacent to a public street or right-of-way shall include a perimeter bufferyard of at least ten (10) feet. Landscaping within the perimeter bufferyard shall be as follows:
- (1) At least one (1) canopy tree per thirty (30) linear feet of street frontage, rounded to the nearest whole number. Existing trees may be counted toward satisfying parking lot perimeter bufferyard tree planting requirements.
  - (2) A continuous landscape element consisting of evergreen shrubs at least three feet tall at planting time, planted at five (5) foot intervals.
  - (3) All portions of the perimeter landscape area not planted with shrubs or trees shall be planted in grass, other vegetation cover, mulch, or landscaping gravel.
- G. Bufferyard and Parking Lot Perimeter Bufferyard requirements. Illustrations in Appendix II at the end of this chapter graphically indicate the specification of each bufferyard.
- H. Flexibility in administration required.
- (1) The Planning Commission may allow substitution or reduction of the bufferyard if it finds that the required bufferyard will obstruct the view of a driver, the bufferyard is incompatible with the existing streetscape, or the bufferyard is unnecessary because the adjoining land uses are compatible without a, or with a smaller, bufferyard.
  - (2) The Planning Commission may require a greater bufferyard than stipulated in this chapter if it determines a larger bufferyard is required due to the extensiveness of the incompatibility between land uses. The Planning Commission may also require a bufferyard between incompatible land uses within the same zoning district if it is determined one is needed.
  - (3) Bufferyard requirements will be determined as part of the site plan and/or subdivision review process.
- I. Ownership of bufferyards. Bufferyards may remain in the ownership of the original developer (and assigns) of a land use, or they may be subjected to deed restrictions and subsequently be freely conveyed, or they may be transferred to any consenting grantees, such as adjoining landowners, the Town of Denton, or a homeowners' association, provided that any such conveyance adequately guarantees the protection of the bufferyards for this chapter.

- J. Excess bufferyard. Where the bufferyard required between a land use and vacant land turns out to be greater than that bufferyard which is required between the first use and the subsequently developed use, the following options apply:
- (1) The subsequent use may provide 1/2 of the buffer this section requires. The existing use may expand into the original buffer area, provided that the resulting total bufferyard between the two uses meets the bufferyard requirements of the section.
  - (2) The existing use may agree with abutting landowners to use the existing buffer to provide some or all of the required bufferyard of both land uses. The total buffer shall equal the requirements of this section. The initial use may provide the second use some or all of its required bufferyard and/or extra land it might develop, provided such an agreement can be negotiated. The existing use may reduce its excess buffer by transferring part or the entire excess buffer to the adjoining landowner to serve as its buffer. Any remaining excess buffer area may be used by the existing use for expansion of that use or for transfer by it to the adjoining landowner to expand that adjoining use.
- K. Contractual reduction of bufferyards. When a land use is proposed adjacent to vacant land, and the owner of that vacant land enters into a contractual relationship with the owner of the land that is to be developed first, a reduced buffer may be provided by that first use, provided that the contract contains a statement by the owner of the vacant land of an intent to develop at no greater than a specified land use intensity class and an agreement by that vacant landowner to assume all responsibility for the additional buffer, if needed by the subsequent development of a less intense use than had been agreed upon, is transferred to the owner of the vacant (second in time to be developed) land.

**§ 128-153. Environmental standards for all subdivisions and development that require site plan approval.**

- A. Perennial stream no-disturbance buffer.
- (1) A one-hundred-foot natural buffer from all perennial streams shall be required for all development. This buffer shall not permit permanent or temporary stormwater and/or sediment control devices.
  - (2) This buffer requirement may be reduced to no less than fifty (50) feet by the Planning Commission for the following:
    - (a) If evidence is provided that the site's design, construction, and use shall provide the same or better water quality protection as the one-hundred-foot buffer, and if evidence is provided, said development will meet all other requirements, as required.
    - (b) Road crossings, if disturbance is minimized.

- (c) Other public or community facilities, provided disturbance is minimized as far as possible.
- B. Intermittent stream no-disturbance buffer.
  - (1) A fifty-foot buffer from all intermittent streams shall be required for all development. This buffer shall not permit permanent or temporary stormwater management and sediment control devices.
  - (2) The Planning Commission may waive this buffer requirement for the following:
    - (a) Road crossings, if disturbance is minimized.
    - (b) Other public or community facilities, provided disturbance is minimized as far as possible.
- C. Sensitive soil no-disturbance buffer. The one-hundred-foot perennial stream buffer shall be expanded to include contiguous one-hundred-year floodplains and nontidal wetlands. In addition, the one-hundred-foot perennial stream buffer shall be expanded to include hydric soils, highly erodible soils, and soils on slopes greater than fifteen (15) percent that are contiguous with the perennial stream, any one-hundred-year floodplain adjacent to the stream or any nontidal wetlands adjacent to the stream to a maximum distance of three hundred (300) feet.
- D. Nontidal wetland buffer. A fifty-foot setback from all nontidal wetlands shall be required for all development around the extent of the delineated nontidal wetland except as permitted by the U.S. Army Corps of Engineers and the State of Maryland, Department of Natural Resources, Nontidal Wetlands Division.
- E. Steep slopes.
  - (1) No structure or impervious surface shall occur on any slope with a grade of fifteen (15) percent or more.
  - (2) For steep slopes intersecting a buffer or other sensitive areas, the buffer shall be expanded per § 128-30.
  - (3) Good engineering practices shall be used to protect steep slopes during and after disturbance activities.
- F. Habitats of rare, threatened, and endangered species. Development shall avoid these areas as the Maryland DNR Natural Heritage Program describes. The Maryland DNR shall review proposed development projects. When a project is within a wildlife habitat (project review area), the developer must contact the Maryland Department of Natural Resources's Heritage and Biodiversity Conservation Program (HBCP).
- G. Critical Area. Critical Area conservation standards shall be implemented according to Article IV, Part A Critical Area District of this chapter.



- H. Forested areas: Forests shall be protected according to the requirements in Chapter 60, Forest Conservation, and in the Critical Area District (Article IV, Part A of this chapter), § 128-20.

## **Article XI - Outdoor Lighting.**

### **§ 128-154. Purpose and intent.**

It is the purpose of this article to develop minimum standards for use in the design and installation of outdoor lighting that enhance visibility and public safety by preventing uncontrolled intrusion into adjacent properties and the natural environment and to promote energy conservation and preserve the Town's night sky, which is a valuable natural resource important to the Town's character. It is the intent to conserve energy without decreasing safety, utility, security, and productivity while enhancing nighttime enjoyment of property within the Town and surrounding area. It is assumed that appropriate lighting is safer and more efficient than inappropriate lighting; therefore, the use of lamp technology with high efficacy is encouraged.

### **§ 128-155. Applicability and requirements.**

This article shall apply to all outdoor lighting within the Town of Denton unless otherwise exempted herein.

#### **A. Applicability:**

- (1) All commercial site plans shall demonstrate that the proposed development shall comply with the requirements set forth in Subsection B below with respect to exterior lighting.
- (2) This article does not apply to emergency lighting.
- (3) This article does not apply to temporary lighting.
- (4) This article does not apply to vehicular lighting.
- (5) This article does not apply to lighting on wheeled farm machines.

#### **B. Requirements:**

- (1) Motion sensors shall be utilized to control flood and spotlights.
- (2) High-pressure sodium (HPS) lights shall be used to minimize energy consumption, maintenance costs, and sky glow where color recognition is not needed.
- (3) Nonsecurity parking lot lights shall be turned off after business hours to save energy and protect the night sky.

- (4) The minimum amount of light needed shall be used to achieve safe, uniform lighting with lights that consume the lowest amount of power possible.
- (5) Fully shielded or horizontally flush mounts shall be used for all lights.
- (6) Signs and flags shall be lighted from above except as may otherwise be provided.
- (7) All sports lighting shall be shielded.
- (8) All lights greater than 1,800 lumens shall be shielded to direct all light toward the ground so that the lighting elements are not exposed to normal view by or do not create or constitute a hazard or nuisance (e.g., glare) to motorists, pedestrians or neighboring residents.
- (9) Lighting shall be designed so as not to throw glare onto surrounding properties.

### **§ 128-156. Definitions.**

For this article, the following definitions apply:

**ADJACENT PROPERTY** — Property abutting the lot being developed as well as properties that are separated by a street, road, or right-of-way.

**CANDELA** — The unit that describes the intensity of a light source in a specified direction and is equal to one lumen per steradian (lm/sr).

**CUTOFF** — A luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 25 (2.5%) at an angle of 90° above the nadir and 100 (10%) at a vertical angle of 80° above the nadir.

**DARK SKY CUTOFF FIXTURE** — Any light fixture that emits its light below 45° when measured from 0° to 180° vertical. Dark sky cutoff fixtures keep most of their light from reaching the night sky (i.e., emit no more than 2% of the light above the horizontal plane) and also minimize ground reflection and reduce light scatter beyond the property line.

**DARK SKY FIXTURE** — Any light fixture that emits its light below 90° when measured from 0° to 180° vertical. Dark sky fixtures keep most of their light from reaching the night sky (i.e., emit no more than 2% of light above the horizontal plane).

**DARK SKY SHADE** — Anything that is used to shade a light fixture so that it behaves as a dark sky fixture. These include, but are not limited to, fixtures outfitted with caps or housings or installed under canopies, building overhangs, and roof eaves or shaded by other structures, objects, or devices.

**DARK SKY SHIELD** — Anything that is used to shield a light fixture so that it behaves as a dark sky cutoff fixture. These include but are not limited to, fixtures outfitted with caps or housings or installed under canopies, building overhangs, and roof eaves or shielded by other structures, objects, or devices.

**DIRECT LIGHT** — Light emitted directly from the lamp, off the reflector or diffuser of a luminaire.

**DISABILITY GLARE** — Glare that reduces visual performance due to light scattered in the eye, reducing the contrast of the image.

**EFFICACY** — A measurement of the ratio of light produced by a light source to the electrical power used to produce that light, expressed in lumens per watt.

**EMERGENCY LIGHTING** — Illumination as required by civil officers, agents, and officials to perform their duties to maintain public health, safety, and welfare.

**FIXTURE** — The assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts.

**FLOOD OR SPOT LIGHT** — A light designed to flood a well-defined area with light, with a reflector or optical assembly that concentrates the light output in a particular direction or spot.

**FLUORESCENT LAMP** — A lamp used for indoor retail and office uses and occasionally in outdoor area lighting. Fluorescent lamps are also available in the so-called "compact" styles. Advantages include low initial costs for lamps and fixtures compared with the lamp types below, low life cycle costs and high efficiency compared to incandescent, no warm-up period, good color rendition, and long lifetimes. Disadvantages include higher initial costs compared to incandescent lamps, large lamp size, low efficiency (compared to HID lamps), poor output maintenance, attraction of insects, and potentially hazardous mercury waste.

**FOOTCANDLE** — The basic unit of luminance (the amount of light falling on a surface). Footcandle measurement is taken with a light meter. One foot-candle is equivalent to the luminance produced on one square foot of surface area by a source of one standard candle at a distance of one foot. Horizontal footcandles measure the illumination striking a horizontal plane. Vertical footcandles measure the illumination striking a vertical plane.

**FULL CUTOFF** — A shielded fixture that directs all light towards the ground by preventing all transmission of light above a horizontal line as specified by the Illumination Engineering Society, i.e., distribution where zero candela intensity occurs at an angle of 90° above nadir and all greater angles from nadir, and prevents the direct image of a bright source. Additionally, the candela per 1,000 lamp lumens does not numerically exceed 100 (10%) at a vertical angle of 80° above the nadir.

**GLARE** — A bright source that causes the eye to be drawn continually toward the bright image or when the brightness of the source prevents the viewer from adequately viewing the intended target.

**HID LIGHTING** — High-intensity discharge lighting, a family of bulb types, including mercury vapor, metal halide, or high-pressure or low-pressure sodium, which glows when an electric current is passed through a gas mixture inside the bulb.

**HIGH PRESSURE SODIUM (HPS) LAMP** — Most widely used HID lamps for roadway and parking lot lighting. Advantages include a long lifetime, a wide variety of moderate to high luminous output lamps, high efficiency and good maintenance, moderate color rendition, and wide availability and moderate cost of lamps and luminaires. Disadvantages include poorer color rendition than metal halide, fluorescent and incandescent, poorer output efficiency than low-pressure sodium, and potentially hazardous mercury waste.

**HOLIDAY LIGHTING** — Festoon-type lights, limited to small, individual low-wattage bulbs on a string.

**INCANDESCENT LAMP** — Lamp commonly used for the majority of residential lighting, both indoor and outdoor. Incandescent lamps are widely available in a huge variety of lamp styles of low to moderate luminous output. They are commonly used in applications where such low outputs are needed and where the lighting is often switched off and on. Advantages include low capital cost for lamps and luminaires, wide availability, a wide variety of both lamp and fixture types, lack of a warm-up period, and lack of hazardous wastes. Disadvantages include short lifetimes, low efficiency with resultant high per-lumen energy use and life cycle cost, the attraction of insects, and high heat production.

**INDIRECT LIGHT** — Direct light that has been reflected or scattered.

**INSTALLATION** — The attachment or assembly of any outdoor lighting fixture and its fixing in place, whether or not connected to a power source.

**LIGHT POLLUTION** — The upward emitting of stray light which may illuminate clouds, dust, and other airborne matter and may obscure the night sky.

**LIGHT SOURCE** — The lamp or enclosing bulb or reflective enclosure.

**LIGHT TRESPASS** — Any artificial light greater than 0.10 footcandle falling outside the boundaries of the property upon which the outdoor luminaire is installed. Light trespass occurs when neighbors of an illuminated space are affected by the lighting system's inability to contain its light within the area intended.

**LOW-PRESSURE SODIUM (LPS) LAMP** — A HID lamp popular in some American cities, the light produced by LPS lamps is nearly monochromatic at a wavelength near 589 nanometers. Though the eye is very sensitive to this wavelength (leading to the high efficiency of LPS), the eye cannot distinguish colors when LPS light is the only source available. Low-pressure sodium lighting is favored where energy consumption and costs are a major concern and where color discrimination is either not needed or is supplied by other lighting. Advantages include the highest luminous efficiency and lowest energy use, low glare associated with the large lamps, good visibility, low scattering, minimal effects on insects and other wildlife, and lack of hazardous mercury wastes. Disadvantages include the lack of color rendition, shorter lamp lifetime, higher lamp replacement costs compared to HPS, and large lamp size in the higher output lamps.

**LUMEN** — The unit of measurement of the quantity of light produced by a lamp or emitted from a luminaire. The lumen quantifies the amount of light energy produced by a lamp at the lamp, not by the energy input, which is indicated by the wattage. For example, a one-hundred-watt incandescent light produces 1,800 lumens, while a seventy-watt high-pressure sodium lamp produces 6,000 lumens. The manufacturer lists the lumen output on the packaging.

**LUMINAIRE** — A complete lighting unit often referred to as a "light fixture." A luminaire consists of the lamp or light source, optical reflector and housing, and electrical components for safely starting and operating the lamp or light source.

**MERCURY VAPOR LAMPS** — The first widely used HID lamps. Though highly efficient and long-lived compared to the incandescent lighting technology they displaced, they have many disadvantages compared to other lighting sources available today, including low luminous efficiency, poor color rendition, and high ultraviolet output. Mercury vapor lamps have now been almost completely replaced in new applications by the more efficient metal halide and high-pressure sodium lamps.

**METAL HALIDE LAMP** — A HID lamp, similar to mercury vapor lamps, but with the addition of small amounts of various metallic halides, such as scandium, sodium, dysprosium, holmium, and thulium iodide. The many different varieties of metal halide lamps give a wide variety of slightly different color characteristics, though generally, they are white or blue/white sources. Besides a relatively steep fall-off in intensity with time (compared to high-pressure sodium; see below), many metal halide lamps also change their color as they age. Metal halide lamps are very commonly used in commercial outdoor lighting where white light with good color rendition is required or desired, such as car dealer display lots, sports lighting, and service station canopies. Advantages include a wide variety of moderate to high luminous output lamps, high efficiency compared to incandescent and mercury vapor, and good color rendition. Disadvantages include lower efficiency and output maintenance compared to high- and low-pressure sodium, shorter lamp lifetime compared to high-pressure sodium, color changes, ultraviolet output if not adequately filtered, and potentially hazardous mercury waste.

**MOTION SENSOR** — Any device that turns a light fixture on when it detects motion and off when motion stops.

**NADIR** — The point directly below the luminaire.

**NONCUTOFF** — A luminaire light distribution where there is no candela limitation in the zone above the maximum candela.

**OUTDOOR LIGHTING** — The nighttime illumination of an outside area or object by a device that produces light by any means.

**OUTDOOR LIGHTING FIXTURE (OR LUMINAIRE)** — Any outdoor electrically powered luminaire, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include general ambient lighting, street and area luminaires, decorative lighting, accent or feature lighting, as well as searchlights, spotlights, and floodlights, any of which is for use at or on:

- A. Buildings and structures, including church steeples.
- B. Recreational areas.
- C. Parking lot and area lighting.
- D. Landscape lighting.
- E. Outdoor signage, both internally and externally lit (advertising or other).
- F. Streetlighting.
- G. Product display area lighting.
- H. Building overhangs, eaves, and open and closed canopies.
- I. Farms, dairies, or feedlots.
- J. Gas canopy lighting.
- K. Outdoor walkways.
- L. Flag poles.
- M. Monuments or sculptures.

SEMICUTOFF — Luminaire light distribution where the candela per 1,000 lamp lumens does not numerically exceed 50 (5%) at an angle of 90° above the nadir and 200 (20%) at a vertical angle of 80° above the nadir.

SKY GLOW — The result of scattered light in the atmosphere, which means the haze or glow of light that reduces the ability to view the nighttime sky.

STERADIAN — The basic international system unit of measurement of a solid angle in a sphere. One steradian is the solid angle made at the center of a sphere by an area on the surface of the sphere equal to the square of the sphere's radius.

SWITCH — Any device that can be manually controlled by a person to turn a light fixture on and off. For this article, switches include motion sensors, but switches do not include light sensors or timers.

TEMPORARY LIGHTING — Illumination as required by citizens to carry out legally approved activities for durations as specified in the permits for those activities. These include, but are not limited to, activities such as nighttime agricultural operations, construction work lighting, and seasonal decorations, but in no case shall such temporary lighting continue for more than a period of three (3) months without an exemption granted by the Town of Denton.

#### **§ 128-157. Light fixtures prohibited.**

- A. Non-dark sky fixtures are prohibited in the Town of Denton unless otherwise permitted by this chapter.

B. In addition to Subsection A, the following light fixtures are prohibited:

- (1) Lights that shine directly into neighboring residential districts or buildings and adjacent properties.
  - (a) The maximum illumination of an adjacent parcel from light emitted from an artificial light source is 0.1 horizontal footcandle and 0.1 vertical footcandle when measured:
    - [1] At five (5) feet inside an adjacent residential parcel.
    - [2] At ten (10) feet inside an adjacent commercial or industrial parcel.
  - (b) No line of sight to a light source is permitted five feet or more beyond the edge of the public right-of-way or property line in a residential district by an observer viewing from a position that is level with or higher than the ground below the fixture.
  - (c) Compliance is achieved with fixture shielding, directional control designed into the fixture, fixture location, fixture height, fixture aim, or a combination of these factors.
- (2) Excessive lighting: lighting that directs attention away from existing business and community lighting. New lighting shall not cause existing lighting to appear noticeably dimmer or reduce the sense of security it provides.
  - (a) Areas under structural canopies shall be illuminated so that the uniformity ratio (ratio of average to minimum luminance) shall be no greater than 5:1 with an average illumination level of not more than 30 footcandles.
  - (b) Light fixtures located on structural canopies shall be mounted so that the lens cover is recessed or flush with the ceiling of the canopy.
- (3) Glare: high-intensity discharge (HID) light sources that cause disability glare directly visible to drivers. Full cutoff fixtures shall be used so as to ensure lighting elements are not exposed to normal view or do not create or constitute a hazard or nuisance to motorists, pedestrians, or neighboring residents.
- (4) Flashing lights.

**§ 128-158. Light fixtures permitted.**

The following light fixtures and lighting are permitted:

- A. All light fixtures that were installed prior to the effective date of this article.
- B. All light fixtures that are dark sky fixtures and dark sky cutoff fixtures.
- C. All light fixtures that have a dark sky shade or a dark sky shield.

- D. All light fixtures that are dark sky fixtures and dark sky cutoff fixtures that provide uniform and appropriate lighting in parking lots.
- E. All light fixtures that use quality prismatic or translucent lens materials to spread the bright image over a larger area and reduce the brightness of the source.
- F. Lighting designed for historic or residential streets with special product aesthetics or vertical luminance criteria to limit the lamp lumens or wattage and thereby control glare and light trespass.
- G. Appropriate lighting that is used solely to enhance the beauty of an object.
- H. Necessary floodlights mounted at the appropriate height so as to reduce glare in an unintended field of view and with a total effect that conforms to reasonable ambient lighting levels based on the environment of the proposed installation. The light sources in flood and spotlights shall not be directly visible from adjacent properties.
- I. All temporary light fixtures for special public events.
- J. All temporary holiday lighting.
- K. All emergency lighting.
- L. All lighting less than 1,800 lumens.
- M. Lighting of churches and flags, as well as sports fields in nonresidential areas.
- N. Waterfront lighting: All lighting in and around the ponds, lakes, and other waters of the Town shall not be installed or maintained so as to create a hazard to or nuisance to other property owners, navigation, or boaters and shall comply with the following:
  - (1) Lights on docks or piers shall be no more than three feet above the docks or piers, shall be downward directed, and shall be no more than 550 lumens or less.
  - (2) Lights illuminating paths, decks, etc., shall not be directed toward the waters and shall be no more than 1,800 lumens or less.
  - (3) All exterior lighting shall be located, mounted, and shielded so that direct illumination is not directed on the water surface more than 20 feet from the shore.
- O. Appropriate sign lighting as referenced in Article IX, Signs, of this chapter.
  - (1) Illumination. The illumination of all signs shall comply in all respects with the provisions of this article.
  - (2) Top-mounted lights shall light all illuminated signs pointed downward. No sign may be illuminated with fixtures not shielded from the upward transmission of light.
  - (3) Nonflashing illumination. Signs may be illuminated only by conflating lights. Lights that flash, pulse, rotate, move, or simulate motion are not permitted.



- (4) All lights shall be shielded to ensure that light sources are not directly visible to drivers or from neighboring properties.

#### **§ 128-159. Replacement of non-dark sky fixtures.**

When a non-dark sky fixture is replaced, it shall be replaced with one of the following:

- A. Dark sky fixture; or
- B. Dark sky cutoff fixture; or
- C. Non-dark sky fixture that has a dark sky shade or a dark sky shield that causes it to operate as if it were a dark sky fixture or a dark sky cutoff fixture.

#### **§ 128-160. Installation of new light fixtures.**

- A. When a new light fixture is installed, it shall be installed with a switch to allow lighting to be manually turned on and off, with a motion sensor to automatically turn it on when motion is detected and turn it off when motion ends, or with timers or photocells when lighting is not needed.
- B. Noncritical lighting after business hours and at other times shall be turned off when it is not required.
- C. Light fixtures encouraged but not required.
  - (1) Light fixtures with motion sensors are encouraged to minimize the duration of nighttime lighting.
  - (2) Light fixtures with soft yellow or orange lights (e.g., high-pressure sodium) instead of harsh white lights (e.g., metal halide) are encouraged to protect the view of the night sky.
  - (3) Dark sky shades and dark sky shields are encouraged for old existing fixtures to protect the view of the night sky, minimize ground reflection, and reduce light scatter beyond the property line.
  - (4) Dark sky cutoff fixtures are encouraged where light fixtures are mounted on structures or poles higher than the first level above ground level to protect the view of the night sky, minimize ground reflection, and reduce light scatter beyond the property line.

#### **§ 128-161. Exemptions.**

- A. The Planning Commission may allow exemptions from this article, as needed, to relieve any unusual circumstances, difficulties, or costs that would be encountered if an attempt were made to comply with this article.

- B. The Town Council may allow exemptions from this article to recognize that a good faith attempt has been made to comply with this article if compliance is still not possible due to unusual circumstances or difficulties or costs encountered.

#### **§ 128-162. Liability.**

- A. A person utilizing or maintaining an outdoor light shall be responsible for all costs and any other liability resulting from failure to comply with this article.
- B. Responsibility for costs and liability begins from and after the day this article becomes effective.

#### **§ 128-163. Enforcement.**

The Building Official and the Department of Planning are authorized to enforce the provisions of this article.

#### **§ 128-164. Disclaimer.**

The Town of Denton does not, by approving or disapproving a lighting fixture, warranty or make assurance of any kind whatsoever, specifically as to whether the subject of the approval or disapproval is safe, suitable for its intended purpose, merchantable, or in compliance with any applicable codes or regulations.

### **Article XII - Common Open Space.**

#### **§ 128-165. Purpose and intent; applicability.**

- A. This section intends to establish minimum common open space requirements for all residential developments, as well as standards and requirements that shall constitute prerequisites for approval of common open space and use areas and/or facilities. These provisions shall apply to all such proposed areas and facilities, including but not limited to conventional subdivisions, planned developments, cottage developments, and multifamily developments.
- B. These provisions ensure that all common open space and use areas and/or facilities are planned, constructed, managed, and maintained suitably. They ensure that such areas become integral parts of various developments as proposed at the time of approval.
- C. Where a proposed greenway shown in the Comprehensive Plan of the Town or Caroline County crosses a proposed subdivision, the approving authority may require a greenway public use easement.

## **§ 128-166. Requirements for approval.**

The following requirements governing the approval of common open space and use areas and/or facilities shall apply to all residential developments. For purposes of computing common open space requirements, net site area includes the entire land area within the boundaries of a development site minus all street and utility rights-of-way existing prior to development.

- A. Minimum common open space requirements for residential developments are as follows:
  - (1) Convention subdivision: 15% of the net site area.
  - (2) Cluster subdivision: 15% of the net site area.
  - (3) Cottage housing development: 400 square feet per cottage
  - (4) PUD Planned unit development: 20% of the net site area.
  - (5) PN Planned Neighborhood Development: 30% of the net site area.
- B. Not less than 50% of the minimum required common open space shall be in a form usable to and accessible by the residents, such as community greens or commons, tot-lots, neighborhood parks, recreational playing fields, woodland walking trails, other kinds of footpaths, a community park, or any combination of the above.
- C. Common open spaces may contain complementary structures and improvements as are necessary and appropriate for the use, benefit, and enjoyment of residents of the development. Common open space provided to protect existing site features may include areas for agricultural use if permanently conserved by an easement.
- D. The Planning Commission may permit a fee in lieu of dedication of common open space when the applicant cannot adequately meet the common open space requirements outlined herein or if the proposed development is for less than twenty (20) lots or units. The fee in lieu shall be on a per-dwelling-unit basis as established by the Town of Denton. The fee shall be listed in the annual fee schedule for the Town and may change from time to time. Fees will be collected upon application for a building permit. The fee shall be deposited only in a designated account with funds expended only for planned park and recreation facilities.
- E. Open space requirement, ownership.
  - (1) Private ownership. Common open spaces in private ownership shall be protected by legal arrangements satisfactory to the Planning Commission, sufficient to assure their maintenance and preservation for whatever purpose they are intended. Covenants or other legal arrangements shall specify the ownership of the open space, method of maintenance, maintenance taxes and insurance, compulsory membership, and compulsory assessment provisions and guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Planning Commission.

- (2) Common open space. Unless the Planning Commission finds that the size, location, type of development, cost of development, maintenance of such common open space, or the availability of public open space would make public use desirable and necessary, common open space shall not be made available for the use of all residents of the Town. The Planning Commission will generally require dedication to all areas indicated for acquisition in the adopted Caroline County Open Space and Recreation Plan or Town Comprehensive Plan.
- F. Management of common open space property. The developer shall ensure that the common open space and improvements not dedicated and accepted for public ownership are maintained and cared for, and the developer shall provide for and establish an organization for the ownership, maintenance, and preservation of common open space, which shall conform to the following standards and procedures:
  - (1) The developer shall establish the organization before the sale or rental of dwelling units in the development and prior to final approval of the development plan by the Planning Commission.
  - (2) The financial and organizational structures, rules of membership, and methods of cost assessment of the organization shall be devised to ensure the successful fulfillment of the maintenance, preservation, and improvement responsibilities of the organization.
  - (3) The organization will be responsible for the maintenance, preservation, and improvement of common open space lands, and all property owners within the development shall participate in such organization.
  - (4) Areas set aside to meet the common open space requirements hereof shall be adequately described. Instruments in the form of deed restrictions and/or covenants shall be provided to ensure the purpose for which the common open space is provided will be achieved. Said instruments shall be approved by the Town Council prior to recordation among the land records.
- G. Bond for improvements. Prior to the issuance of a building permit, there shall be delivered by the owner or developer some form of surety acceptable to the Town in an amount as specified by the Town, which shall be submitted with the final subdivision plat, which surety shall secure an agreement to construct required physical improvements required as a condition of final approvals.
- H. Homeowners' associations. Homeowners' associations or similar legal entities that, pursuant to the requirements of Subsection F, are responsible for the maintenance and control of common areas, including stormwater management facilities, recreational facilities, and open space, shall be established in such a manner that:
  - (1) Provision for the establishment of the association or similar entity is made before any lot in the development is sold or any building occupied;

- (2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common areas and facilities;
- (3) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas and facilities and
- (4) Each purchaser of a lot or unit is given adequate and specific notice of the homeowners' association requirements and the association's authority to compel compliance.

**§ 128-167. Flexibility in administration authorized.**

- A. The requirements set forth in this article concerning the amount, size, location, and nature of recreational facilities and common open space to be provided in connection with residential developments are established by the Town as standards that presumptively will result in the provision of that amount of recreational facilities and common open space that is consistent with the Town Comprehensive Plan. The Town recognizes, however, that due to the particular nature of a tract of land, the nature of the facilities proposed for installation, or other factors, the underlying objectives of this article may be achieved even though the standards are not adhered to with mathematical precision. Therefore, the Planning Commission is authorized to permit minor deviations from these standards whenever it determines that:
  - (1) The objectives underlying these standards can be met without strict adherence to them; and
  - (2) Because of peculiarities in the developer's tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.
- B. Whenever the Planning Commission authorizes some deviation from the standards set forth in this article, pursuant to § 128-167A, the official record of action taken on the development shall contain a statement of reasons for allowing the deviation.

**Article XIII - Nonconforming Uses, Structures, and Buildings.**

**§ 128-168 Purpose.**

- A. Within the zones established by this chapter or amendments that may later be adopted, there exist lots, structures, and uses of land and structures that were lawful before this chapter was adopted or amended but which would be prohibited, regulated, or restricted under the terms of this chapter, or future amendments.
- B. This chapter intends to permit these nonconformities to continue until they are removed but not to encourage their survival. This chapter declares such uses to be incompatible

with permitted uses in the zones involved. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same zone.

- C. A nonconforming use of a structure, a nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged by attachment on a building or premises of additional signs intended to be seen from off the premises or by the addition of other uses of a nature which would be prohibited in the zone involved.
- D. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter, and upon which actual building construction has been diligently carried on. Actual construction is now defined as the placing of materials in a permanent position and fastened permanently, except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

#### **§ 128-169. Nonconforming lots of record.**

Notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record of this chapter or amendment to it, except in the RHC and I Districts. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the zone, provided that yard dimensions shall conform to the following requirements:

- A. Side yard setback. The minimum side yard setback shall be established by the principal structure extant or that previously existed on the nonconforming lot or parcel. A survey or other approved documentation shall be provided to determine existing setbacks.
- B. The rear yard need not exceed 20% of the depth of the lot, but in no case shall it be less than ten (10) feet.
- C. The front yard (setback) need not exceed that established by buildings on lots in the block in which the nonconforming lot is located.
- D. The Planning Commission shall determine the setbacks for vacant nonconforming lots of records based on the existing patterns on surrounding properties.

#### **§ 128-170. Nonconforming uses of unimproved land.**

Where, at the effective date of adoption or amendment of this chapter, lawful use of land exists that is made no longer permissible under the terms of this chapter as enacted or amended, such use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this chapter.
- B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
- C. If any such nonconforming use of land ceases for any reason for more than ninety (90) days, any subsequent use of such land shall conform to the regulations specified by this chapter for the zone in which such land is located.

#### **§ 128-171. Nonconforming structures.**

Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. Structures with a nonconforming setback may be expanded, replaced, or moved along a line parallel to the existing nonconformity, provided all other applicable zoning, building, and fire codes are met. This expansion, movement, or replacement is allowed in front, rear, and side yards.

#### **§ 128-172. Nonconforming uses of land and structures.**

If a lawful use of a structure or structures and premises in combination exists at the effective date of adoption or amendment of this chapter that would not be allowed in the zone under the terms of this chapter, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

- A. No existing structure devoted to a use not permitted by this chapter in the zone in which it is located, except single-family dwellings, shall be expanded, enlarged, extended, constructed, reconstructed, moved, or structurally altered unless approved by the Board of Appeals and shall be subject to the following restrictions and criteria:
  - (1) Applications shall be subject to the procedures, requirements, and findings for a special exception from the Board of Appeals as set forth in § 128-180, except that with respect to the required finding that the proposed use is in accord with the Town's Comprehensive Plan, the Board of Appeals need not consider a conflict with any maps indicating zoning or use of the property.
  - (2) Expansion or construction of a new structure used or to be used for a nonconforming use or uses shall be limited to no more than 20% of the gross floor area of the nonconforming use existing on the date the use became

nonconforming or 1,000 square feet of additional gross floor area, whichever is less.

- (3) Expansion of areas of nonconforming use not involving structures, such as outdoor parking and storage, shall be limited to no more than 10% of the site area existing on the date the use became nonconforming.
- B. Any nonconforming use may be extended throughout any parts of a building that were manifestly arranged or designed for use at the time of adoption or amendment of this chapter. Still, any additional expansion of the nonconforming use shall comply with Subsection A above.
  - C. Any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use, provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing nonconforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accordance with the provisions of this chapter.
  - D. Any structure, or structure and land in combination, in which a permitted use supersedes a nonconforming use shall, after that, conform to the regulations for the zone in which such structure is located, and the nonconforming use may not after that be resumed.
  - E. Except as provided herein, when a nonconforming use of a structure or structure and premises in combination is discontinued or abandoned for twelve (12) consecutive months or 18 months during any three years, the structure, or structure and premises in combination, shall not after that be used except in conformance with the regulations of the zone in which it is located. The Board of Appeals may grant a special exception to allow for the continuance of a nonconforming use that has been discontinued or abandoned so long as the application for such special exception (1) is filed prior to the nonconforming use's lapsing under the terms of this subsection, or (2) is filed to allow the resumption of the multifamily use of a residential structure that does not require structural or interior alterations and that otherwise demonstrably retains its character as a multifamily structure. In considering an application for a special exception under this section, the Board may consider the cost to bring the structure into compliance with the regulations of the zone and the presence of similar nonconforming uses in the vicinity of the structure.
  - F. Where nonconforming use/status applies to a structure and premises in combination, removal or destruction of the structure, not related to fire or natural cause, shall eliminate the nonconforming status of the land. A nonconforming use that is destroyed by fire or natural cause may be restored or reconstructed at the same location, provided that:
    - (1) Restoration must be started within one (1) year of the destruction and completed in accordance with the building permit.



- (2) The Director of Planning may grant a single extension of this time limit, for a period not to exceed one (1) year, only to the same property owner or their heirs.
- (3) The restored use shall not increase the extent of the nonconformity.
- (4) A restored or rebuilt structure that is to be occupied by the nonconforming use must be an in-kind replacement of the destroyed structure.
- (5) If the use is not replaced or restored within the required period, any future use on the site shall comply with the current zoning requirements.

**§ 128-173. Nonconforming development in Critical Area District.**

- A. Continuation of existing uses. Continuation, but not necessarily the intensification or expansion, of any use in existence by March 1989 will be permitted unless the use has been abandoned for more than one (1) year or is otherwise restricted by existing ordinances or regulations. If any existing use does not conform with the provisions of the Critical Area Program, its intensification or expansion may be permitted only in accordance with the variance procedures outlined in § 128-182.
- B. Residential density. Except as otherwise provided, the types of land use described in the following subsections will be permitted in accordance with the density requirements in effect prior to the adoption of the Denton Critical Area Program (March 1989), notwithstanding the density provisions of the program. A single-family lot or parcel of land that was legally recorded as of March 1989 can be improved with a single-family dwelling if a dwelling is not already placed there (notwithstanding that such development may be inconsistent with the density provisions of this chapter), provided that:
  - (1) It is on land where the development activity has progressed to the point of pouring of foundation footings or the installation of structural members:
  - (2) It is a legal parcel of land, not being part of a recorded or approved subdivision, that was recorded as of December 1, 1985, and land that was subdivided into recorded, legally buildable lots, where the subdivision received final subdivision plat approval prior to June 1, 1984, if:
    - (a) At the time of development, the land is brought into conformance with the Critical Area Program and meets the requirements of § 128-174, including the consolidation or reconfiguration of lots not individually owned; or
    - (b) The land received a building permit subsequent to December 1, 1985, but prior to March 1989.
  - (3) It is on land that was subdivided into legally recorded buildable lots where the subdivision received final subdivision plat approval between June 1, 1984, and December 1, 1985, and

- (4) It is on land that was subdivided into recorded, legally buildable lots, where the subdivision received final subdivision plat approval after December 1, 1985, and provided that either the development of any such land conforms to the IDA, LDA, or RCA requirements in this chapter or the area of the land is counted against the growth allocation permitted under this chapter, or was approved by the Critical Area Commission at the time of approval of the Denton Critical Area Program.
- C. Nothing in this section may be interpreted as altering any requirement for development activities set out in the water-dependent facilities section or the habitat protection section of the Denton Critical Area Program and any related implementation requirements contained in this chapter.

**§ 128-174. Consolidation or reconfiguration of existing lots of record in Critical Area.**

- A. An application for development activity that involves the consolidation reconfiguration or adjustment of parcel boundaries of existing lots of record in the critical area shall design and implement the project to bring the lands into conformance with the Denton Critical Area Program to the maximum extent possible and to minimize adverse impacts to water quality and fish, wildlife, and plant habitat.
- B. The following performance standards for these projects shall be used to assess the project relative to the goals of the Critical Area Program. At a minimum, all applications must fully address all of the following standards, which shall be reduced to written findings by the Director of Planning:
  - (1) Except for an approved minor boundary line adjustment, as defined by Article IV of this chapter, the proposed consolidation or reconfiguration of existing lots, parcels, or dwelling units in the critical area will result in no greater number of lots, parcels, or dwelling units in the Critical Area and that all of the existing lots were considered legally buildable at the time of recordation.
  - (2) In the Limited Development Area or Resource Conservation Area, the proposed consolidation or reconfiguration of existing lots:
    - (a) Will result in no greater lot coverage than development activities within the configuration in existence at the time of application would allow; and
    - (b) Will result in no greater impact on a steep slope than development activities within the lot configuration in existence at the time of application would allow, if that steep slope is located outside the buffer or expanded buffer.
  - (3) The proposed consolidation or reconfiguration does not:
    - (a) Create an additional riparian parcel or lot, waterfront lot, or any other parcel or deed with water access or

- (b) Intensify or increase impacts associated with riparian access.
  - (4) The proposed consolidation or reconfiguration does not create:
    - (a) A parcel, lot, or portion of a parcel or lot that will serve development activities outside the Critical Area; or
    - (b) A Resource Conservation Area parcel or lot that serves development activities in the Intensely Developed Area or Limited Development Area.
  - (5) The proposed consolidation or reconfiguration of existing lots identifies proposed impacts on Habitat Protection Areas (HPAs). Where impacts to HPAs are proposed in conjunction with the reconfigured or consolidated lots, the impact must not result in any greater impact than would result from development activities within the configuration in existence at the time of application. The applicant must identify protective and restoration measures to mitigate the impacts to ensure that the development activities within the configuration will provide for the least possible adverse impact.
  - (6) The proposed consolidation or reconfiguration of existing lots will meet or exceed the Town's stormwater management requirements.
  - (7) The proposed consolidation or reconfiguration fully complies with the afforestation and reforestation requirements in COMAR 27.01.05 and 21.07.09 unless clearing is necessary to avoid a Habitat Protection Area.
- C. Any application for lot consolidation or reconfiguration shall contain the following:
- (1) A plan drawn to scale in accordance with the procedures for subdivision under Chapter 73 of the Denton Town Code;
  - (2) The date of recordation of each legal parcel of land or recorded, legally buildable lot to be consolidated or reconfigured;
  - (3) A statement from the Denton Director of Planning certifying that the proposed lots or parcels for review are grandfathered;
  - (4) A plan showing all existing and proposed lot or parcel boundaries;
  - (5) A table indicating the number of existing lots or parcels and the number of proposed lots or parcels; and
  - (6) A narrative addressing each of the required findings set forth in this section.
- D. The Director of Planning shall issue a written decision granting or denying the application for consolidation or reconfiguration, which addresses the standards set forth in § 128-174B. After the Director of Planning issues a written decision, he shall send a copy of the decision and, if applicable, the approved development plan within ten (10) business days by United States mail to the Critical Area Commission.

- E. The Critical Area Commission, the Town, or any department or commission thereof, or any person aggrieved by the decision of the Director of Planning may file an appeal of the decision of the Director of Planning to the Board of Appeals by filing a notice of appeal with the Director of Planning specifying the grounds thereof within thirty (30) days. For an appeal by the Critical Area Commission, the thirty-day period shall commence on the date of the Commission's receipt of the final decision or order. For all other appellants, the thirty-day period shall commence on the date of the final written decision or order.
- F. No permit or approval of any type may be issued for the activity on a property that is affected by the final written decision or order until after the expiration of the time within which an appeal may be filed.
- G. In the event any provision of this section conflicts with any provision of state law, the stricter provision shall apply.

#### **§ 128-175. Repair and maintenance.**

- A. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs or in repair or replacement of nonbearing walls, fixtures, wiring, or plumbing to an extent not exceeding 10% of the current replacement value of the building, provided that the cubic content of the building, as it existed at the time of the passage or amendment of this chapter, shall not be increased.
- B. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting public safety upon order of such official.

#### **§ 128-176. Special exception uses considered conforming.**

Any use for which a special exception is permitted as provided in this chapter shall not be deemed a nonconforming use but shall, without further action, be deemed a conforming use in such zone.

### **Article XIV - Citizen Boards.**

#### **§ 128-177. Planning Commission.**

- A. Composition and appointment. There is hereby created a Planning Commission (Commission) consisting of five (5) regular members, appointed by the Town Council. All members shall be residents of Denton. One of the regular members may be a councilperson serving in an ex officio capacity concurrent with the regular member's official term. The Town Council may also designate one alternate member of the Commission who may sit on the Commission in the absence of any regular member of

the Commission. The term of office of each member is five (5) years or until the member's successor takes office. The Town Council shall fill vacancies for the unexpired term of any member whose seat becomes vacant. After a public hearing before the Town Council, members may be removed for inefficiency, neglect of duty, or malfeasance in office. The Town Council shall file a written statement or reasons for the removal.

- B. Officers. The Commission shall elect at its first meeting in each calendar year a Chairperson and a Vice Chairperson from among the appointed regular members, each to serve for one year or until his or her successor is elected. In the event of a vacancy in either of said offices, a successor shall be elected to serve for the unexpired term of the vacated office. In the absence of the Chairperson, the Vice Chairperson shall serve as Acting Chairperson. The Director of Planning shall serve as Executive Secretary to the Commission.
- C. General powers and duties. The Commission shall have the following powers and duties:
  - (1) To review, evaluate, and approve or disapprove plans for subdivisions, and mobile home subdivisions in accordance with this chapter and Chapter 73, Land Subdivision.
  - (2) To review and make recommendations to the Town Council regarding:
    - (a) Proposed changes or amendments to the Denton Comprehensive Plan.
    - (b) Proposed changes or amendments to this chapter.
    - (c) Proposed rezoning.
    - (d) Proposed changes or amendments to Chapter 73, Land Subdivision.
    - (e) Proposed acquisition and development of lands for Town open space or recreation purposes.
    - (f) Proposed changes in land use or development arising from local, state, or federal programs or policies.
    - (g) Development site plans required by Article XVI of this chapter.
    - (h) Proposed annexations and zoning thereupon.
  - (3) To review and make recommendations to the Board of Appeals regarding special exception applications.
- D. Meetings.
  - (1) Meetings of the Commission shall be held once each month or at the call of the Chairperson and at such other times as the Commission may determine.
  - (2) The presence of a majority of the members of the Commission shall constitute a quorum for the conduct of business. In the event of an absence or vacancy of one

or more regular members, the determination of a quorum shall include the alternate member, if in attendance.

- (3) An affirmative vote of the majority present shall be required to effect a decision or recommendation of the Commission.

E. Rules of procedure.

- (1) The meetings of the Commission shall be open to the public, but the Commission may limit active public participation by resolution. When appropriate, the Commission may adjourn to executive session, but only in accordance with the Open Meetings Act, § 10-501 et seq. of the State Government Article of the Annotated Code of Maryland.
- (2) For proceedings before the Commission which require a public hearing, see Article XVII of this chapter.
- (3) At the meetings of the Commission, any interested person shall have the right to submit, in accordance with the established rules, oral or written testimony and comment.
- (4) The Commission may adopt by resolution additional rules of procedure, provided such rules are consistent with this chapter and applicable state enabling legislation. Such rules shall be available to the public.
- (5) The Department of Planning and Codes shall be represented at all meetings of the Commission and shall answer questions and render advice and assistance. Still, the Department of Planning and Codes shall not participate in any decision of the Commission beyond the submission of a staff recommendation for each proposed action. The Commission shall have the authority to consult legal counsel, when necessary, before rendering any decision or making any recommendations.

F. Records.

- (1) The Commission shall keep minutes of all its proceedings which shall contain the names of the members present, a summary of all testimony, comment, or evidence presented, the exhibits presented, and the decision or recommendation of the Commission. The minutes shall also show the vote of each member upon each question or, if absent or failing to vote, indicating that fact.
- (2) A permanent file of each proceeding, including applications and the minutes, shall be maintained in the office of the Department of Planning and shall be a public record.

**§ 128-178. Board of Appeals.**

- A. Organization. The Board of Appeals (Board) shall consist of three (3) regular members, all of whom shall be residents of the Town of Denton. Regular members are to be

appointed by the Mayor and confirmed by the Council and shall serve without compensation. After a public hearing before the Town Council, members may be removed for inefficiency, neglect of duty, or malfeasance in office. The Town Council shall file a written statement or reasons for the removal. Of the members first appointed, one shall serve for one (1) year, one for two (2) years, and one for three (3) years. After that, members shall be appointed for terms of three (3) years each. Vacancies shall be filled in a like manner and for the remainder of the unexpired term of the predecessor.

- B. Alternate members. The Town Council shall designate one alternate member for the Board who may sit in the absence of any regular member of the Board. When the alternate is absent, the Town Council may designate a temporary alternate.
- C. Officers. The Board shall elect a Chairperson and a Vice Chairperson from among its members, each to serve for one year or until his or her successor is elected. In the event of a vacancy in either of said offices, a successor shall be elected to serve for the unexpired term of the vacated office. In the absence of the Chairperson, the Vice Chairperson shall serve as Acting Chairperson. The Director of Planning shall serve as Executive Secretary to the Board of Appeals.
- D. General powers. The Board shall have the following general powers:
  - (1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by the Planning Commission, Director of Planning, or other administrative officer in the enforcement of this chapter. Appeals to the Board of Appeals shall be by way of allegation of error. The party noting the appeal shall allege the error by the officer or agency from which the appeal is taken. The party noting the appeal shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion, by a preponderance of the evidence, on all issues of fact. The party noting an appeal from a decision of the Planning Commission shall be responsible for the cost of producing the sound recording, video recording, or transcript of the proceeding before the Planning Commission.
  - (2) To hear and decide special exceptions to the terms of this chapter upon which such Board is specifically authorized to pass under this chapter.
  - (3) To authorize, upon appeal in specific cases, such variance from the specific terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, the enforcement of the provisions of this chapter will result in unwarranted hardship, and injustice, but which will most nearly accomplish the purpose and intent of this chapter.
  - (4) To determine, in cases of uncertainty, the classifications as to district of any use not specifically named in this chapter; provided, however, such use shall be in keeping with uses specifically named in the district regulations.
- E. Meetings.

- (1) Meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine.
- (2) Two (2) members of the Board shall constitute a quorum. In the event of an absence or vacancy of one regular member, the determination of a quorum shall include the alternate member if in attendance.

F. Rules of procedure.

- (1) The meetings of the Board shall be open to the public, but public participation may be limited to periods during which testimony is permitted.
- (2) The Chairperson or, in their absence, the Acting Chairperson may administer oaths and may compel the attendance of witnesses.
- (3) The Board may adopt by resolution additional rules of procedure, provided such rules are consistent with this chapter and with applicable state enabling legislation. Such rules shall be available to the public.

G. Decisions of the Board.

- (1) An affirmative vote of two (2) members shall be required to affect any decision of the Board.
- (2) A member of the Board who did not attend the public hearing on an application shall not participate in the decision on said application.
- (3) The Board shall deliberate and render its decision in open session within thirty (30) days following the close of the public hearing.
- (4) All decisions by the Board shall be recorded in the minutes and shall include findings of fact based directly on the particular evidence presented to the Board, the conclusions of the Board, and the reasons therefor.
- (5) Each decision shall also include the names of the members of the Board who voted or who were present when a vote was taken and shall indicate the manner in which each member voted.
- (6) A copy of each decision shall be furnished to the applicant(s), the Department of Planning, and any other party to the proceedings without charge.

H. Records.

- (1) The Board shall keep minutes of its proceedings. The minutes shall contain the exhibits presented at the hearing, a summary of all testimony or evidence presented, and the decision of the Board.
- (2) All applications for hearings and the minutes shall be a public record.



- (3) All costs incurred by the Town in transcribing records of meetings and hearings shall be borne by the appellants. All fees shall be paid to the Town before any record of the case is submitted to the appropriate court.

I. Applications.

- (1) All applications for hearings shall be made on forms approved by the Board and shall be available from the Director of Planning.
- (2) The applicant shall sign each application (s), such as an owner, tenant, contract purchaser, or optionee of property involved, the protestant(s), or the agent or attorney of any of them.
- (3) Applications, together with all required information and fees, shall be filed with the Director of Planning according to the predetermined meeting schedule, and the application shall be forwarded to the Board to be considered at the next scheduled meeting.

**§ 128-179. Board of Appeals - Appeals.**

- A. Appeals to the Board may be taken by any person aggrieved or by an officer, department, board, or bureau of the Town affected by any decisions of the Planning Commission, Director of Planning, or other administrative officer. Such an appeal shall be taken within two weeks following the action so appealed by filing with the Director of Planning and with the Board a notice of appeal, specifying the grounds thereof.
- B. An appeal stays all proceedings in furtherance of the action appealed from unless the Director of Planning certifies to the Board, after notice of appeal filed with them, that by reason of that fact in the case, a stay would, in his opinion, cause imminent peril to life and property.

**§ 128-180. Board of Appeals - Special exception.**

- A. In order to provide for adjustment in the relative location of uses and buildings of the same or of different classifications, to promote the usefulness of this chapter as an adjustment, and to supply the necessary elasticity to its efficient operation, special exceptions are permitted by the terms of this chapter.
- B. The Board shall have the power to approve special exceptions for any of the uses for which this chapter requires obtaining such exceptions and for no other use or purpose. The Board shall not grant a special exception except in conformance with the conditions and standards of this chapter.
- C. In granting a special exception, the Board shall make findings of fact consistent with the provisions of this chapter. The Board shall grant a special exception only if it finds adequate evidence that any proposed use submitted for a special exception will meet all

of the standards listed for the proposed uses. The Board shall, among other things, require that any proposed use and location be:

- (1) In accord with the Town's Comprehensive Plan and consistent with the spirit, purposes, and intent of this chapter.
- (2) Suitable for the property in question and designed to be in harmony with and appropriate in appearance with the existing or intended character of the general vicinity.
- (3) Suitable in terms of effects on street traffic and safety with adequate access arrangements to protect streets from undue congestion and hazards.
- (4) Not detrimental to the property values of adjacent development, do not adversely affect the health, safety, and general welfare of residents of the area, and will not adversely affect the area and surrounding property with adverse environmental effects such as undue smoke, odor, noise, improper drainage, or inadequate access.

- D. The Board may impose whatever conditions regarding layout, circulation, and performance it deems necessary to ensure that any proposed development will secure substantially the objectives of this chapter. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The Board shall consider the recommendations of the Planning Commission prior to rendering a decision. The Planning Commission shall review and comment on all applications for special exceptions prior to review and decision by the Board. The applicant for a special exception shall have the burden of proof on all points material to the application, which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party if the Board finds such evidence not to be credible.

#### **§ 128-181. Board of Appeals - Variances.**

- A. Subject to the provisions of § 128-178D, the Board shall have the power to grant variances of the following types and in accordance with the following standards:
- (1) Types of variances.
    - (a) Yard, area, or bulk requirements.
    - (b) Bulk, area, or height of structures.
    - (c) Height or size of signs.
    - (d) Placement of earth satellite antennas.
  - (2) Standards for granting a variance.

- (a) Strict enforcement of this chapter would produce unnecessary and undue hardship as distinguished from variations sought by applicants for purposes or reasons of convenience, profit, or caprice.
- (b) Such hardship is the result of special conditions and/or circumstances not generally shared by other properties in the same zoning district or vicinity and which are peculiar to the land, structure, or building involved. Such conditions and/or circumstances may include but are not limited to the following: exceptional narrowness or shallowness, or both, or irregular shape or topography of the property; unusual and limiting features of the building; or the effective frustration or prevention of reception of satellite programming due to the presence of a physical object or objects which obscure the line of sight when such object or objects cannot be easily removed.
- (c) Such special conditions or circumstances must not be the result of any action or actions of the applicant.
- (d) Granting of the variance must be in harmony with the general purpose and intent of this chapter and must not be harmful to adjacent property, the character of the neighborhood, or the public welfare.
- (e) Granting the variance shall not allow a use expressly or by implication prohibited in the zoning district involved.
- (f) The condition, situation, or intended use of the property concerned is not of so general or recurring a nature as to make practicable a general amendment to this chapter.
- (g) The variance granted must be the minimum necessary to afford relief.
- (h) In granting a variance, the Board of Appeals may prescribe appropriate conditions in conformity with this chapter. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.
- (i) The applicant for a variance shall have the burden of proof on all points material to the application, which shall include the burden of presenting credible evidence as to each material issue and the burden of persuasion on each material issue. The Board of Appeals may disregard evidence, even if uncontroverted by an opposing party if the Board finds such evidence not to be credible.

**§ 128-182. Standards for granting a variance within the Critical Area District.**

- A. In addition to the findings in § 128-181 above, the Board may grant a variance in the Critical Area District, provided that:

- (1) Special conditions or circumstances exist that are peculiar to the land or structure within Denton's Critical Area Program, which would result in an unwarranted hardship. For purposes of this section, "unwarranted hardship" means that without a variance, the applicant will be denied reasonable and significant use of the entire parcel or lot for which the variance is requested.
  - (2) A literal interpretation of this subtitle or the Denton Critical Area Program and this chapter will deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area.
  - (3) The granting of a variance will not confer upon an applicant any special privilege that would be denied by this subtitle or the Denton Critical Area Program to other lands or structures within the Critical Area.
  - (4) The variance request is not based upon conditions or circumstances that are the result of actions by the applicant, including the commencement of development activity before an application for a variance has been filed, nor does the request arise from any condition conforming to any neighboring property.
  - (5) The granting of a variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and the granting of the variance will be in harmony with the general spirit and intent of the Critical Area Law, and the Denton Critical Area Program.
  - (6) The application for a variance has been provided to the Critical Area Commission at least two weeks prior to the variance hearing.
  - (7) A decision has been provided to the Critical Area Commission, in writing, immediately after the variance approval or denial.
- B. In considering an application for a variance, the Town shall presume that the specific development activity in the Critical Area that is subject to the application and for which a variance is required does not conform with the general purpose and intent of Natural Resources Article, Title 8, Subtitle 18, COMAR Title 27, and the requirements of the Town's Critical Area Program. The applicant has the burden of proof and the burden of persuasion to overcome the presumption of nonconformance set forth herein.
- C. The Board shall make written findings reflecting analysis of each standard, including whether the applicant has overcome the presumption set forth in Subsection K(3)(b). The Board's decision and written findings may be based upon any competent evidence or testimony introduced or presented by the applicant, the Town or other governmental agency, or other person or entity as deemed appropriate by the Board.
- D. No permit may be issued for the activity that was the subject of the variance within the Critical Area District until the applicable thirty-day appeal period has elapsed.
- E. Reasonable accommodations for the needs of disabled citizens. Notwithstanding any other provision of this section, the Board may make reasonable accommodations to avoid

discrimination on the basis of a physical disability. Reasonable accommodations for the needs of disabled citizens may be permitted in accordance with the evidentiary requirements set forth in the following subsections.

- (1) An applicant shall have the burden of demonstrating the following:
  - (a) The existence of a physical disability.
  - (b) Literal enforcement of the provisions of this chapter would result in discrimination by virtue of such disability.
  - (c) A reasonable accommodation would reduce or eliminate the discriminatory effect of the provisions of this chapter.
  - (d) The accommodation requested will not substantially impair the purpose, intent, or effect of the provisions of this chapter as applied to the property.
  - (e) Environmental impacts associated with the accommodation are the minimum necessary to address the needs resulting from the particular disability of the applicant.
- (2) The Board shall determine the nature and scope of any accommodation under this section. It may award different or other relief than requested after giving due regard to the purpose, intent, or effect of the applicable provisions of this chapter. The Board may also consider the size, location, and type of accommodation proposed and whether alternatives exist that accommodate the need with less adverse effect.
- (3) The Board may require, as a condition of approval, that upon termination of the need for accommodation, the property be restored to comply with all applicable provisions of this chapter. Appropriate bonds may be collected or liens placed in order to ensure the Town's ability to restore the property should the applicant fail to do so.

#### **§ 128-183. General restrictions on the Board.**

- A. Where in this chapter special exceptions are permitted, or where the Board is authorized to decide appeals or apply certain uses, and where the Board is authorized to approve variances, such approval, decision, or authorization is limited by such conditions as the case may require, including, if necessary, any of the following specifications.
  - (1) No outside signs or advertising structures except professional or directional signs.
  - (2) Limitations of signs as to size, type, color, location, or illumination.
  - (3) Amount, direction, and location of outdoor lighting.
  - (4) Amount and location of off-street parking and loading space.

- (5) Cleaning and painting and other aesthetic aspects.
  - (6) Gable roof or other conforming structural components.
  - (7) Construction and materials.
  - (8) Exits, entrances, doors, or windows.
  - (9) Paving, shrubbery, landscaping, or ornamental or screening fence, wall, or hedge.
  - (10) Time of day or night for operating.
  - (11) Storefront facade or design/renovation.
  - (12) Major structural changes to the building exterior.
  - (13) Prohibition of smoke, dust, gas, noise, or vibration.
- B. Lapse of special exception or variance. After the Board has approved a special exception or granted a variance, the special exception or variance so approved or granted shall lapse after the expiration of two (2) years if no substantial construction or change of use has taken place in accordance with the plans for which such special exception or variance was granted. The provisions of this chapter shall then govern.
  - C. If any application or request is disapproved on the merits by the Board, or after the applicant withdraws the public hearing, after that, the Board of Appeals shall not accept an application for substantially the same proposal on the same premises, until after one (1) year from the date of such disapproval or withdrawal.
  - D. Appeals from certain zoning decisions. Any person described in Land Use Article §4.306 may appeal any decision of the Board and any zoning decision of the Town Council to the Circuit Court for Caroline County in the manner and by the method set forth in the Maryland Rules. Nothing herein contained shall change the existing standards for review of any such appeal.

**§ 128-184. Administrative variance.**

- A. Intent. The purpose of this section is to authorize the delegation of Board of Appeals approval authority to the Planning Commission to apply the standards for variance as specified § 128-181 herein for certain proposed construction activities.
- B. Applicability. This section applies only to new development or redevelopment within one hundred (100) feet of tidal waters, tidal wetlands, and tributary streams on single-family lots of record as of March 1989.
- C. Criteria.
  - (1) New development or redevelopment shall minimize the disturbance in the buffer to the least intrusion necessary.

- (2) Development may not impact any Habitat Protection Area (HPA) as defined in Article II, except the buffer.
- (3) Any development in the buffer approved under the provisions of this subsection shall be mitigated as follows:
  - (a) The extent of the lot or parcel shoreward of the new development or redevelopment shall be required to remain, or shall be established and maintained, in natural vegetation; and
  - (b) Natural vegetation of an area twice the extent of the impervious surface must be created on the property, preferably in the buffer. If on-site planting proves unfeasible, another similar location may be approved by the Planning Commission.
- (4) An applicant who cannot comply with the planting/offset requirements herein may elect to request a variance from the Board as per Subsection A above.
- (5) Any required reforestation mitigation or offset areas shall be designated under a development agreement or other instrument and recorded among the land records of Caroline County.
- (6) The Critical Area Commission shall be notified of an administrative variance application by the Planning Commission two weeks prior to administrative action.

## **Article XV Amendments.**

### **§ 128-185. Provisions for amendment.**

The regulations, restrictions, classifications, and boundaries set forth in this Chapter may, from time to time, be amended, supplanted, modified, or repealed by the Town Council. The reclassification of any property and the relocation of zone boundaries shall be deemed an amendment to this Chapter and subject to the provisions of this article.

### **§ 128-186. Who may initiate amendments.**

Any interested person or governmental agency may make proposals for amending this Chapter's text. Proposals for amendment of the Official Town Zoning Maps may be filed by any governmental agency or by a person with a committed financial, contractual, or proprietary interest in the property to be affected by the proposed amendment.

### **§ 128-187. Procedure for amendment.**

- A. The Town Council shall first refer any officially filed amendment or other change to the Planning Commission for an investigation and recommendation. The Planning Commission or planning staff shall cause such investigation to be made as it deems

necessary and, for the purpose, may require submission of pertinent information by any person concerned and may hold such informal public hearings as are appropriate in its judgment.

- B. The Planning Commission submits its recommendation and pertinent supporting information to the Town Council within sixty (60) days unless the Town Council grants an extension of time.
- C. After receiving the recommendations of the Planning Commission concerning a proposal for amendment to this Chapter's text, the Town Council shall determine whether or not said proposal is suitable to warrant the introduction of legislation and, to that end, may conduct any informal hearings as in its sole discretion it deems appropriate.
- D. Upon introduction of legislation, the Town Council shall hold a public hearing in reference to it. It shall give public notice of such hearings in accordance with the provisions of Article XVII of this Chapter.
- E. After receiving the recommendations of the Planning Commission concerning any proposal for amendment of the Official Zoning Maps and before adoption or denial of same, the Town Council shall introduce legislation for the proposed change and hold a public hearing in reference to it in order that parties of interest and citizens shall have an opportunity to be heard. The Town Council shall give public notice of such hearing in accordance with the provisions of Article XVII hereof.
- F. Regardless of amendment type, a complete record of the hearing and the votes of all members of the Town Council in deciding all questions relating to the proposed amendment shall be kept.
- G. Upon passage of a text amendment to this Chapter, the affected page(s) may be removed from the ordinance and page(s) containing the amended language inserted and footnoted. A list of amendments shall be maintained with appropriate dates at the end of this Chapter.

#### **§ 128-188. Site visit.**

The Town Council shall not approve or disapprove any application for the reclassification of land unless and until a visit to the site in question has been made by at least a majority of the Town Council members in order to inspect the physical features of the property and to determine the character of the surrounding area. However, notwithstanding the provisions of this section, the application for a map amendment shall be decided upon the basis of the evidence of record. Such site visits shall not be required for sectional or comprehensive reclassification.

#### **§ 128-189. Findings for reclassification.**

- A. Where the purpose and effect of the proposed amendment are to change the zoning classification of property, the Town Council shall make findings of fact in each specific



case, including but not limited to the following matters: population change, availability of public facilities, present and future transportation patterns, compatibility with existing and proposed development, the recommendation of the Planning Commission and consistency with the Town's Comprehensive Plan. The Town Council may grant the reclassification based upon a finding that there was a substantial change in the character of the neighborhood where the property is located or that there is a mistake in the existing zoning classification and that a change in zoning would be more desirable in terms of the objectives of the Town of Denton Comprehensive Plan.

- B. The fact that an application for reclassification complies with all of the specific requirements and purposes set forth in this Chapter shall not be deemed to create a presumption that the proposed reclassification and resulting development would, in fact, be compatible with surrounding land uses and is not, in itself, sufficient to require the granting of the application.

#### **§ 128-190. Application for reclassification.**

Every application for reclassification shall be accompanied by a plat drawn to scale showing the existing and proposed boundaries and other information the Planning Commission may need in order to locate and plot the amendment on the Official Zoning Map. Such plat shall not be required for sectional or comprehensive reclassification.

#### **§ 128-191. Filing fee for reclassification.**

A filing fee in an amount that the Town Council shall determine shall be charged for processing an application for reclassification.

#### **§ 128-192. Repeated application for reclassification.**

- A. No application for reclassification shall be accepted for filing by the Town Council if the application is for the reclassification of the whole or any part of the land for which the Town Council has denied reclassification within twelve (12) months from the date of the decision of the Town Council.
- B. However, the Town Council may allow an applicant to withdraw an application for a map amendment at any time, provided that, if the request for withdrawal is made after publication of the notice of hearing, no applications for reclassification of all or any part of the land which is subject of the application shall be allowed within twelve (12) months following the date of the resolution of the Town Council approving such withdrawal, unless, by the resolution allowing withdrawal or subsequent resolution, the Council specifies that the time limitation shall not apply.

### **§ 128-193. Changing of Official Zoning Maps.**

It shall be the duty of the Director of Planning to change the Official Zoning Maps immediately upon the adoption of any amendments, in order that said maps shall always be an up-to-date public record of the zones in the Town. Official Zoning Maps require the signature of Town Council Members and the Town Administrator.

### **§ 128-194. Amendments in Critical Area District.**

- A. Amending the Critical Area boundary, land use management classifications, and program.
  - (1) The Town Council may, from time to time, amend the land use management area classification of properties in the Critical Area District.
  - (2) In addition, the Town Council shall complete a comprehensive review and propose any necessary amendments, as required, to the Critical Area Program at least every four years. The Town Council Comprehensive Review Report to the Critical Area Commission shall be in accordance with Subtitle 18, § 8-1809(g) and (h) of the Critical Area Law.
  - (3) All such amendments shall also be approved by the Critical Area Commission for the Chesapeake and Atlantic Coastal Bays (Critical Area Commission) subsequent to the Town Council approval as established in § 8-1803 of the Critical Area Law, Subtitle 18. Standards for Critical Area Commission approval of proposed amendments are as set forth in the Critical Area Law, Subtitle 18, § 8-1809(j), as revised on July 1, 1990. The Critical Area Commission process for approval of proposed amendments is as set forth in the Critical Area Law, Subtitle 18, § 8-1809(d), as revised on July 1, 1990.
- B. Application for land use management classification or Critical Area Program amendment shall be processed as any other proposed amendment to this Chapter and are subject to the Critical Area Commission approval. Notification shall be made to the Critical Area Commission prior to the Town Council public hearing.
- C. Requirements for amendments:
  - (1) Land use management classification. When considering a proposed change of land use management classification, i.e., Intensely Developed Area (IDA), Limited Development Area (LDA), or Resource Conservation Area (RCA), the Town Council shall not approve amendments unless it is found that there was a mistake in the original classification, or the site will be granted the Growth Allocation (GA) Floating Zone District classification.
  - (2) Adding land to the Critical Area District.

- (a) The Town Council may amend the Critical Area boundary to add land to the Critical Area District, including land areas for which property owners have requested such an amendment, provided that:
  - (i) It is documented that the benefits from the additional resource protection afforded the area exceed the negative impact of any additional development allowed and that provisions are proposed to ensure the continuance of these benefits.
  - (ii) The proposal is supported by competent and material evidence of its benefits for resource protection.
  - (iii) The proposal clearly improves resource protection on primarily undeveloped land.
  - (iv) The extended area is added as a Resource Conservation Area (RCA), and any proposed development meets all RCA requirements.
- (b) Any land or portion added to the Critical Area District under these provisions that has been combined with adjacent Critical Area lands for the purpose of increasing the number of dwelling units that may be placed on the adjacent Critical Area parcel may not be subsequently deleted from the Critical Area District.

#### **§ 128-195. GA Growth Allocation Floating Zone.**

- A. Designation of the floating zone.
  - (1) The Growth Allocation (GA) District shall be a floating zone.
  - (2) The Growth Allocation (GA) District provides for changing the land management classification of Resource Conservation Areas (RCAs) and Limited Development Areas (LDAs) in the Critical Area District. The GA District shall only be permitted on sites or portions of sites that have been awarded reclassification through the growth allocation process. These are approved land management classification changes adopted by the Town Council as an amendment to the Denton Critical Area Program and Official Maps.
- B. The GA Growth Allocation Floating Zone shall meet the standards outlined in §128-194 and shall be processed per the provisions of § 128-187, § 128-195, and § 128-196.
- C. The following policies shall apply to the location and the extent of future Intensely Developed Areas and Limited Development Areas in the Critical Area:
  - (1) New IDAs shall be located in existing LDAs or adjacent to existing IDAs;
  - (2) New LDAs shall be located adjacent to existing IDAs or LDAs;

- (3) No more than one-half of the allocated expansion may be located in RCAs except as provided in § 128-24C(10);
- (4) New IDAs and LDAs shall be located in order to minimize impacts to habitat protection areas and in a manner that optimizes benefits to water quality;
- (5) New IDAs shall be located where they minimize impacts to the defined land uses of any RCAs;
- (6) New IDAs or LDAs located in the RCA shall conform to all criteria of Denton's Critical Area Program for LDAs or IDAs;
- (7) New Intensely Developed Areas and Limited Development Areas in the Resource Conservation Area shall be located at least 300 feet beyond the landward edge of tidal waters or tidal wetlands unless the Town proposes and the Commission approves alternative measures for enhancement of water quality and habitat that provide greater benefit to the resources; and
- (8) When an RCA is converted to a LDA or IDA or a LDA is converted to an IDA, the developer shall be required to cluster the development, as per the applicable performance standards of this Chapter, and provide for resource enhancement in the design of such development.

D. The following are the procedures for accounting for growth allocation acres:

- (1) Subdivision of any parcel of land that was recorded as of December 1, 1985, and classified as RCA or LDA, where Denton classifies all or part of the parcel as a Growth Allocation Floating Zone, shall result in the acreage of the entire parcel, not in tidal wetlands, counting against the Denton growth allocation unless the following conditions are met:
  - (a) On qualifying parcels as described below, on which a change in classifications is approved, a development envelope shall be specified, the acreage of which will be counted against the Town's growth allocation.
  - (b) The envelope shall include individually owned lots, any required buffers, impervious surfaces, utilities, stormwater management measures, on-site sewage disposal measures, any areas subject to human use such as active recreation areas, and any additional acreage needed to meet the development requirements of the criteria.
- (2) The remainder of the parcel will not count against the Town's growth allocation if it is contiguous and at least twenty (20) acres in size, retained its natural features, or is used by resource utilization activities (agriculture, forestry, fisheries activities, or aquaculture) and is restricted from future subdivision and/or development through restrictive covenants, conservation easements, or other protective measures approved by the Critical Area Commission. A forest management plan is required for any forested areas in the undeveloped portion of

the parcel. Reforestation shall be accomplished on lands abandoned from agriculture. Parcels of land that qualify for application of the above guidelines are the following:

- (a) Those parcels designated as new IDAs that are located within an LDA or adjacent to an existing IDA and where the development on the parcel is located at least three hundred (300) feet from the edge of tidal waters, tidal wetlands, or tributary streams, provided that such designation:
  - (i) Minimizes adverse impacts on agriculture, forest lands, fisheries or aquaculture;
  - (ii) Minimizes adverse impacts on habitat protection areas and
  - (iii) Optimizes benefits to water quality.
- (b) Those parcels designated as new LDAs which are located adjacent to existing LDAs or IDAs and where the development on the parcel is located at least three hundred (300) feet from the edge of tidal waters, tidal wetlands, or tributary streams, provided that such designation conforms to the requirements of Subsection D(2)(a)[1] through [3] above.

#### **§ 128-196. Amendments for floating zones.**

- A. Zoning amendment petitions for one of the floating zone classifications shall be subject to a different set of criteria than those outlined above. Floating zone requests shall be reviewed under provisions § 128-64 for PN Planned Development, § 128-72 for PUD Planned Unit Development, and § 128-69 for the A&E floating zone. The provisions of this article regarding the procedures and requirements of public hearings shall apply except that it shall not be necessary to prove a change in the character of the neighborhood or a mistake in the original zoning of the property to gain approval. In floating zones, the test for approval or denial shall be compatible with the neighborhood and consistent with the Comprehensive Plan.
- B. Procedures to maintain a floating rezoning once granted.
  - (1) Within one (1) year of the granting of the original floating rezoning or any amendment to it, applications for building permits must be filed with requisite fees paid. Otherwise, such zoning or Critical Area land use management classification shall revert automatically to its prior classification without notice and public hearing.
  - (2) Within one (1) year of a building permit issuance, construction shall be commenced on the land so zoned or reclassified. Otherwise, such zoning or Critical Area land use management classification shall revert automatically to its prior classification without notice and public hearing unless extended by the Town Council.

- (3) Within three (3) years of granting a floating rezoning, 75% of the public improvements required for such use or uses in the zoning district or Critical Area land use management classification area shall be completed. Otherwise, the zoning or Critical Area land use management classification reverts automatically to its prior classification. The Town Council, at the request of the owner, may grant an extension of this requirement unless extended by the Town Council.

## **Article XVI – Administration.**

### **§ 128-197. Purpose.**

For the purpose of assuring a sound, serviceable arrangement of the following structures and uses and ensuring consistency with the Comprehensive Plan, as well as compliance with applicable requirements of this chapter and/or Chapter 73, Land Subdivision, site plans for the following major uses, whether proposed as special exception uses or permitted uses, shall be subject to review and recommendation by the Planning Commission. The site plan shall be approved, disapproved, or approved subject to conditions by the Director of Planning.

### **§ 128-198. Director of Planning and Codes.**

This chapter shall be administered and enforced by the Director of Planning and Codes. The Director of Planning may be provided with the assistance of such other persons as the Town Council may direct. Delegation of such duties and responsibilities in connection with the administration and enforcement of this chapter may be done as deemed appropriate in the judgment of the Director of Planning.

### **§ 128-199. Permits Required.**

- A. No building or other structure shall be erected, moved, added to, or structurally altered, or land use shall be changed without a Zoning Certificate (Certificate of Approval) issued by the Planning Commission or Director of Planning. No zoning certificate shall be issued except in conformity with the provisions of this Ordinance, except after a written order from the Board of Zoning Appeals.
- B. No building or other structure shall be erected, nor shall any existing building or structure be moved, added to, enlarged, or structurally altered, and no excavation for any building or other structure shall begin without issuing a Zoning Certificate and a Building Permit.
- C. In addition to the Building Permit or Zoning Certificate, the following permits may be required by the Planning Commission and/or Zoning Administrator:
  - (1) Applications Approved by the Board of Zoning Appeals. The Zoning Administrator shall issue permits in conformance with the Board of Appeals' written authorization concerning administrative review appeals, special exception

permit appeals, dimensional variance appeals, or other appeals as authorized in this Zoning Ordinance.

- (2) Change of Use. No change in a building or land occupancy from a use listed explicitly as a "Permitted Use" in Article V to a different use specifically listed as a "Permitted Use" in Article V is permitted without an approved Zoning Certificate. Zoning officials must determine if the proposed use and the approved development plan are allowed in the zoning district. Additional development review and/or a building permit may be required.
  - (3) Change of Occupancy. No change in the occupancy classification of a building or structure, any change in purpose, or change in the level of activity within a building or structure, and/or a change of use of a building or portion of a building within the same use category, for which there is a change in the code requirements is permitted without an approved Zoning Certificate.
  - (4) Combination use. A special exception permit for all uses will be required when a development proposal comprises two or more principal uses that require different types of zoning review, e.g., one use requires a Special Exception and the other only site plan approval or a building.
  - (5) Demolition Permits. No building or other structures shall be razed, demolished, or removed, either entirely or partly, nor shall any activities commence without a demolition permit.
  - (6) Grading Permits. As provided in the Denton Erosion Control Ordinance.
  - (7) Sign Permits. No sign shall be created, erected, moved, added to, or structurally altered, nor shall any activities commence without a sign permit.
  - (8) Subdivision Plat. If the permit involves the subdivision of land, an approved subdivision plat shall be required as provided in Denton Subdivision Regulations.
  - (9) Other Permits. Additional permits, including approvals by other agencies, may be required to enforce the provisions of this Ordinance.
- D. Permits are issued under this Ordinance only when a review of the application submitted indicates that the development will comply with the provisions of this Ordinance if completed as proposed. All plans and applications, as finally approved, are incorporated into any permit issued; all development shall strictly follow such approved plans and applications.
- E. Unless otherwise allowed by the Mayor and Council, physical improvements to the land to be subdivided shall not be commenced without a signed, recorded final plat, a Bond, or Irrevocable Letter of Credit and a public works agreement approved by the Mayor and Council.

- F. In the discharge of their duties, a zoning official shall have the authority to enter any building, structure, or premise in the Town at any reasonable hour to enforce the provisions of this Ordinance.

**§ 128-200. Change in use.**

- A. A substantial change in the use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. Change of use occurs whenever:
- (1) The change involves a change from one principal use category to another.
  - (2) If the original use is a combination use or planned unit development, the relative proportion of space devoted to the individual principal uses that comprise the combination use or planned unit development use changes to such an extent that the parking requirements for the overall use are altered.
  - (3) If the original use is a combination use or planned unit development use, the mixture of types of individual principal uses that comprise the combination use or planned unit development use changes.
  - (4) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out, and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out. It is replaced by a clothing store, which constitutes a change in use even though both tenants fall within the same principal use classification. However, if another florist shop replaced the florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and were replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center combination use) has not changed.
- B. A mere change in the status of property from unoccupied to occupied, or vice versa, does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.
- C. A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.



## **§ 128-201. Development types or land uses requiring site plan approval.**

### **A. Purpose.**

- (1) Site plans aim to assure detailed compliance with applicable provisions of enacted regulations and prescribe standards for the design and construction of site improvements. Development requiring site plan approval shall be permitted only following all specifications on an approved site plan. It shall not be undertaken until the site plan is approved and all required construction permits have been obtained after such approval.
- (2) It is also the purpose to ensure a sound, serviceable arrangement of structures and uses and ensure consistency with the Comprehensive Plan, as well as compliance with applicable requirements of this Chapter and/or Chapter 73, Land Subdivision, site plans, whether for a special exception uses or permitted uses, shall be subject to review and recommendation by the Planning Commission. The site plan shall be approved, disapproved, or approved subject to conditions by the Director of Planning.

### **B. A site plan and supporting documentation shall be submitted to the Planning Commission for review and approval before issuing a zoning certificate or building permit for construction, expansion, or change in use.**

### **C. Applicability. All development or land use activities shall require site plan review before being undertaken, except the following:**

- (1) Construction or expansion of a single-family dwelling, ordinary accessory structures, and related land use activities not involving the expenditure of public funds for any off-site improvements.
- (2) Landscaping or grading that is not intended to be used in connection with a land use reviewable under the provisions of this Zoning Ordinance.
- (3) Ordinary repair, maintenance, or interior alterations to existing structures or uses not involving the expenditure of public funds for any off-site improvements.
- (4) Exterior alterations or additions to existing residential structures that would not increase the square footage of the existing structure by more than five hundred (500) square feet or cost less than \$10,000.00.
- (5) Agricultural or gardening uses.
- (6) All signs except in conjunction with new development.

## **§ 128-202. Procedures for processing.**

### **A. For each application involving site plan approval, twelve (12) copies of a preliminary site plan, together with the required information in Appendix I of this Chapter, shall be**

submitted with the Planning Commission application to the Director of Planning no later than forty-five (45) days prior to the Planning Commission meeting. Building permit applications may be submitted with the final site plan.

- B. Minor, Simplified, and Concept site plans requiring administrative approval shall not have the forty-five-day prior submittal requirement.
- C. The Director of Planning or designated representative shall check the site plan for general completeness and compliance with such administrative requirements as exist or may be established before routing copies thereof to reviewing departments, agencies, and officials. The Director of Planning shall ensure that all reviews are completed on time and that site plans are submitted to the Planning Commission with review comments before the next regular Planning Commission meeting, provided the plans have been submitted forty-five (45) days before the meeting.
- D. Minor site plans deemed complete and requiring only administrative approval shall be reviewed and may be administratively approved, with the concurrence of all appropriate agencies by the Director of Planning. Minor site plans may be forwarded to the Planning Commission for review and approval at the discretion of the Director.

#### **§ 128-203. Simplified site plans and concept plans.**

- A. Simplified site plan.
  - (1) Upon the determination by the Director of Planning, with the concurrence of all appropriate agencies, a simplified site plan may be filed for:
    - (a) duplexes,
    - (b) conversions, redevelopment of existing facilities,
    - (c) development or redevelopment in an MBA Modified Buffer Area of the Critical Area,
    - (d) an accessory building and/or addition to a commercial or industrial use structure in those cases where a field inspection indicates that the scope of the proposed accessory building and/or addition is of such a nature that the provisions for stormwater management, sediment control, off-street parking, setbacks, water and sewerage, and other requirements can be adequately addressed with a simplified site plan.
    - (e) microbusiness and microbusiness change of use,
    - (f) redevelopment of existing facilities or conversion,
    - (g) change of ownership of business enterprise, and
    - (h) change in status of property from unoccupied to occupied.

- (2) The Director of Planning may approve the site plan upon concurrence of all appropriate agencies.
- (3) The simplified site plan shall contain the information for simplified site plans in Appendix I at the end of this Chapter.
- (4) Simplified site plans may be forwarded to the Planning Commission at the discretion of the Director.

B. Concept plan.

- (1) A concept plan is a site plan by which, at the early stages of development design, the Planning Commission may consider major aspects of the development and discuss potential issues without requiring an undue amount of final design work on the developer's part. The concept plan is less detailed and specific than a major site plan regarding the exact arrangement of buildings, parking areas, open spaces, access points, and other site design features. No building permits can be issued based on a general development plan.
- (2) Concept plans shall be required as follows:
  - (a) A concept development plan shall accompany all Official Zoning Map amendment applications.
  - (b) To permit more than one (1) principal structure and its accessory structures on a lot or parcel of land.
  - (c) For consideration of a planned development.

**§ 128-204. Site Plan Review.**

- A. Planning Commission and staff review of the site plan shall include, but is not limited to, the following considerations:
- (1) Alignment with the design guidelines outlined in Appendix III.
  - (2) Adequacy and arrangement of vehicular traffic and circulation, including emergency vehicle access.
  - (3) Location, arrangement, appearance, and sufficiency of off-street parking and loading.
  - (4) Location, arrangement, size, and design of buildings, lighting, and signs.
  - (5) Relationship of the various uses to one another and their scale.
  - (6) Relationship to surrounding development, existing or future.
  - (7) Adequacy, type, and arrangement of trees, shrubs, and other landscaping constituting a visual and noise buffer between adjacent uses and adjoining lands.

- (8) Adequacy of stormwater and sanitary waste disposal.
  - (9) Adequacy of structures, roadways, and landscaping in areas susceptible to flooding, ponding, or erosion.
  - (10) Compatibility of development with the site's natural features and surrounding land uses.
  - (11) Adequacy of floodproofing and flood prevention measures consistent with the flood hazard prevention regulations of the Federal Emergency Management Agency.
  - (12) Adequacy of open space for play areas, informal recreation, and the retention of natural areas such as wildlife habitats, wetlands, and wooded areas.
- B. When granting a special exception is required, the Commission shall forward the site plan and its recommendation to the Board of Appeals.
    - (1) The Board of Appeals may prescribe additional information to be shown on the plan, with all changes and additions to be reviewed for compliance with this Chapter and the Comprehensive Plan.
    - (2) If specified conditions are met in the revised plan, the Director of Planning may approve the issuance of building permits following the revisions without returning the plans for further Planning Commission review.
  - C. The Director of Planning may approve minor changes in site plans after approval by the Planning Commission or Board of Appeals and approve the issuance of building permits accordingly if such changes do not substantially affect the original approval or conditions attached to it.
  - D. Nothing in this section shall be interpreted to permit the granting of a variance or special exception to the regulations of this Chapter or to abridge the procedures or requirements of the laws and ordinances governing the subdivision of land.
  - E. After approval of the preliminary plan, two (2) final drawings must be submitted to the Department of Planning, with one (1) copy to be kept on file.

**§ 128-205. Required information to be shown.**

Every site plan submitted per this Article shall contain the information shown in Appendix I at the end of this Chapter.

**§ 128-206. Specific standards and conditions on site plan approval.**

The following specific standards will be met in the site plan, in addition to other requirements of this Chapter:

- A. Lighting. Lighting emitting objectionable glare or sky glow observable from surrounding properties or streets will be shielded.
- B. Public facilities. The Town and/or Health Department shall certify that the proposed water and sewer facilities are adequate to service the proposed development.
- C. Screening. The Planning Commission may recommend screening the property lines and the parking areas around and within. Minimum standards are:
  - (1) Planting strips will be no less than five (5) feet wide and planted with shrubs and/or trees, which are of a type and spaced at intervals that may be expected to form a year-round dense screen at least six (6) feet high within three (3) years; and
  - (2) Opaque fencing may be used instead of trees and shrubs, subject to Approval of the Director of Planning.
- D. Common areas. If the plan of development includes common areas, property, and/or facilities, including, but not limited to, stormwater management facilities, the Director of Planning, as a condition of Approval, shall establish such conditions on the ownership, use, and maintenance of such lands or property as he deems necessary to insure the preservation and maintenance of such areas, property, and facilities for their intended purposes.

#### **§ 128-207. Required improvements.**

In furtherance of the purposes of this Chapter and to assure public safety and general welfare, the Town departments and agencies charged with the responsibility for the review and Approval of site plans shall require such of the following improvements as fall within their respective responsibilities:

- A. Designate pedestrian walkways so individuals can walk from store to store or building to building within and adjacent sites.
- B. The concurrence of the State Department of Transportation with the location and design of vehicular entrances and exits to and from state-maintained streets and highways.
- C. Connection, wherever possible, of all walkways, travel lanes, and driveways with similar adjacent developments.
- D. Screening, fences, landscaping, and buffer areas as are required by the provisions of this section and other ordinances of the Town.
- E. Easements or rights-of-way for all facilities to be publicly maintained. Such easements shall clearly be defined for the purpose intended.
- F. Outdoor lighting facilities as specified in Article XI, Outdoor Lighting, in this Chapter.

- G. Adequate stormwater management facilities as specified by Chapter 106, Stormwater Management.

**§ 128-208. Agreement bond for improvements.**

- A. Before approval of any site plan, there shall be executed by the owner or developer and submitted with the site plan an agreement to construct such required physical improvements as are located within public rights-of-way or easements or as are connected to any public facility in form and substance as approved by the Town of Denton, together with a bond or surety acceptable to the Town in the amount of the estimated cost of the required physical improvement of all work covered thereby, which time may be extended by the Town Council upon written application by the owner or developer, signed by all parties (including sureties) to the original agreement. The adequacy, conditions, and acceptability of any bond or surety hereunder shall be determined by the approving authority for the Town. The Town Attorney shall determine the legal sufficiency of the bond or surety.
- B. The Town may also require agreement bonds for landscaping and bufferyard plantings. The bond (amount to be determined by the Town Arborist) may be held for the Town for one (1) year to ensure that plantings remain healthy and alive during this period.

**§ 128-209. Approval and extension.**

- A. Approval of a site plan submitted under the provisions of this article shall expire two (2) years after the date of such Approval unless building permits have been obtained for construction per that site plan.
- B. A one-year extension may be given upon written request by the applicant to the Director of Planning within ninety (90) days before the approved site plan expires. The Director of Planning shall acknowledge the request and shall forward the request within forty-five (45) days after receipt to the Planning Commission for a recommendation regarding the requested extension.
- C. No extension shall be approved if development standards applicable to the approved site plan have been revised and actual construction has not lawfully begun before the effective date of adoption or amendment of this Chapter and upon which actual building construction has been diligently carried on. Actual construction is defined to include the placing of construction materials in a permanent position and fastened permanently; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, if work shall be diligently carried on until completion of the building involved.

### **§ 128-210. Modification, revision, and waiver.**

Any site plan may be revised using the same procedure as initially approved, and the Planning Commission may waive any requirements of this Article or the Director of Planning for minor modifications as specified in Subsection A in specific cases where such requirement is found to be unreasonable. No such waiver shall be adverse to the purpose of this section. Approved site plans may be modified as follows:

- A. Minor modifications. The Director of Planning may authorize minor adjustments in an approved plan as follows:
  - (1) Minor modification of the size and location of drainageways, sewers, roadways, plantings, or other similar features in light of technical or engineering considerations.
  - (2) Minor modifications of the bulk of any proposed structure, provided that the modified dimensions comply with all requirements of the applicable zoning district and do not allow buildings closer to property lines or otherwise adversely affect neighboring properties or the development authorized by the plan as initially approved.
  - (3) Any request to modify any condition imposed in a site plan approval which the Planning Director deems to be a minor modification.
- B. Major modifications. Modifications to any approved site design plan that the Director of Planning deems to be a major modification may be approved only per the procedures required for original plan approval, subject to waivers of plan submission requirements by the Director of Planning.

### **§ 128-211. Building permit.**

No building permit shall be issued for any structure in any area covered by the site plan that is required under the provisions of this article except as it conforms to such site plan, which has been duly approved.

### **§ 128-212. Construction and Use.**

Building permits and occupancy permits issued based on site plans and applications approved by the Director of Planning or the Planning Commission authorize only the use, arrangement, and construction outlined in such approved plans and applications and no other use, arrangement, or construction.

**§ 128-213. Administration approvals, accessory structures.**

- A. The Director of Planning and Codes ("Director"), or his or her designee shall approve, approve with conditions, or deny any application for an accessory structure that does not require:
  - (1) Substantial change to existing or new stormwater management requirements;
  - (2) Substantial change to existing or new parking, pedestrian or vehicular traffic requirements; and
  - (3) Substantial change to existing or new forest conservation or any other habitat protection requirements.
- B. The applicant for an accessory structure proposal shall be the recorded owner of the property or an agent authorized in writing by the owner.
- C. All other applications for an accessory structure not permitted under § A shall require Planning Commission approval per Article VI, Supplement Use Regulations.
- D. Expiration of approvals. Approvals shall expire two (2) calendar years from issuance by the Director or his or her designee if substantial construction has not occurred.
- E. Time extensions of approved applications. Upon written notice by the applicant and payment of fees, the Director or their designee may grant a one-time extension of one (1) calendar year if the application is substantially the same and the accessory structure remains compliant with the provisions of this section. Notice of the decision by the Director or his or her designee shall be provided in writing.
- F. Modifications of approved plans. The applicant may request a modification of the approved plans, provided the modifications comply with the requirements of this section.

**Article XVII Requirements for public hearing and public notice.**

**§ 128-214. Posting.**

- A. Unless otherwise expressly provided by law, all notices to the general public required by § 128-216 shall be made by posting the property to be affected by the pending proceeding. Such posting shall be made at least 14 days prior to the hearing date by the erection of a sign to be furnished by the Department of Planning. Such sign shall be continuously posted until the date of the hearing and shall not be removed until the time specified in Subsection E herein. Such sign shall be erected by the initiator of the proceeding within ten (10) feet of the boundary line of the property, which abuts the most traveled public road. If no public road abuts thereon, then such sign shall face in such direction as designated by the Director of Planning and shall bear the words:

PUBLIC HEARING NOTICE



Case Number: \_\_\_\_\_ pending  
(nature of the case)

For information, call: \_\_\_\_\_  
(telephone number)

The blanks shall be filled in with the assigned case number, if any, a short description of the nature of the proceeding, and the telephone number of the appropriate government office to provide information regarding the proceeding.

- B. The Department of Planning shall furnish the sign to the initiator of the proceeding with payment by the initiator of a nonrefundable deposit of \$10.
- C. At the hearing, it shall be the duty of the initiator of the proceeding to prove by affidavit or in person that he has fully complied with this section.
- D. Any sign to be posted pursuant to this section shall be maintained in a visible location and free from obstruction by brush, weeds, or other growth until after the public hearing is held. Such a sign shall be removed within five (5) days after the appropriate administrative board renders the final decision.
- E. Posting of the property as stated herein shall not be required for sectional or comprehensive amendment procedures.

### **§ 128-215. Public hearing.**

All proceedings under the terms of this chapter requiring a public hearing shall be advertised by the Town once a week for two successive weeks in a newspaper of general circulation in the Town, with the first such advertisement at least fourteen (14) days prior to the public hearing, the cost for which publication shall be borne by the petitioner, prior to the date the proceeding is scheduled for hearing, which advertisement shall state the following:

- A. The date, time, and place of such hearing.
- B. A summary of the purpose of the proceeding in sufficient detail to inform the public of the nature of the proceeding and the relief sought by the initiator of the proceeding.
- C. The location of the property involved, its area, name of owner, file or case number of the proceeding, and the name of the governmental body before which such proceeding is to be conducted.
- D. Any other information deemed necessary by the Director of Planning to adequately inform the public of the proceeding.

## **§ 128-216. Public notice.**

- A. Preliminary major site plans, subdivisions, and applications under the provisions of the IRD Infill and Redevelopment Overlay Zone are subject to the public notice requirements outlined herein. The Planning Commission may require public notice for the review of a final major site plan or major subdivision.
- B. The applicant shall give at least fourteen (14) days notice of the time and place of the Planning Commission review of a preliminary major site plan or subdivision application by mail to the owners of property within two hundred (200) feet of the property with which the Planning Commission's review is concerned.
- C. A certificate of mailing shall be submitted to the Department of Planning and Codes prior to the date on which the proceeding is scheduled. Failure to provide a certificate of mailing to all property owners within two hundred (200) feet of the property on which the proceeding is scheduled shall delay the proceeding. The mailed notice shall be directed to the address to which the real estate tax bill on the property is sent. Said notice shall contain the same information as the published notice required by § 128-216 of this article.
  - (1) The date, time, and place of such review.
  - (2) A summary of the purpose of the proceeding in sufficient detail to inform the public of the project scope.
  - (3) The location of the property involved, its area, name of the owner.
  - (4) Any other information deemed necessary by the Director of Planning to adequately inform the public of the proceeding.
- D. The Department of Planning shall provide a complete, accurate, and up-to-date list of all such property owners that require notice. Failure of a person to receive the notice shall not impair the validity of the hearing. For any Planning Commission or Board of Appeals review that requires notification to contiguous property owners, the petitioner shall also post the subject property at least fourteen (14) days prior to the meeting.

## **Article XVIII Enforcement**

### **§ 128-217. Duties of Director of Planning and Codes, officers, and employees.**

It shall be the duty of the Director of Planning to enforce the provisions of this chapter and to refuse to issue any permit for any building or for the use of any premises which would violate any of the provisions of this chapter. It shall also be the duty of all officers and employees of the Town to assist the enforcing officer by reporting to him or her any seeming violation in new construction, reconstruction, or land use.

### **§ 128-218. Instituting action to end violation.**

In case any building is erected, constructed, reconstructed, altered, repaired, demolished, or converted or any building or land used in violation of this chapter, the Director of Planning is authorized and directed to institute any appropriate action to put an end to such violation.

### **§ 128-219. Violations and penalties.**

- A. It shall be considered a municipal infraction for any person or corporation to violate any provision of this chapter or to erect, construct, alter or repair, convert, or maintain any building or structure, sign, or land in violation of any written statement or plan submitted and approved hereunder.
- B. It shall be considered a municipal infraction for any owner, tenant, or occupant of a building, structure, sign or land, or part thereof, which violates this chapter, or any architect, builder, contractor, subcontractor, agent, servant, person or corporation, knowingly to assist or further the commission of any violation of this chapter. There shall be a rebuttable presumption that the defendant was violating this chapter knowingly.
- C. In the event that any person is found to have committed a municipal infraction hereunder, notice shall be given in the same manner as for property maintenance violations that incorporate requirements stated in Chapter 94 of the Town Code.
- D. In the event that any person is found to have committed a municipal infraction hereunder, each infraction shall be punishable by a fine of up to the maximum municipal infraction fine permitted by state law for each single violation. Each day such violation continues shall be a separate offense. In addition to said fine, the Town may request during the adjudication of the infraction that the defendant abate the violation or, in the alternative, to permit the Town to abate the violation at the defendant's expense, with the costs to be assessed against the property as a lien collectible in the same manner as real estate taxes. Nothing herein shall prevent the Town from taking such other lawful action as is necessary to prevent or remedy any violation.

### **§ 128-220. Banner enforcement.**

Should there be a violation of any provisions of § 128-142, the Town shall provide immediate notice of the violation to the lessee and/or the owner of the property on which the banner is located and shall require said persons to correct the violation within 24 hours of notice of the violation, which may include removal of the banner. In the event that this violation continues after the twenty-four-hour period referenced herein, the violation shall be a municipal infraction, and this chapter will be enforced in accordance with Chapter 20, Infractions; General Penalty, of the Code of the Town of Denton.

## Appendix I - Basic Information Required on Site Plans

### GENERAL NOTES:

1. Applicants must submit clear and legible plats and plans. Incomplete submissions will be returned for correction and resubmission.
2. Applicants must provide all required information unless a waiver has been requested and approved.
3. Final Plats will include a GIS submittal in NAD\_1983\_StatePlane\_Maryland\_FJPS\_1900, Datum: D\_North\_American\_1983 with metadata.

Item	Description	Concept Plan	Minor Plan	Simplified Site Plan	Major Site Plan		Item Checkoff ✓
					Preliminary	Final	
I. Project Plat Information							
1.	Name, and address of owner, applicant, developer, and lien holder, date of application.	X	X	X	X	X	
2.	Name and address of engineer, land surveyor architect, planner, and/or landscape architect, as applicable, involved in document preparation.	X	X	X	X	X	
3.	Date of the survey.		X	X	X	X	
4.	Seal, signature, and license number of engineer, land surveyor, architect, and/or landscape architect, as applicable, involved in document preparation. Each sheet must have a surveyor's seal.		X	X	X	X	
5.	Title block denoting name and type of application, Tax Map sheet, block and lots, parcel, and street location.	X	X	X	X	X	
6.	Location of the tract by an insert map or vicinity map, and such information as the names and numbers of adjoining roads, streams, bodies of water, subdivisions, or other landmarks sufficient to clearly identify the location of the property.	X	X	X	X	X	
7.	Existing and proposed zoning of the tract and adjacent property.	X	X	X	X	X	
8.	Proposed use of the structural addition.	X	X	X			
9.	Title, North arrow, and scale.	X	X		X	X	
10.	Appropriate signature block for Town officials.		X	X	X	X	
11.	Appropriate certification blocks.		X	X		X	
12.	Standardized sheets 24" x 36" (Town) Verify the size required for other agencies.		X		X	X	
13.	Metes and bounds survey showing dimensions, bearings, curve, data, length of tangents, radii, arc, chords, and central angles for all center lines and rights-of-way, and center line curves on streets, datum and benchmark, primary central points approved by the Town Engineer.		X	X	X	X	

Item	Description	Concept Plan	Minor Plan	Simplified Site Plan	Major Site Plan		Item Checkoff ✓
					Preliminary	Final	
14.	Acreage of tract to the nearest thousandth of an acre.	X	X	X	X	X	
15.	Date of original and all revisions.	X	X	X	X	X	
16.	Size and location of any existing or proposed structures with all setbacks dimensioned (for concept plan and general location but not setbacks). Include storm drains, culverts, retaining walls, fences, stormwater management facilities, sediment and erosion structures.	X	X	X	X	X	
17.	Location, dimensions, bearings, and names of any existing or proposed roads or streets. The location of pedestrian ways, driveways, and right-of-way widths (for concept plans, general locations).	X	X	X	X	X	
18.	Location and type of utilities.		X		X		
19.	General location, character, size, height, and orientation of proposed signs.		X	X	X		
20.	All proposed lot lines (width and depth) and area of lots in square feet, number of lots, and lot numbers.		X		X	X	
21.	Number of dwelling units	X	X		X	X	
22.	Location, type, size, and height of fences, walls, screen planting and landscaping and buffer areas.		X	X	X	X	
23.	Any existing or proposed easement (drainage and utility) or land reserved for or dedicated to public use. Location, dimensions of proposed reservations, rights-of-way, open space, buffers, and forested areas, along with means by which these areas will be permanently maintained.	X	X	X	X	X	
24.	Copy and/or delineation of any existing or proposed deed restrictions or covenants.		X		X	X	
25.	References to protective covenants governing the maintenance of undedicated public spaces or reservations.		X			X	
26.	Statement of owner dedicating streets, rights-of-way, and any sites for public use.		X			X	
27.	Development stages or phasing plans (for concept plans, general phasing). Sections numbered by phase.	X			X	X	
28.	Total number of off-street parking spaces, including ratio and number of units per space.	X	X	X	X	X	
29.	List of required regulatory approvals/permits.	X	X	X	X	X	
30.	List of variances required or requested.	X	X	X	X	X	
31.	Requested or obtained design waivers or exceptions.	X	X	X	X	X	
32.	Payment of application fees and tax payments up to date.	X	X	X	X	X	

Item	Description	Concept Plan	Minor Plan	Simplified Site Plan	Major Site Plan		Item Checkoff ✓
					Preliminary	Final	
33.	The total area of the site that will be temporarily and/or permanently disturbed.		X	X	X	X	
<b>II. Setting - Environmental Information</b>							
34.	All existing streets, watercourses, floodplains wetlands, or other environmentally sensitive areas on or adjacent to the site.	X	X	X	X	X	
35.	Existing rights-of-way and/or easements on or immediately adjacent to the tract.	X	X	X	X		
36.	Topographical features of the subject property from the USGS map or a more accurate source at two-foot to five-foot intervals, 50 feet beyond the boundary, with the source stated on maps.	X			X		
37.	Field delineated or survey topo.		X			X	
38.	General areas of greater than 15% slope shaded and identified as steep slopes.	X	X	X			
39.	Slope analysis of greater than 15% slopes. These areas shall be shaded and identified as steep slopes.				X	X	
40.	Forest stand delineation, as required.		X	X	X	X	
41.	The existing system of drainage of the subject site and adjacent sites and of any larger tract or basin of which it is a part.		X	X	X	X	
42.	A one-hundred-year floodplain based on FEMAmaps.	X	X	X	X	X	
43.	Tidal and nontidal wetland delineation-based on NWI maps and field reviews.	X	X	X	X	X	
44.	Nontidal wetlands identification based on field delineation/determination.				X	X	
45.	Location of sensitive areas and their buffers.	X	X	X	X	X	
46.	Location and width of required bufferyards.	X	X	X	X	X	
47.	Soil types based on Caroline County Soil Survey.		X	X	X		
48.	Traffic impact study, as required.				X		
49.	Statement of effect on the school district and school bus service.				X		
<b>The following additional information items are required in the areas designated Critical Areas.</b>							
50.	Location of the Critical Area District boundary and Critical Area designation.	X	X	X	X	X	
51.	Number of acres in the Critical Area.	X	X	X	X	X	
52.	Mean high-water line and the landward edge of tidal wetlands.	X	X	X	X	X	
53.	Location of existing forested areas to be disturbed by construction. Planting plan approved by the Maryland Forest Service (final).	X	X	X	X	X	
54.	Buffer management plan.	X	X	X	X	X	

Item	Description	Concept Plan	Minor Plan	Simplified Site Plan	Major Site Plan		Item Checkoff ✓
					Preliminary	Final	
55.	The known locations of HPAs, the habitat of any threatened or endangered species, and the habitat of any species in need of conservation. (See Denton Critical Area Program.) Habitat Protection Plan reviewed by the Maryland Fish, Heritage, and Wildlife Administration.	X	X	X	X	X	
56.	The location of the Critical Area buffer and the expanded buffer, as required.	X	X	X	X	X	
57.	The one-hundred-foot buffer line, lot coverage (impervious surfaces), mitigation size, and location of adjacent structures, if applicable.	X	X	X	X	X	
58.	Hydric and highly erodible soils based on the Caroline County Soil Survey.	X	X	X	X	X	
59.	Shore erosion protection plan, if applicable.					X	
60.	Environmental assessment.		X	X	X		
61.	Statement of consistency with the Critical Area program.	X	X	X	X	X	
<b>III. Building Design</b>							
62.	Preliminary architectural plan and elevations.	X	X	X	X		
63.	Statement of how the proposed building design will align with the Design Guidelines in Appendix III.	X	X	X	X		
64.	Final architectural plan and elevations.					X	
65.	Note stating, "Any deviation from the approved architectural plans and elevations requires the owner/developer to submit revised architectural plans and elevations to the Planning Commission for review and approval prior to implementation."					X	
<b>IV. Plats, Improvement Plans, and Construction Information</b>							
66.	Grading and drainage plans, including roads, drainage ditches, sediment basins, and berms.		X		X	X	
67.	Existing and proposed contour intervals as follows: Slope of less than 5% = one foot Slope of 5% to 15% = two feet or less Greater than 15% = as required for construction		X		X	X	
68.	Proposed location and size of the vehicular entrance(s) to the site.	X	X	X	X	X	
69.	Existing and proposed utility infrastructure plans and profiles, including sanitary sewer, water, and stormwater management.		X	X	X	X	
70.	Grades and sizes of sanitary sewers and waterlines.		X	X	X	X	
71.	Direction and distance to water and sewer, if not available on or adjacent to the site with invert and elevation of the sewer.		X	X	X		
72.	Location of any outdoor storage areas.		X	X	X	X	
73.	Location of fire hydrants.		X		X	X	
74.	Construction details as required by ordinance.		X	X		X	
75.	Stormwater management plan.		X	X	X	X	

Item	Description	Concept Plan	Minor Plan	Simplified Site Plan	Major Site Plan		Item Checkoff ✓
					Preliminary	Final	
76.	Soil erosion and sediment control plan.		X	X	X	X	
77.	Location and design of outdoor lighting facilities		X		X	X	
78.	Lighting plan and details, as required.		X			X	
79.	Location and design of bicycle parking facilities.		X	X	X	X	
80.	Proposed street names.				X	X	
81.	Landscape plan and details, including required bufferyards.		X	X	X	X	
82.	Forest conservation plan.				X	X	
83.	Required county, state, and/or federal approvals, e.g., State Highway Administration, County Public Works, Army Corps of Engineers, DNR wetlands permit/license, MDOE quality certification, MDOE sanitary construction permit, local Health Department approvals.		X	X		X	
84.	Public works agreement and surety instruments, as required.		X			X	

X = Item required at the indicated development stage

A completed Appendix is required to be submitted with each site plan application.

In addition to the physical document submission, provide an electronic copy of the full submission package. Electronic files should not be protected.

Provide as-built drawings at project completion.



## **Appendix II - Bufferyard Requirements**

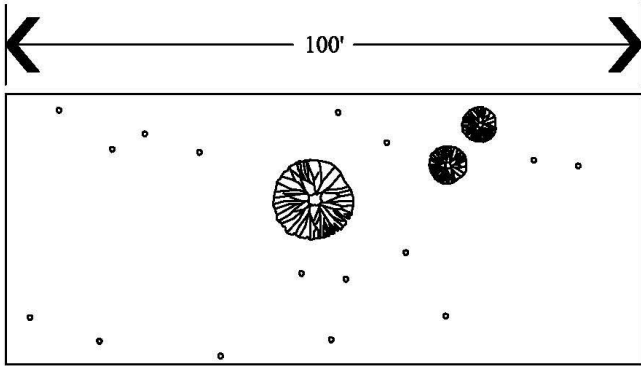
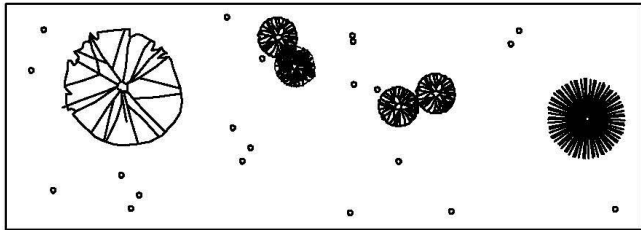
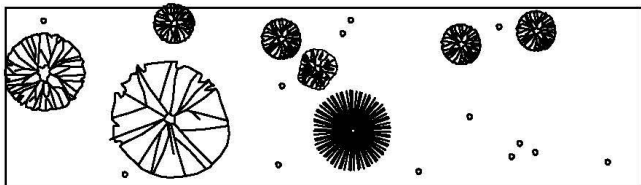
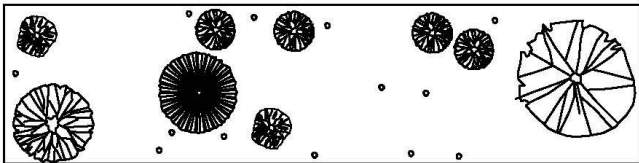
### **§ 1. Bufferyard specifications.**

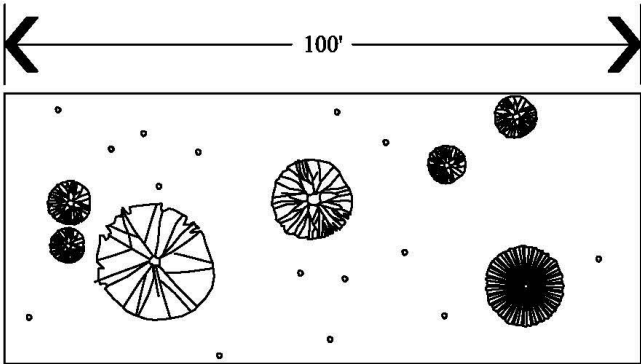
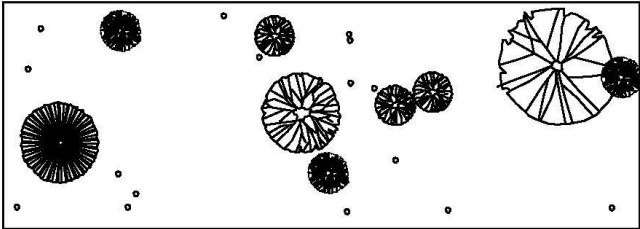
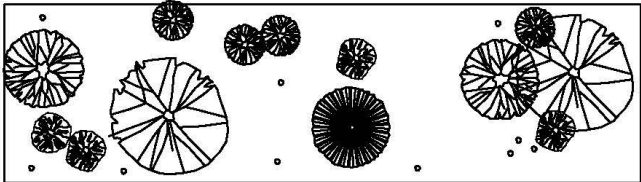
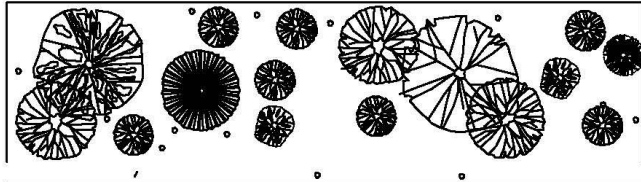
- A. The following illustrations graphically indicate the specifications of each bufferyard. Bufferyard requirements are stated in terms of the width of the bufferyard and the number of plant units required per 100 linear feet of bufferyard. The recommended bufferyard should be one of the options illustrated. The "plant unit multiplier" is a factor by which the basic number of plant materials required for a given bufferyard is determined, given a change in the width of that yard. The type and quantity of plant materials required by each bufferyard, and each bufferyard option, are specified in this section.
- B. Afforestation and reforestation plantings required under the Forest Conservation requirements contained in the ordinance may occur in bufferyards, provided that such plantings meet the minimum requirements for afforestation or reforestation.
- C. The options within any bufferyard are designed to be equivalent in terms of their effectiveness in eliminating the impact of adjoining uses. Cost equivalence between options was attempted where possible. Generally, the plant materials that are identified as acceptable are determined by the type(s) of soil present on the site. Each illustration depicts the total bufferyard located between two uses.

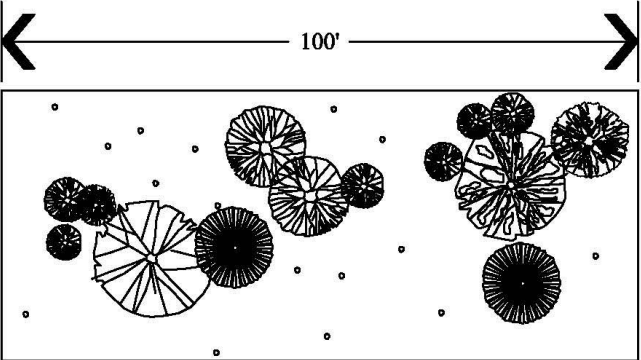
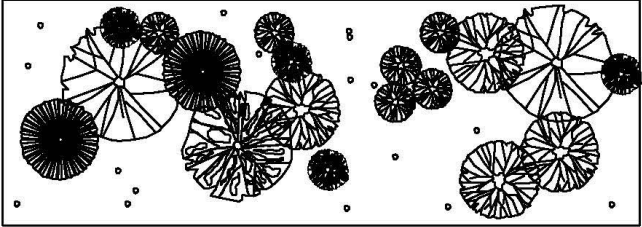
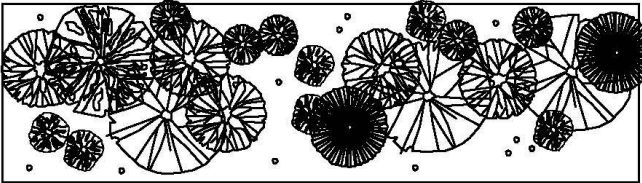
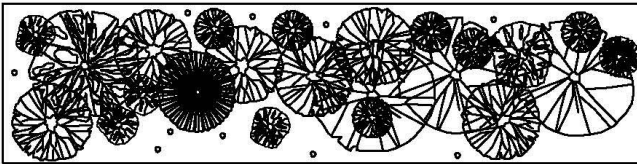
### **§ 2. Plant material.**

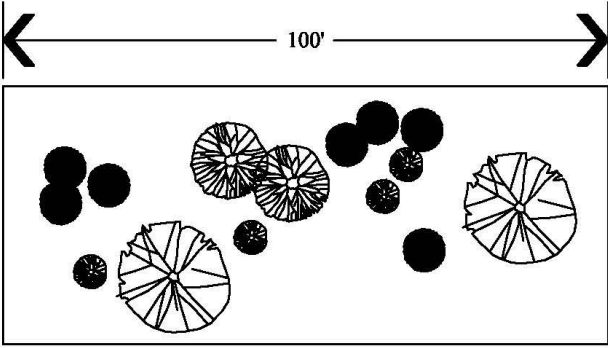
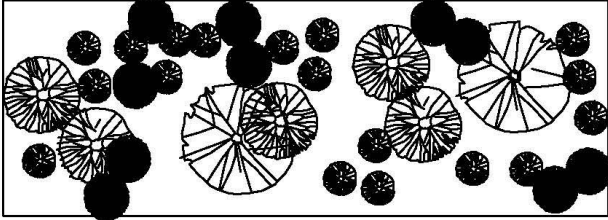
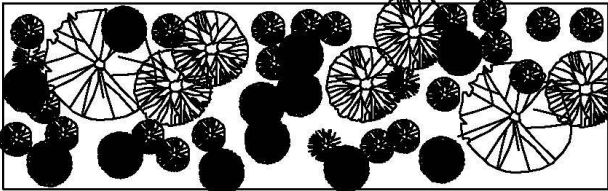
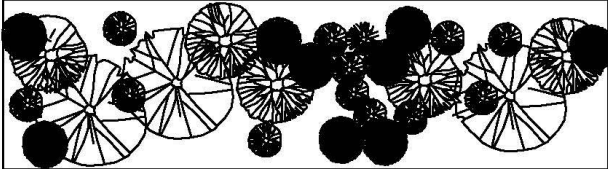
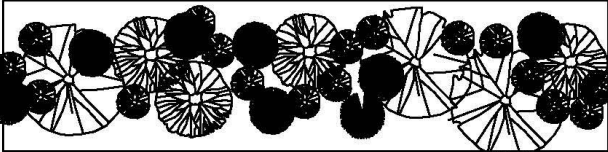
- A. The following plant material substitutions shall satisfy the requirements of this section.
  - (1) In bufferyard A, evergreen canopy or evergreen understory trees may be substituted as follows:
    - (a) In the case of deciduous canopy forest trees, up to a maximum of 50% of the total number of deciduous canopy trees is otherwise required.
    - (b) In the case of deciduous understory, without limitation.
  - (2) In all bufferyards, evergreen or conifer shrubs may be substituted for deciduous shrubs without limitation.
  - (3) In all bufferyards required for public service uses, the public service use may substitute evergreen canopy or evergreen understory plant materials for canopy forest trees and understory plant materials without limitation.

- B. If the development on the adjoining use is existing, planned, or deed-restricted for solar access, understory trees may be substituted for canopy trees where canopy trees would destroy solar access. Any existing plant material which otherwise satisfies the requirements of this section may be counted toward satisfying all such requirements.
- C. Evergreen (or conifer) Class III and IV plant materials shall be planted in clusters rather than singly in order to maximize their chances of survival.
- D. All bufferyard areas shall be seeded with lawn unless the ground cover is already established.

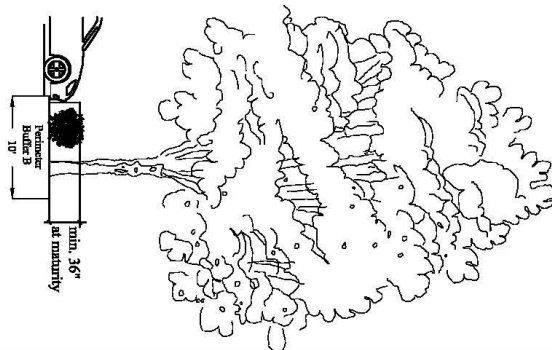
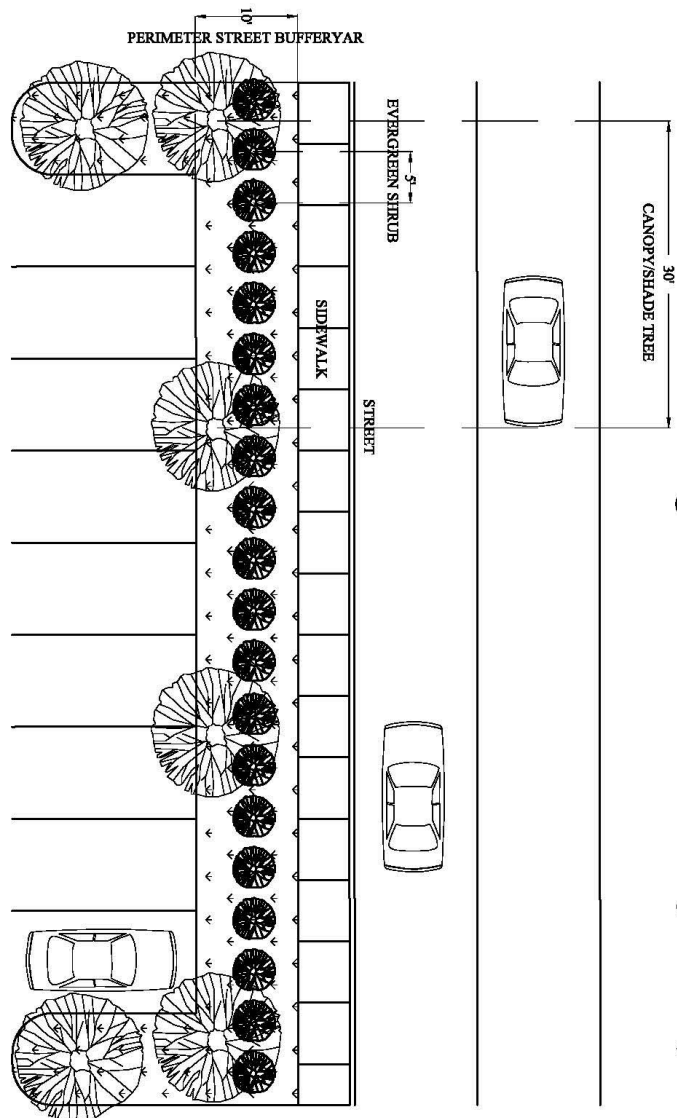
Plant Unit Multiplier		Resulting Plan Units Required			
0.6		1 Understory Trees 2 Shrubs			
0.8		1 Canopy Trees 1 Understory Trees 4 Shrubs			
0.9		1 Canopy Trees 2 Understory Trees 5 Shrubs			
1.0		1 Canopy Trees 2 Understory Trees 6 Shrubs			
<table border="1"> <tr> <td>Appendix II Bufferyard Standards</td> <td><b>BUFFERYARD A</b></td> <td>Denton, Maryland Zoning Ordinance</td> </tr> </table>			Appendix II Bufferyard Standards	<b>BUFFERYARD A</b>	Denton, Maryland Zoning Ordinance
Appendix II Bufferyard Standards	<b>BUFFERYARD A</b>	Denton, Maryland Zoning Ordinance			

Plant Unit Multiplier		Resulting Plan Units Required			
0.6		1 Canopy Trees 2 Understory Trees 4 Shrubs			
0.8		1 Canopy Trees 2 Understory Trees 6 Shrubs			
0.9		2 Canopy Trees 3 Understory Trees 8 Shrubs			
1.0		2 Canopy Trees 4 Understory Trees 10 Shrubs			
<table border="1"> <tr> <td>Appendix II Bufferyard Standards</td> <td><b>BUFFERYARD B</b></td> <td>Denton, Maryland Zoning Ordinance</td> </tr> </table>			Appendix II Bufferyard Standards	<b>BUFFERYARD B</b>	Denton, Maryland Zoning Ordinance
Appendix II Bufferyard Standards	<b>BUFFERYARD B</b>	Denton, Maryland Zoning Ordinance			

Plant Unit Multiplier		Resulting Plan Units Required			
0.6		2 Canopy Trees 5 Understory Trees 7 Shrubs			
0.8		3 Canopy Trees 6 Understory Trees 10 Shrubs			
0.9		4 Canopy Trees 7 Understory Trees 11 Shrubs			
1.0		4 Canopy Trees 8 Understory Trees 12 Shrubs			
<table border="1"> <tr> <td>Appendix II Bufferyard Standards</td> <td><b>BUFFERYARD C</b></td> <td>Denton, Maryland Zoning Ordinance</td> </tr> </table>			Appendix II Bufferyard Standards	<b>BUFFERYARD C</b>	Denton, Maryland Zoning Ordinance
Appendix II Bufferyard Standards	<b>BUFFERYARD C</b>	Denton, Maryland Zoning Ordinance			

Plant Unit Multiplier		Resulting Plan Units Required			
0.6		2 Canopy Trees 2 Understory Trees 4 Shrubs 7 Evergreens/Conifers			
0.8		2 Canopy Trees 5 Understory Trees 19 Shrubs 10 Evergreens/Conifers			
0.9		2 Canopy Trees 5 Understory Trees 24 Shrubs 12 Evergreens/Conifers			
0.9		3 Canopy Trees 5 Understory Trees 18 Shrubs 9 Evergreens/Conifers			
0.7		3 Canopy Trees 4 Understory Trees 17 Shrubs 8 Evergreens/Conifers			
<table border="1"> <tr> <td>Appendix II Bufferyard Standards</td> <td><b>BUFFERYARD D</b></td> <td>Denton, Maryland Zoning Ordinance</td> </tr> </table>			Appendix II Bufferyard Standards	<b>BUFFERYARD D</b>	Denton, Maryland Zoning Ordinance
Appendix II Bufferyard Standards	<b>BUFFERYARD D</b>	Denton, Maryland Zoning Ordinance			

## Parking Lot Perimeter Bufferyard Adjacent to Streets



Parking Lot Perimeter Street Bufferyard

## **Appendix III - Design Guidelines**

### **Part 1 - Community Appearance Guidelines.**

The purpose of community appearance guidelines is to promote public health, safety, and welfare. Economic objectives include the enhancement and preservation of property values. These guidelines are not intended to restrict imagination or variety but rather to assist in focusing on design principles that can result in creative solutions that will develop a satisfactory visual appearance within the Town.

- A. Development subject to community appearance standards. All new development and/or redevelopment within the Town, except single-family detached housing, is subject to the guidelines in this section.
- B. Relationship of buildings to site.
  - (1) The site should be planned to accomplish a desirable transition with the streetscape and provide adequate planting, safe pedestrian movement, and parking areas.
  - (2) Parking areas should be treated with decorative elements, building wall extensions, plantings, berms, or other innovative means to screen parking areas from public ways.
  - (3) Without restricting the permissible limits of the applicable zoning district, the height and scale of each building should be compatible with its site and existing (or anticipated) adjoining buildings.
- C. Relationship of buildings and site to adjoining area.
  - (1) Adjacent buildings of different architectural styles should be made compatible by such means as screens, site breaks, and materials.
  - (2) Attractive landscape transition to adjoining properties should be provided.
  - (3) Harmony in texture, lines, and masses is required. The monotony of design should be avoided.
- D. Landscape and site treatment.
  - (1) Where natural or existing topographic patterns contribute to the beauty and utility of development, they should be preserved and developed. Modifications to topography will be permitted where they contribute to good appearance.
  - (2) Grades of walks, parking spaces, terraces, and other paved areas should provide



an inviting and stable appearance for the pedestrian.

- (3) Landscape treatment should enhance architectural features, strengthen vistas and important axes, and provide shade.
- (4) Unity of landscape design should be achieved by repeating certain plant varieties and other materials and coordinating with adjacent development.
- (5) Plant material should be selected for interest in its structure, texture, color, and its ultimate growth. Plants indigenous to the area and others that will be hearty, harmonious to design, and of good appearance should be used.
- (6) In locations where plants will be susceptible to pedestrian or motor traffic injury, they should be protected by appropriate curbs, tree guards, or other devices.
- (7) Parking areas and traffic ways should be enhanced with landscaped spaces containing trees or tree groupings.
- (8) Deciduous trees that have or will have, when fully mature, a trunk at least twelve (12) inches in diameter should be placed to shade parking areas. Sufficient trees should be provided so that the parking area surface is shaded to the maximum extent practical, ideally twenty (20) percent or more.
- (9) Where building sites limit planting, the placement of trees in parkways or paved areas may be required.
- (10) Screening of service yards and other places that tend to be unsightly should be accomplished by use of walls, fencing, plantings, or combinations of these. Screening should be effective in winter and summer.
- (11) In areas where general planting will not prosper, other materials such as fences, walls, and paving of wood, brick, stone gravel, and cobbles should be used. Carefully selected plants should be combined with such materials where possible.
- (12) Exterior lighting, when used, should enhance the adjoining landscape. Lighting standards and building fixtures should be of a design and size compatible with the building and adjacent areas. Lighting should be restrained in design, and excessive brightness should be avoided.

- E. Building design. Building Design Cohesion: Building designs must establish strong visual connections between existing structures, the surrounding neighborhood, and proposed project elements to ensure a cohesive visual integration. Builders, property owners, and developers should consult the Pattern Book for Denton Neighborhoods (available at the Town office) for detailed guidance. These visual linkages, contributing to overall design unity, include:

- (1) Silhouette: The building's overall outline.
- (2) Spacing: The distance between buildings.
- (3) Setbacks: The distance of buildings from street property lines.
- (4) Proportions: The ratios of windows, bays, doorways, and other architectural features.
- (5) Massing: The overall shape and volume of building forms.
- (6) Entryways: The location and design of building entrances.
- (7) Materials: Surface materials, finishes, and textures.
- (8) Shadows: Shadow patterns created by building massing and decorative elements.
- (9) Scale: The building's perceived size relative to its surroundings.
- (10) Architectural Style: The overall design aesthetic.
- (11) Landscaping: The integration of vegetation and other landscape elements.

F. Miscellaneous structures and street hardware.

- (1) Miscellaneous structures and street hardware should be designed to be part of the architectural concept of design and landscape. Materials should be compatible with buildings, the scale should be appropriate, colors should be harmonious with buildings and surroundings, and proportions should be attractive.
- (2) Lighting in connection with miscellaneous structures and street hardware should adhere to standards set forth for site, landscape, buildings, and signs and to Article XI, Outdoor Lighting, in this chapter.

G. Maintenance planning and design factors.

- (1) Continued good appearance depends upon the extent and quality of maintenance. The choice of materials and their use, finishes, and other protective measures should be conducive to easy maintenance, upkeep, and longevity.
- (2) Materials and finishes should be selected for durability, wear, and beauty. Proper measures and devices should be incorporated for protection against the elements, neglect, damage, and abuse.
- (3) Provisions for washing and cleaning buildings and structures and controlling dirt and refuse should be incorporated into the design. Configurations that tend to catch and accumulate debris, leaves, trash, dirt, and rubbish should be avoided.

## **Part 2- Residential Infill and Redevelopment Guidelines**

### **A. Introduction.**

- (1) Denton's residential neighborhoods, business districts, and downtown all contribute significantly to the Town's character, identity, and high quality of life. The following design and development guidelines are intended to encourage the preservation and enhancement of these areas and to promote development that is consistent with adopted goals and objectives from the Town's Comprehensive Plan.
- (2) The following design and development guidelines are advisory for permitted uses. Still, they may also be used for those uses requiring discretionary review by the Town to encourage the highest level of design quality while at the same time providing the flexibility necessary to encourage creativity and innovation on the part of developers and designers.
- (3) These are intended to supplement the Town's zoning regulations. Persons proposing residential development in the Town should consult these guidelines and incorporate them in development plans submitted for the Town's review.

### **B. Purpose.**

- (1) The Residential Infill and Redevelopment Guidelines are to allow implementation of the recommendations of the Comprehensive Plan, including but not limited to the recommendations concerning neighborhood conservation and neighborhood redevelopment areas. The design guidelines presented below are intended to ensure appropriate infill development and redevelopment in existing residential neighborhoods. Compatibility with nearby residences in these areas is of considerable importance. Therefore, the purpose of these guidelines is:
  - (a) To establish design guidelines for residential infill and redevelopment.
  - (b) To establish design principles that result in new residential infill housing and rebuilds that are more sensitive to existing housing and neighborhoods.
  - (c) To suggest a range of possible solutions with the goal of achieving a higher standard of design.
- (2) The proposed development should not be restricted to the confines of traditional architecture. Opportunities for contemporary design should not be precluded. The guidelines are intended to stimulate the imagination of designers rather than to limit development flexibility or to dictate actual design solutions.

### **C. Applicability.**

- (1) These guidelines are intended to apply to new residential principal structures or accessory structures that may adversely impact the visual character of the block

due to the location on the site or the proposed design characteristics, which are located in the targeted redevelopment areas as well as established neighborhood areas.

- (2) These guidelines are specifically applicable to project reviews in the IRD Infill and Redevelopment District, where the Planning Commission may approve development that may not meet all applicable requirements of this ordinance but implement objectives of the Comprehensive Plan that are found to be context-appropriate.

D. Streetscape/neighborhood.

- (1) New development in existing neighborhoods should incorporate distinctive architectural characteristics of surrounding development. For example, complementary window and door detailing, decoration, architectural styles, materials, roof style and pitch, finished-floor height, porches, and bay windows. New development should also continue the relationships of the surrounding neighborhood. Examples of common patterns that should be continued include entries facing the street, roof pitches, balconies, and front porches.
- (2) In assessing the "fit" of an infill dwelling, the neighborhood should be considered at two levels:
  - (a) The immediate context, i.e., how the building relates to and impacts upon adjacent buildings or buildings in the immediate vicinity.
  - (b) The broader context, i.e., how the building relates to the visual character and scale of the neighborhood created by the collection of structures on both sides of the street in which the building is situated.
  - (c) The former refers to how the adjacent structures influence the design of the new building. The latter refers to what effect the new building may have on the adjacent structures.
- (3) In some neighborhoods, a visual character is clearly defined and there is little flexibility to do something "different" and contrary to existing patterns. However, in Denton, there is wide variety and richness in the visual character of the various neighborhoods, often from one street to another. Thus, in many circumstances, the building designer will be presented with unique and unusual design opportunities. There will be some neighborhoods where major changes are taking place and/or where the existing streetscape has little visual cohesiveness. In these circumstances, it may be appropriate for the designer not to harmonize with the existing structures but to set new standards.
- (4) Building patterns and rhythms, which define the visual character, should be respected. A street will develop a certain pattern or rhythm, giving cohesiveness to the whole streetscape. A sudden change in this pattern can appear disruptive

and visually upsetting. These patterns and rhythms are established by various design elements, which include:

- (a) Building height;
  - (b) Building form (bungalow, two-story, split-level, etc.);
  - (c) Roof shape;
  - (d) Architectural massing;
  - (e) Finish materials and details; and
  - (f) Landscaping.
- (5) Generally, new dwellings on infill lots should reinforce existing patterns, rhythms, and massing, respecting proportions and details and, if appropriate, incorporating some of these into the new design.

E. Elements of design.

- (1) At the beginning of the project, the applicant is encouraged to photograph the site and the surrounding houses, including the existing streetscape elements, e.g., sidewalks, street trees, landscaping, signage, etc. The applicant should identify repeated forms and patterns on adjacent properties and along the block face. The applicant can choose to repeat or introduce new design elements. Side-by-side placement of similar designs is discouraged.
- (2) "Designing in context means providing enough visual linkages between existing buildings and a proposed project so as to create a cohesive overall effect." (Fundamentals of Urban Design, Richard Hedman with Andrew Jaszewski, American Planning Association, 1984) Builders, property owners, and developers of infill and redevelopment projects should consult the Pattern Book for Denton Neighborhoods, Urban Design Associates (copies available at the Town office). Visual linkages that contribute to design unity may include the following:
  - (a) Building silhouette;
  - (b) Spacing between buildings;
  - (c) Setbacks from street property lines;
  - (d) Proportions of windows, bays, doorways, and other features;
  - (e) Massing of building forms;

- (f) Location and treatment of entryways;
- (g) Surface materials, finish, and textures;
- (h) Shadow patterns from massing and decorative features;
- (i) Building scale;
- (j) Style of architecture; and
- (k) Landscaping.

F. These residential infill design guidelines examine five fundamental and related areas of design:

- (1) Siting, location, and topography;
- (2) Architectural envelope;
- (3) Openings;
- (4) Texture and details; and
- (5) Landscaping.

G. Siting, location, and topography.

- (1) The topography and location of the proposed development site and the position of the building on that site guide the most basic principles of design. The building form should be a reflection of the site's topography. For instance, a split-level or stepped house would appropriately fit a sloped site. The proposed structure should not require significant alteration of the existing topography and should avoid major reworking of existing grades.
- (2) When the proposed structure is to be located on an existing corner, it should respond to and enhance the streetscape of the front and flanking street without adversely affecting the adjoining properties. The design should respond to the dual frontage of corner lots by incorporating the same level of interesting architectural treatment (e.g., windows, projections, ornamentation, etc.) in the flanking street design as in the frontage design.
- (3) Dwellings on corner lots should take advantage of the dual frontage, make an architectural statement, and create interest in architecture and human activity on each street. Such a statement can be accomplished by providing wraparound porches, bay windows, turrets, varied exterior materials, roof features, hues, and articulation. Varied materials should be consistent with one another.
- (4) Building setbacks are the distance between a structure's edges and the property lines. They create yard spaces for outdoor activity and landscaping. The pattern of street setbacks helps establish a rhythm to the streetscape and provides a transition between the public realm and the privacy of the house. Residential

development in existing neighborhoods should be well integrated with existing dwelling units in the surrounding area.

- (5) **Parking.** Parking should not be sited in the front yard, reserving this area primarily as open space. Front drives can function as visitor parking. Parking should be placed at the rear of buildings, where feasible, with access from alleys, if they are provided. Alternatively, parking may be accessible from the front and located at the rear of the site, to the side, or in front, provided it is adequately set back from the principal entry.
- (6) **Garages.**
  - (a) Front-loaded garages should conform to the following development guidelines:
    - (i) Upper-level dormers should be used to de-emphasize the garage.
    - (ii) Porches or facades should protrude at least five (5) feet in front of garage doors.
    - (iii) Garage openings, trims, and color should de-emphasize the role of the visual impact of the garage in relation to the building as a whole.
  - (b) Rear-loaded garages should conform to the following development guidelines:
    - (i) Detached garages located behind the principal structure but accessible from the street should be consistent with the architecture and design of the principal structure.
    - (ii) Consistency of design includes the use of the same or compatible siding, roofing, trim, and colors.
  - (c) Side-loaded garages with parking on the side should conform to the following development guidelines:
    - (i) Windows, doors, and roof treatments of those portions of the garage facing the street should incorporate architectural detail expressive of the principal residence.
- (7) **Driveways.**
  - (a) Traditional linear driveways are encouraged. To preserve the pedestrian friendliness that exists in many of the existing single-family neighborhoods and to minimize the amount of land devoted to parking, access, and impervious surfaces, U-shaped driveways are discouraged. Driveways on corner lots should be placed as far as possible from the

intersection.

- (b) When a front drive or parking in the front setback is provided, additional landscaping and screening should be provided to soften the visual impact. For instance, a low hedge or shrub bed might be located between the neighboring property and the parking pad, or a vine-covered trellis may define the boundary between the pad and side yard access to the rear. The intent is to make the pad an integral part of the landscaping, not an afterthought poured on the front yard. The house may be shaped to provide partial screening of the parking pad (such as an "L").
- (8) Street connections and pedestrian pathways.
- (a) The design of infill development should ensure that new streets serving infill developments are compatible with the established street pattern and support the expansion of the overall grid street system. The applicant should evaluate future street connections with Town staff prior to submitting a preliminary plan.
  - (b) To the maximum extent practicable, infill projects should provide a complete connection through the site to tie into existing streets. Future expansions of existing cul-de-sacs and other street extensions should be examined to avoid placing limitations on redevelopment options. The use of cul-de-sacs in place of complete through-street connections is strongly discouraged. Dead-end streets should not be permitted except in cases when the street is designed to connect with future streets on adjacent land.
  - (c) Pedestrian connections from the front door of a dwelling to the sidewalk are encouraged and should have a minimum width of three feet. New public sidewalk surface material in the residential areas should be compatible with existing surface materials.
  - (d) Lot coverage. In general, lot coverage for residential rebuilds should reflect the established lot coverage patterns in the adjacent area.
  - (e) Impervious surfaces. All land not covered by structures, driveways, walkways, porches, and patios should be appropriately landscaped with trees, grasses, shrubs, and other plants to minimize the amount of impervious surfaces that create runoff.

#### H. Architectural envelope.

- (1) Orientation. Building orientation should reflect that of the neighboring properties. For example, where the predominant pattern in the block is gable ends of dwellings oriented perpendicular to the street, new infill development should



be so oriented.

- (a) The orientation of infill development should be consistent with the established pattern of the neighborhood.
  - (b) Building entrance. The front entrance to a single-family or duplex dwelling should be located on the front facade and oriented towards the front yard and primary access street.
  - (c) Attached garages. The front-wall plane of all attached garages should be recessed behind the front-wall plane of the dwelling's ground-floor living area or a covered porch by a minimum of four (4) feet.
  - (d) Lot orientation. To the maximum extent practicable, the orientation of new lots created by subdivision or splitting of existing lots should repeat the predominant Relationship of buildings to buildings and buildings to streets along the same and facing block faces.
- (2) Roofs. Infill development and rebuilds should have roof pitches that are complementary to those found on the block. The roof should relate in style and slope to the existing streetscape. A consistent pattern may not be apparent unless the entire block is considered. Details that characterize the roof should reflect the slope, existing materials, soffit, overhang depth, and decorative elements common to the character of the neighboring buildings. Incorporation of character elements such as dormers, eaves, and secondary roof elements over bay windows, porches, etc., are encouraged to reduce the impact of large roof areas and to provide a sense of scale to the house. One principal roof form should be chosen for the main body of the house and set the roof slope and material for all other roof elements.
- (3) Massing and proportions.
- (a) Massing and building proportions of established housing should be reflected in new development. Massing has to do with the overall bulk of a building and how it is distributed in space. Proportion has to do with how the parts or elements of the building relate to each other in terms of dimensions.
  - (b) When similar massing is not possible to achieve, the building facade of a dwelling can be broken into smaller elements creating an illusion of a smaller building in scale with its neighbors.
  - (c) New infill development and rebuilds of existing structures should maintain the scale of the surrounding block face with respect to height, bulk, and structure size. In areas where existing dwelling units are predominantly one story in height, new infill development and rebuilds

should be designed in a way that minimizes the apparent difference. If a new building is taller than its neighbors, setting the taller element back from the lower level at the street facade may be appropriate. Corner buildings may benefit from this type of setback on both frontages.

- (d) Where there is no consistent streetscape in a block, the proposed dwelling unit may incorporate some of the more appealing features found along the street.

## I. Openings.

Entryways, windows, and garage doors make up the most distinctive elements of a house facade.

### (1) Entryways.

- (a) Character buildings in existing neighborhoods emphasize the principal entry. The entryway is most often placed on the front facade; it may have a wide set of stairs with an intermediate landing leading to it; the door itself may be elaborately paneled and have a glazed transom or sidelights.
- (b) The entryway of new dwellings should be apparent and clearly visible. The entryway should be emphasized by echoing character elements from neighboring houses or by introducing equivalent focal detail. Entry porches are encouraged where existing streetscapes have such features. Porches are highly encouraged in the Historic District, and in areas where there is a significant amount of single-family prototypes that traditionally include porches. Porches, where provided, should be at least 60 square feet, with a minimum dimension of six feet (depth).
- (c) Housing prototypes that do not traditionally include porches should provide an articulated but not overly pronounced entryway. Examples of pronounced entryways are rounded doors, articulated entrances, columns, and/or other similar features.
- (d) Where possible, the height of the entry from the street should reflect that of its neighbors. Ground-level entry in a street of raised entries could disrupt visual continuity.
- (e) Stairs to the principal entry should be wide and interesting from the street. They may include planters, intermediate landings, sidewalks, railings, and walkway lighting.

### (2) Windows

- (a) Where the proportion, size, and detailing of windows on existing

dwelling in the block face contribute to the positive visual character of the area, the number, size, and composition of windows on new residential units should reflect these characteristics. From the street, excessive use of glazing should be exercised carefully and should be tempered by the need to retain a certain amount of solid wall surface. At the same time, the excessive use of solid walls should be tempered with the need to provide light and fresh air within the house and to provide views and security to the front yard and street. Careful arrangement, placement, proportioning, and detailing of windows and trim can add interest, balance, and order to the facade.

- (b) A variety of elements such as sash, stained glass, lintels, sills, and pediments often frame windows in older homes. New houses should have windows that are similarly differentiated from the wall surface, utilizing details such as wide wood trim.
- (3) Garage doors. Garage doors can dominate the streetscape, as they are the largest openings in the front facade. The garage door and its immediate surroundings should be visually interesting. Detailing, such as recessing the doorway to create deep shadows, providing plant shelf recesses flanking the door, or setting the garage facade back from the rest of the house, will lessen its visual impact. Front-loaded garages are discouraged.

J. Texture and materials.

(1) Finishes and materials.

- (a) The choice and mix of materials on the facades of structures and garage doors are important in providing an attractive living environment, and the repetition of similar finishes and materials along the street contributes to the visual continuity of the neighborhood. Exterior finishes and materials should be consistent with those used in the neighborhood, but new structures need not duplicate or replicate the neighbors.
- (b) Materials, finishes, and ornamentation should appear as integral parts of the structure rather than stuck on. Front facade treatments should wrap around the sides of the house visible from the street. Corner lots should have both exposed facades treated equally, as well as any other side walls exposed to the streets.

(2) Ornamentation.

- (a) The level of richness in ornamentation of the neighboring houses should be used as a guide without literal mimicking. Ornamentation should be used with restraint and in the context of the existing neighborhood. When incorporated into the design, the use of brackets, eaves, cornices, columns, and capitals should come from an understanding of their original structural use.

- (b) Ornamentation varies with periods of architectural style. The infill house applicant should understand the predominant style of a particular streetscape and may design the infill dwelling unit to echo those themes. This design approach does not mean copying or repeating details but rather using the existing details as a basis for incorporating contemporary but visually related details into the new house.
- (3) Color. Color schemes that are compatible with the neighborhood are encouraged. Older character homes often have painted wood surfaces, siding, or shingles. Often, color schemes are muted with one or two strong accent colors on trim elements. At the same time, there are some successful exceptions, particularly recalling historical color schemes; vibrant colors should be used with discretion and in small amounts.

#### K. Additions.

In planning an addition, it is important to pay careful attention to the architectural style of the existing residence. In many cases, additions can dramatically change the appearance of the residence and, therefore, the character of the neighborhood. Examples of ways to guide the quality of additions include the following:

- (1) Ensure that the scale and mass of the addition are in keeping with that of the original structure and that when completed, the redeveloped residence does not visually overwhelm neighboring structures.
- (2) Limit the location of additions to the side and rear sides of the structure so as not to disrupt the established setback of the building. In particular, the construction of garages should not project beyond the plane of the original facade.
- (3) Ensure that the addition's roof matches or complements the design of the original structure.
- (4) Architectural elements such as windows should respect the prevailing geometry of the original structure. For instance, windows with a vertical orientation can compete with those with a horizontal orientation.
- (5) Ensure the materials used for the addition are consistent with those of the original structure.

#### L. Landscaping.

- (1) Front yards are prominent features of the streetscape. In general, front yard landscaping should complement that of the neighborhood and define the line between the public domain and private property.

- (2) Mature trees and natural drainageways are a few of the elements that contribute to the distinct character of residential neighborhoods. Infill projects should work within the context and integrity of this environment by preserving natural features to the maximum extent practicable to protect these features and resources. As much as possible, infill projects should retain healthy mature trees on the lot. Any mature tree that is removed to accommodate the new construction should be replaced. Replacement trees should be the same or similar species to the trees removed or damaged, or, alternately, a species native to Caroline County.

### **Part 3- PN design guidelines.**

The following design guidelines define performance measures on which the Planning Commission and Town Council will conduct their review of any PN application.

- A. Purpose and intent. The purpose and intent of establishing design guidelines for the PN Planned Neighborhood District is:
  - (1) To preserve and enhance the unique character of the Town of Denton while integrating new development into the overall fabric of the community;
  - (2) To encourage creative design and innovative approaches to achieve the community character called for in the Town's Comprehensive Plan;
  - (3) To ensure that each incremental addition to the Town is designed in a manner that is mindful of what has come before and contributes to the achievement of overall community design objectives;
  - (4) To encourage a broad housing market that will accommodate a diverse population mix of all ages, income levels, and socioeconomic backgrounds reflective of the Town's existing demographics.
- B. Specific goals and objectives. The goals and objectives of the PN design guidelines are to:
  - (1) Design for the human scale and perceptions to create a sense of neighborhood and community.
  - (2) Enhance Denton's sense of place in its rural and regional setting by maintaining the small-town feel and keeping new developments in harmony with nature.
  - (3) Create a pleasant and functional pedestrian realm that consists of common open spaces, tree-lined streets, landscaped areas (between public and private spaces), and utility corridors.
  - (4) Encourage internal and peripheral open space.

- (5) Create neighborhood centers or town centers within walking distance of all surrounding neighborhoods.
  - (6) Create appropriate transition areas between neighborhoods.
  - (7) Design for local access and collector streets internal to the community.
  - (8) Integrate buildings of smaller scale in a pattern of various footprints.
  - (9) Plan for mixed and multiple land uses; also include a mix of housing types, income, and a horizontal and vertical mix of uses.
  - (10) Utilize appropriate details in building design.
  - (11) Create housing that offers a variety of options to accommodate and encourage a diverse population mix of varied socioeconomic backgrounds reflective of the Town's demographics.
- C. Applicability. The provisions of the PN design guidelines shall be considered during the review of all PUD plans, site plans, subdivision plans, or other permits or applications for new development, new construction involving structural alterations, and new structures on all land zoned in the PN District. Where these guidelines conflict with any provision of the Denton Zoning Ordinance or the Subdivision Ordinance, these guidelines will control.
- D. Design provisions. The Planning Commission will rely on the Comprehensive Plan and the PN design guidelines concerning issues of design, neighborhood and community character, and compatibility. In general, these call for the characteristics outlined in the following will be set forth on a set of drawings, plans, and/or elevations sufficient to permit the Planning Commission to apply the following standards.
- E. General design provisions. The following standards generally apply to development proposed in the PN District.
- (1) Architectural considerations.
    - (a) The architectural design of structures and their materials and colors should be natural landforms and existing vegetation and with other development plans approved by the Town.
    - (b) Specific consideration should be given to compatibility with adjacent properties where such projects demonstrate the Town's character.
    - (c) Facing buildings should not differ in height by more than a ratio of two to one, excluding church steeples, decorative cornices, chimneys, and the like.
    - (d) Materials should be used that have similar texture and appearance as appropriate to the Town's character.

- (e) Exterior materials should be natural in appearance, with preference given to wood or wood-appearance siding, stone, and brick. Exterior building colors should be traditional or muted tones.
- (2) Overall form and spatial relationships.
- (a) Areas of new construction should be sited to preserve natural vistas and the existing topography best.
  - (b) Peripheral greenbelt open space should be designed to follow natural features whenever possible and to maintain an agricultural, woodland, or countryside character.
  - (c) The planned neighborhood should be distinguished from the peripheral greenbelt open space by a well-defined line or edge so that developed areas will transition very quickly to rural, undeveloped lands.
  - (d) Peripheral open space should surround the planned neighborhood. An exception to this standard is that storefront areas may be located along Town or county major collector roads at the planned neighborhood perimeter. Another exception is that planned neighborhoods proposed to be located within 500 feet of existing residential development should be encouraged to be contiguous with preexisting neighborhoods through the use of multiple street and footpath connections.
  - (e) Residential lots should not be located within 500 feet of any arterial road having four or more lanes, nor within 300 feet of any two-lane state highway, unless effectively screened, as to sight and sound, from the public by virtue of topography, dense vegetation, or other physical or visual barriers. No such screening is required when the depth of a perimeter greenbelt exceeds these distances.
  - (f) Storefront areas (SAs) and central residential areas (CRAs) should be surrounded by single-family residential areas (SRAs) or, where applicable, by a combination of residential and civic uses.
  - (g) The transition between different land uses should be handled so as to avoid distinct visual differences, such as in the scale of buildings. Similar land-use types should front one another, while dissimilar land-use types should abut along alleys or rear parking areas.
  - (h) Storefront areas (SAs) should be located at or near the geographic center of the residential areas they primarily serve and should be located within 1,500 feet of 3/4 of all dwellings within its service area. A storefront area should not be designed to front on, be highly visible from, or take access from a state-maintained highway.

- (i) Higher-density residential uses should be located within the central residential areas (CRAs).
- (3) Block design.
  - (a) Planned neighborhoods should be designed in a net-like pattern of blocks and interconnecting streets and alleys, defined by buildings, street furniture, landscaping, pedestrian ways, and sidewalks.
  - (b) While topography, existing vegetation, hydrology, and design intentions should influence block shape and size, the maximum length for a block should be 500 feet, with an allowance for blocks up to 800 feet when midblock footpaths are provided. No less than one eight-foot pedestrian alley or way should be provided for every 250 feet of street frontage in the commercial zones, connecting with rear parking lots.
  - (c) Each block that includes storefronts and/or residential lots or uses less than 45 feet wide should be designed to include an alley serving rear parking areas or garages.
  - (d) In order to calm traffic speeds, the use of "T" intersections, where vehicles must stop and turn to the right or the left rather than proceeding forward in a straight line, is encouraged. At least 25% of all intersections within the subdivision residential areas should take this form unless other design devices (such as traffic islands or circles, four-way stop signs, or speed bumps) are employed to reduce vehicle travel speed.
- F. Single-family residential areas (SRAs). In addition to the general design provisions set forth in Subsection E above, the following guidelines generally apply in the single-family residential areas (SRAs) of the PN District.
  - (1) Residential design styles should reflect vernacular architecture.
  - (2) Repetitious housing styles within individual neighborhoods are discouraged.
  - (3) Porch frontages are encouraged on all single-family detached homes.
  - (4) Residential buildings should front on public ways and be located so as to create a sense of enclosure along the street.
  - (5) Build-to-lines (BTL) should include appropriate variations to encourage neighborhood identity and creativity.
  - (6) Lot widths within individual neighborhoods should be varied. Orientation of housing can also vary.
  - (7) Lot widths should be designed to ensure that garages do not dominate the front facade of residential structures.



- (8) Traditional roof pitches and multiple rooflines are encouraged.
- G. Central residential areas (CRAs). In addition to the general design provisions set forth in Subsection E above, the following guidelines generally apply in the central residential areas (CRAs) of the PN District.
- (1) In general, townhouse and multifamily units should adhere to the architectural guidelines for single-family and two-family dwellings.
  - (2) Townhouse and multifamily units should blend into the overall character of the neighborhoods.
  - (3) Multifamily structures should appear as large single-family units. Small groups of townhomes, four or less, may be designed to appear as large single-family structures.
  - (4) Single-family residences should be mixed with other permitted housing types.
  - (5) No more than six (6) units should be included in a single townhouse unit group. Each unit should have a distinct architectural appearance. Still, the overall appearance of the units should be compatible with and complementary to adjacent single-family residential units and with the other units in the neighborhood.
  - (6) Parking for townhouses and multifamily structures should be located to the rear or side of the units.
  - (7) The majority of multifamily and townhouse units should be located in the central residential area (CRA) of the community.
- H. Conservation areas (CAs). The following design provisions generally apply in the conservation areas (CAs) in the PN District.
- (1) The open space provided within planned neighborhoods should include areas known as "conservation areas," consisting of greenbelts, greens, parks, and other open spaces.
  - (2) The greenbelt parts of conservation areas should be designed to create a visual and physical distinction between the proposed development, the surrounding countryside, and any neighboring developments.
  - (3) Greens and squares are spatially defined and distributed open spaces within the planned neighborhood, designed to serve a variety of outdoor leisure and assembly needs of planned neighborhood residents and to enhance the form and appearance of the development.
  - (4) There should be a main village green located within 500 feet of the planned neighborhood's geographical center. When a storefront area is part of the development proposal, this main green should be located in close proximity to it.

Other, smaller greens should be dispersed throughout the remainder of the planned neighborhood in such a way that no lot is more than a walking distance of 1,350 feet from a green, square, or park. The main village green should be designed to a pedestrian scale, meaning that it should not be longer or wider than 300 feet and should be between 20,000 and 40,000 square feet in area. The other smaller greens, squares, and parks (not including the central open space within loop lanes) should be no less than 8,000 square feet in size. All greens should be planted with shade trees along their edges, at intervals not greater than 50 feet, with groups of trees located at various points throughout their area.

- I. Storefront area (SA). In addition to the general design provisions set forth in Subsection E above, the following guidelines generally apply in the storefront area (SA) of the PN District.
  - (1) Maximum size. New commercial buildings in the storefront area and their associated parking spaces should not occupy more than 5% of the adjusted tract area of the entire planned neighborhood. Commercial buildings may occupy up to 10% of the adjusted tract area if they include second-story office uses. Commercial buildings may occupy up to 15% of the adjusted tract area if they include second-story residential units. In order to qualify for the figure of 15%, at least half of the new commercial building coverage (foundation footprint) should be of two-story construction, and at least 25% of the second-story space should be designed for residential uses.
  - (2) Uses. The mixed-use/commercial portions of the planned neighborhood should be contained within the storefront area. This area should be designed to provide a variety of retail shops and services to support the day-to-day needs of planned neighborhood residents and other residents, complemented by other compatible business, civic, and residential uses in commercial-type buildings in a manner consistent with a small downtown or central marketplace in the community.
  - (3) Commercial areas should surround, be located adjacent to, or be across the street from a public park, green, or square of at least 10,000 square feet, which area may be credited as part of the open space required of the development.
  - (4) New commercial buildings may be either traditional in their architectural character or be a contemporary expression of traditional styles and forms, respecting the scale, proportion, character, and materials of shops in the community. Shopfront design should be based upon historic examples in the area, with large display windows having sills between 12 and 18 inches above sidewalk level and lintels nine to 12 feet above sidewalk level. Commercial buildings should also articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade, or other visual device.

- (5) The massing of larger commercial buildings should be de-emphasized in a variety of ways, including the use of projecting and recessed sections, to reduce their apparent overall bulk and volume. Such breaks in their facades and rooflines should occur not more frequently than the width of two historic shopfronts (generally about 25 feet each) nor less frequently than 100 feet. New commercial buildings should not contain more than 3,500 square feet (above grade), and those with more than 1,500 square feet of floor space (above grade) should be of at least one-and-one-half-story construction to harmonize with the traditional scale of commercial buildings in historic towns and villages.
- (6) A majority of buildings should be designed for multiple uses, with offices and/or residential units above.
- (7) Buildings should be topped with pitched roofs with overhanging eaves, but flat roofs with articulated parapets and cornices may be allowed. Desired materials on pitched roofs include slate (either natural or manufactured), shingle (either wood or asphalt composition), and metal formed to resemble standing seams. Roof color should be traditional, meaning that it should be within the range of colors found on existing buildings in the community. Specifically excluded are white, tan, or blue shingles, red clay tiles, and corrugated metal. The use of fascia, dormers, and gables is encouraged to provide visual interest. All roofs should be functional.
- (8) Gas station canopies should have pitched roofs, and the lighting should be from luminaries completely recessed into the ceilings of said canopies so that the lighting elements themselves are not visible from or beyond the lot lines.
- (9) Exterior wall materials may include stucco, wood clapboard (including vinyl or aluminum imitation clapboard siding), native stone, split-face aggregate block, or brick of a shape, color, and texture very similar to that found in the historic villages and towns of Caroline County. Specifically prohibited should be brick that is white, tan, or spray-painted and T-111 plywood siding. Except on rear walls, all forms of concrete block should also be prohibited. In addition, metal buildings should also be excluded from this subdistrict.
- (10) Large work area doors or open bays should not open toward or face the public ways.
- (11) HVAC and other fixed operating machinery should be either screened from view or located so that such items are not visible from the highway, public rights-of-way, or adjoining noncommercial areas. Large trash receptacles, dumpsters, utility meters, aboveground tanks, etc., should be similarly treated.
- (12) Signage.
  - (a) All signage should:

- (i) Be affixed to a building facade, canopy, or arcade;
    - (ii) Be located no higher than the sills of second-story windows;
    - (iii) Be visible to both pedestrians and drivers;
    - (iv) Be illuminated with steady external lighting (if lighted at all), and
    - (v) Use lighting conforming to the standards contained in Article XXII of this chapter.
  - (b) All signage should be consistent with Article XV, Signs, of this chapter.
  - (13) Traditional canvas awnings without interior illumination are encouraged, and any signage consistent with Article XV, Signs, of this chapter.
  - (14) Storefront buildings should have at least 60% of their front facade coincident with their street frontage, including frontage onto courtyards.
  - (15) Principal entrances to buildings should be from the front sidewalk, except in courtyard designs.
  - (16) Storefront buildings fronting on the same street and located on the same block should be attached, except as necessary to accommodate pedestrian ways.
- J. Lighting design provisions. An exterior lighting plan should be submitted to the Town whenever subdivision or site plan approval is sought in the PN District in order to determine whether the provisions of this section have been met and that the proposed lighting will not adversely impact adjoining property.
- (1) In general, the following provisions apply to lighting proposed as part of any development. (See also Article XI, Outdoor Lighting, of this chapter.)
    - (a) Lighting should be designed so as to prevent direct glare, light spillage, and hazardous interference with automotive and pedestrian traffic on adjacent streets and all adjacent properties.
    - (b) Light fixtures should be designed as an integral design element that complements the design of the neighborhood through style, material, and color.
    - (c) All utility lines should be installed underground.
    - (d) Street pedestrian way lights should be decorative and blend with the architectural style of the neighborhood and should not exceed 14 feet in height.
    - (e) Flickering or flashing lights are prohibited.

- (f) Light sources should not be located within buffer areas except on pedestrian walkways.
  - (g) Lighting that unnecessarily illuminates any other lot and substantially interferes with the use or enjoyment of another lot is prohibited.
  - (h) Lighting fixtures should not exceed the minimum height and power necessary to accomplish their intended function.
  - (i) Lighting fixtures should not cause light to shine upward or beyond lot boundaries.
  - (j) Lighting fixtures should not use metal halide or similar forms of bright white light source.
  - (k) Spotlights should be discouraged.
- (2) Residential. In addition to the general provisions set forth in Subsection J(1) above, the following provisions apply to lighting for residential development.
- (a) Multifamily residential units should be properly lighted to ensure public safety and the security of the buildings.
  - (b) Lighting on individual streets should be designed consistent with the planned function of the street without excessive illumination.
  - (c) Porchlight and yard post lighting should be incorporated into the street lighting design in residential developments.
- (3) Nonresidential. In addition to the provisions set forth in Subsection J(1) above, the following provisions apply to lighting used for nonresidential uses (including but not limited to commercial, civic, recreational, fraternal, and religious facilities).
- (a) All exterior lighting should be shielded so as not to shine directly onto surrounding properties or public ways or rights-of-way, except as planned and approved for safety purposes. In addition, the globe, lens, bulb, or filament should be shielded to not be visible from adjoining properties.
  - (b) Lighting should be designed to provide uniform illumination of the property to prevent extreme contrasts between light and dark areas and to provide adequate safety and security.
  - (c) Lighting may be used to accent key architectural elements and/or to emphasize landscape features. Architectural lighting should be recessed under roof overhangs or generated from concealed low-level light fixtures.

- K. Parking provisions. A parking plan should be submitted to the Town whenever subdivision or site plan approval is sought in order to determine whether the requirements of this section have been met. Parking standards are flexible and take into account off-site parking. The Planning Commission should review the parking plan to ensure adequate parking is available and that it is appropriately integrated into the overall PUD plan. The parking plan should comply with Article VIII of this chapter, entitled "Parking, Loading, and Unloading Area Requirements." In addition to the provisions set forth in Article VIII, the following standards generally apply to parking in the PN District.
- (1) Parking areas should be small-scale and highly landscaped.
  - (2) Parking should not be a dominant site feature and should be screened, landscaped, and lit to assure public safety.
  - (3) In storefront areas, parking should consist of ample on-street parking and small lots located to the side or rear of buildings and screened from the main commercial street.
  - (4) Parking lots should not be located on street corners and at intersections.
  - (5) Parking lots should not be located at terminal vistas.
  - (6) Parking lots should not be located near parks or public squares unless designed to serve the park.
  - (7) Access to parking should be provided from rear driveways where possible.
  - (8) Parking areas for adjacent commercial uses should be interconnected to minimize traffic on adjacent streets.
  - (9) Shared parking arrangements are encouraged.
  - (10) Parking blocks should be oriented to buildings to allow pedestrian movement down and not across rows.
  - (11) Through access should be provided within and between parking blocks; dead-end drives are strongly discouraged.
  - (12) On-street parallel, angled, or head-in parking is encouraged in commercial areas.
- L. Street provisions. In addition to complying with the provisions of the Subdivision Regulations, Chapter 73, Land Subdivision, relating to streets, the following standards generally apply in the PN District.
- (1) Streets should be designed to accommodate the pedestrian, the cyclist, and the vehicle.

- (2) Street layout should be composed of interconnecting narrow streets laid out in a modified grid.
- (3) Streets should connect to at least two other streets. Cul-de-sac and dead-end streets should be avoided.
- (4) Distinct (e.g., patterned) pedestrian crosswalks should be installed at intersections and any other location where pedestrian systems cross a street.
- (5) Traffic calming should be an integral part of the overall street design.
- (6) Development plans should address improvements to off-site roads that serve a project, including off-site pedestrian linkages.
- (7) The view from the long axis of a street should terminate at a significant design feature.
- (8) The design speed for all streets within the PN District should be a maximum of 25 miles per hour.
- (9) A separate bicycle lane should be provided on streets planned for high traffic volumes (greater than or equal to 4,000 average daily trips).
- (10) Direct access onto collector streets from residential property is discouraged.
- (11) Curb radii should be 20 feet with a clear zone radius of 30 feet.
- (12) Curb radii should be sufficiently small to reduce vehicle speed.
- (13) On-street parking on minor streets should be provided on one or both sides, as appropriate.

M. Sidewalks, curbs and gutters. In addition to the provisions relating to sidewalks, curbs, and gutters as set forth in the Subdivision Regulations, Chapter 73, Land Subdivision, the following standards generally apply in the PN District.

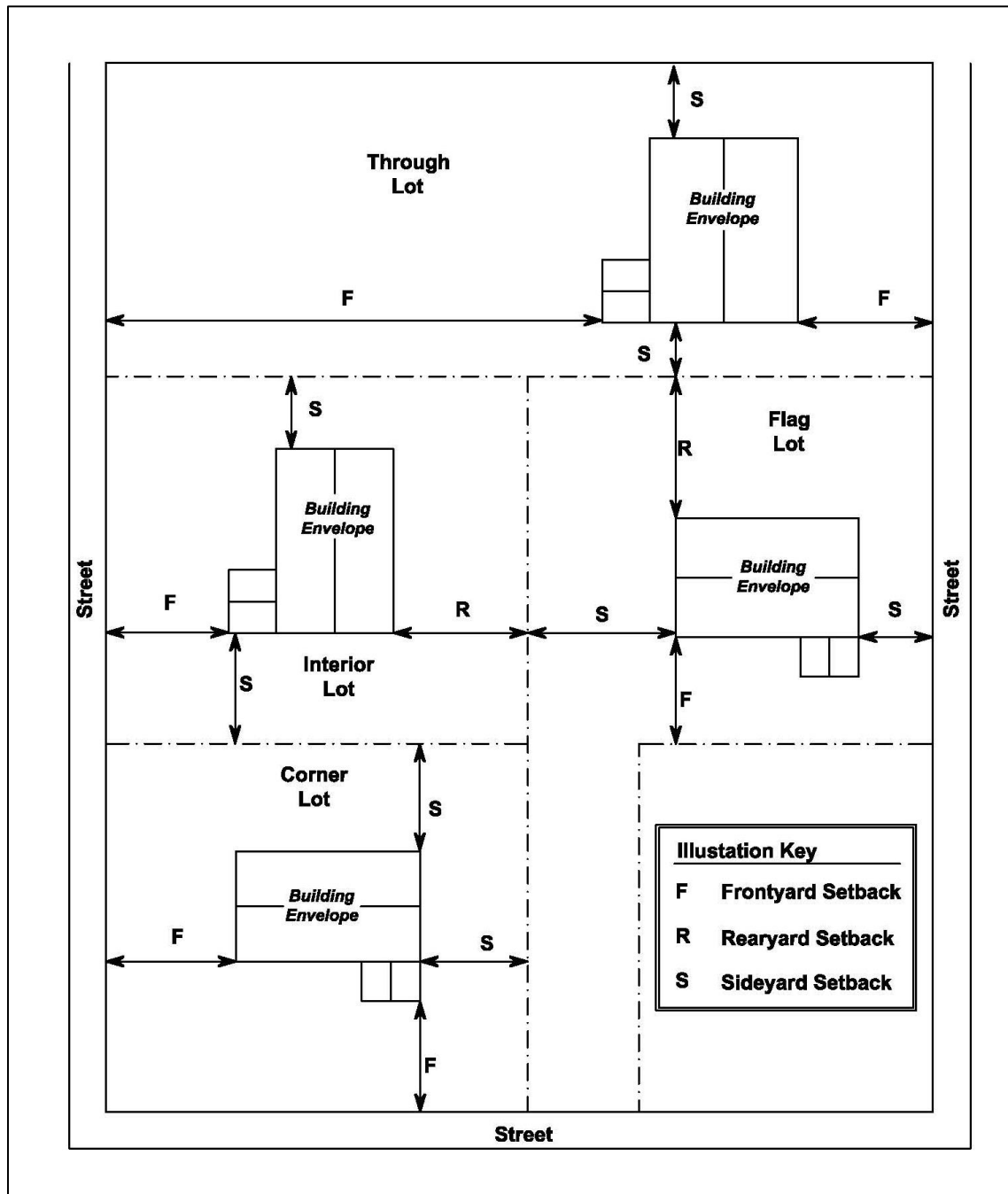
- (1) Sidewalks.
  - (a) A continuous sidewalk system should provide pedestrian access from all residential units to all other land uses.
  - (b) The minimum width for sidewalks in residential neighborhoods and recreational areas is five feet.
  - (c) The minimum width for sidewalks in commercial areas is eight feet. However, wider sidewalks may be necessary depending on the anticipated volume of pedestrian traffic or type of business use in a specific commercial area.
  - (d) Pedestrian crosswalks should be located at all major pedestrian crossings.

- (e) Bump-outs should be provided at major pedestrian crossings on commercial streets and undivided major collector streets.
  - (f) Utility structures and mailboxes should not be located so as to reduce the width of sidewalks.
  - (g) In commercial areas, sidewalks may be used for outdoor retail displays or outdoor dining areas, provided that they do not impede pedestrian flows or create a hazard.
  - (h) Where appropriate, durable street furniture, trash receptacles, and other amenities should be placed along sidewalks.
- (2) Curbs and gutters.
  - (a) Curbs and gutters are required on the entire street frontage of any parcel or lot, except alleys; however, these should comply with the Stormwater Regulations, Chapter 106, Stormwater Management.
  - (b) Curbs and gutters should be built to the construction standards and specifications as determined by the Town.
  - (c) Only one curb cut per street frontage should be allowed on residential lots that do not have alley access.
  - (d) There should be a maximum of two curb cuts per commercial lot per street frontage.
- N. Landscaping, shading, and buffers. All development proposals in the PN District should comply with Article X of this chapter, entitled "Environmental Standards, Landscaping, Shading and Buffers."
- O. Denton Pattern Book. In addition to the design standards set forth in this section, development proposals in the PN District should conform to the standards set forth in the Denton Pattern Book, prepared by Urban Design Associates, copies of which are available in the Town office. The Pattern Book is intended to supplement existing applicable design guidelines. Persons proposing development in a PN District should consult the Denton Pattern Book and incorporate the design concepts and standards into the proposed PUD or PN design standards for the particular project. Failure to adhere to the design principles set forth in the Pattern Book may be a basis for the denial of PUD plan approval by the Town. The Town may approve a PUD plan that meets or exceeds the goals and objectives of the Denton Pattern Book, and the Town may waive the Denton Pattern Book standards where the applicant proposes specific design standards that are determined to be consistent with the goals and objectives of the PN District, as well as the Comprehensive Plan.

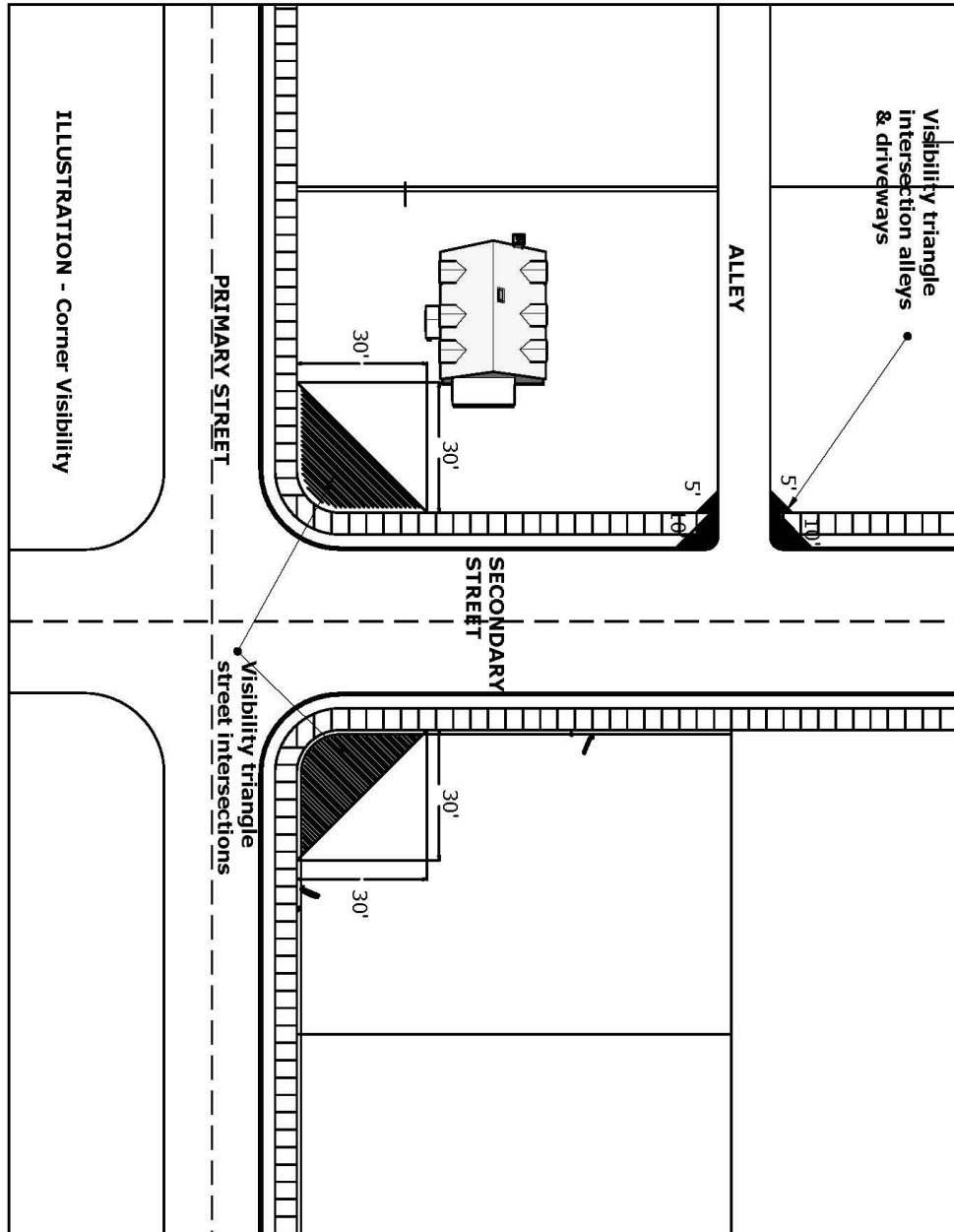


## Appendix IV - Lot Types and Yard Requirements, Corner Visibility, and Fence Height Illustrations

### Lot Types and Yard Requirements



## Corner Visibility



Fence Height

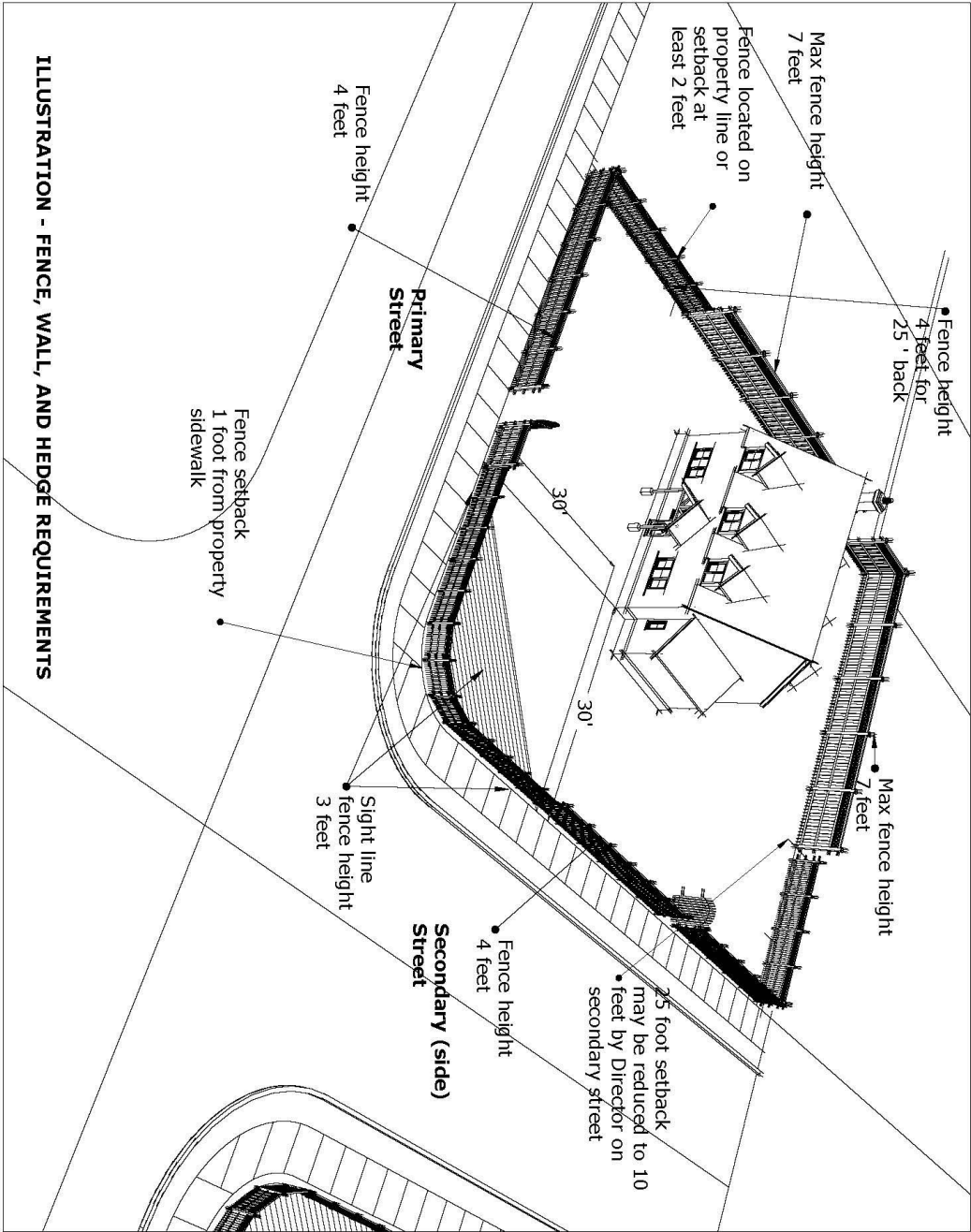


ILLUSTRATION - FENCE, WALL, AND HEDGE REQUIREMENTS

## Appendix V - Sign Types and Dimensional Regulations by Zoning Districts

Table 1 Sign Types and Dimensional Regulations by Zoning Districts, Central Business Commercial (CBC) Zoning District							
ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
Central Business Commercial (CBC)	A-Frame (Refer to Table Note #4)	1-per business	Limited by maximum signage area	6-sqft.	3-ft.	Not permitted	Maintain pedestrian traffic clearance
	Awning	1-per business	1-sqft. per lf. of business/building frontage	40-sqft. (for all tenants, all signage)	6-inches sign lettering	Not permitted	-
	Directional	As determined by the Planning Commission	Limited by maximum signage area	4-sqft.	3-ft.	Not permitted	Off premise-refer to Table Note #6
	Exterior Directory	1-per building entrance	2-sqft. per business	10-sqft.	6-ft.	Indirect or Backlighting	-
	Flat/wall	The maximum sign area limits the number of signs. No sign may be larger than 20 percent of the façade area	1-sqft. per 1-lf. of business/building frontage	40-sqft. (for all tenants, all flat signage)	-	Indirect or Backlighting	-
	Freestanding	1 per lot with front yard / 2 per corner lot (1 each street frontage)	Limited by maximum signage area	10-sqft. per face	15-ft. measured from adjacent grade, paved walk, or surface	Indirect or Backlighting	10 ft. setback from the property line. Gasoline/fueling stations or other businesses selling automotive fuel are permitted to incorporate one price sign not to exceed 18 square feet.

Table 1 Sign Types and Dimensional Regulations by Zoning Districts, Central Business Commercial (CBC) Zoning District							
ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
	Projecting	1 per tenant	1-sqft. per 1 lf. of business/building frontage	10-sqft. each face	13-ft. / 8-ft. pedestrian clearance measured from adjacent grade, paved walk, or surface	Indirect or Backlighting	Install at right angles to the building and a minimum of 2 ft. from the property line
	Window	1 per business	1-sqft. per 1-lf. of business/building frontage	50% of the Window Area	-	Not permitted	-
	Fueling station canopy sign	2	25 square feet per canopy sign	50-sq. ft.	Height of canopy	Internally	Permanent signage under the canopy on pumps or supports shall not be counted towards the canopy, freestanding, or wall-mounted signage limits.

**Table 2. Sign Types and Dimensional Regulations by Zoning Districts, Commercial Medical (CM), and General Commercial (GC) Zoning District**

ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
Commercial Medical (CM) and General Commercial (GC)	Electronic Message Board / Electronic Display Screen (Refer to Table Note #9)	1-per lot or parcel, used as or incorporated as a freestanding	Limited by maximum signage area	100-sqft. / 20-sqft. min.	15-ft. measured from adjacent grade, paved walk, or surface	Internal	-
	Exterior Directory	1-per building entrance	2-sqft. per business	10-sqft.	Refer to Table Note #4	Not permitted	-
	Exterior Directory, Freestanding	1-per building used as or incorporated as a freestanding	1-sqft. per 1-lf. of street frontage	100-sqft. / 20-sqft. min.	15-ft. measured from adjacent grade, paved walk, or surface	Indirect / Internal	-
	Flat/wall	The maximum sign area limits the number of signs. No sign may be larger than 20 percent of the façade area.	1-sqft. per 1-lf. of business/building frontage	60-sqft. (for all tenants, all flat signage)	Refer to Table Note #4	Internal	Maximum of 9-inches projection
	Freestanding	1-per lot with front yard	1-sqft. per 1-lf. of street frontage	100-sqft. / 20-sqft. min.	15-ft. measured from adjacent grade, paved walk, or surface	Indirect / Internal	Gasoline/fueling stations or other businesses selling automotive fuel are permitted to incorporate one price sign not to exceed 24 square feet.
	Projecting	1 per tenant	1-sqft. per 1-lf. of business/building frontage	12-sqft. each face	7-ft. pedestrian clearance measured from adjacent grade, paved walk, or surface	Not permitted	Install at right angles to the building, maximum 6-ft. projection, minimum of 2-ft.

**Table 2. Sign Types and Dimensional Regulations by Zoning Districts, Commercial Medical (CM), and General Commercial (GC) Zoning District**

ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
							from the property line
	Directional	As determined by the Planning Commission	-	4-sqft.	-3-ft.	Not permitted	
	Fueling station canopy sign	2	25 square feet per canopy sign	50-sq. ft.	Height of canopy	Internally	Permanent signage under the canopy on pumps or supports shall not be counted towards the canopy, freestanding, or wall-mounted signage limits.

**Table 3. Sign Types and Dimensional Regulations by Zoning Districts, Regional Highway Commercial (RHC) Zoning District**

ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
Regional Highway Commercial	Awning	1-per business	1-sqft. per lf. of business/building frontage	20% of the wall surface on which the sign is located	Limited by maximum signage area	Not permitted	8-ft. minimum pedestrian clearance, measured from adjacent paved surface, walk, or grade

Table 3. Sign Types and Dimensional Regulations by Zoning Districts, Regional Highway Commercial (RHC) Zoning District							
ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
	Electronic Message Board / Electronic Display Screen (Refer to Table Note #9)	1-per lot or parcel, used as or incorporated as a freestanding	Limited by maximum signage area	30-sqft	15-ft. measured from adjacent grade, paved walk, or surface	Internal	-
	Exterior Directory	1-per building entrance	2-sqft. per business	20-sqft.	Refer to Table Note #4	Not permitted	-
	Flat/Wall	The maximum sign area limits the number of signs with no sign larger the 20 percent of the façade area	15-sqft. per 20-lf. of street frontage	150 square feet (for all tenants, all flat signage)	Refer to Table Note #4	Indirect / Internal	Maximum of 9-inches projection
	Service station canopy sign	2	25 square feet per canopy sign	50-sq. ft.	Height of canopy	Internally	Permanent signage under the canopy on pumps or supports shall not be counted towards the canopy, freestanding, or wall-mounted signage limits.
	Freestanding	1-per lot with front yard	15-sqft. per 20-lf. of street frontage	30-sqft.	30-ft. measured from adjacent grade, paved walk, or surface	Indirect / Internal	Gasoline/fueling stations or other businesses selling automotive fuel are permitted to incorporate one price sign not to exceed 40 square feet



Table 3. Sign Types and Dimensional Regulations by Zoning Districts, Regional Highway Commercial (RHC) Zoning District							
ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
	Directional	As determined by the Planning Commission	-	4-sqft.	3-ft.	Not permitted	-
	Sign package approved as part of the site plan approval process						
	Flat/Wall	The maximum sign area limits the number of signs. No sign may be larger than 20 percent of the façade area	15-sqft. per 20-lf. of street frontage per sign	200 square feet (for all tenants, all flat signage)	Refer to Table Note #4	Indirect / Internal	Maximum of 9-inches projection
	Freestanding	1-per lot with front yard	15-sqft. per 20-lf. of street frontage	30-sqft.	30-ft. measured from adjacent grade, paved walk, or surface	Indirect / Internal	Gasoline/fueling stations or other businesses selling automotive fuel are permitted to incorporate one price sign not to exceed 64.

**Table 4. Sign Types and Dimensional Regulations by Zoning Districts, Mixed Industrial (MI) and Industrial (I) Zoning District**

ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
<b>Mixed Industrial (MI) and Industrial (I)</b>	Exterior Directory	1-per building entrance	2-sqft. per tenant	10-sqft.	Refer to Table Note #4	Not permitted	-
	Flat	2-per building	15-sqft. per 20-lf. of building or tenant space frontage	20% of the wall surface on which the sign is located	-	Indirect/ Internal/ Backlighting	Maximum of 9-inches projection
	Freestanding or Freestanding Directory	1-per lot or parcel	15-sqft. per 20-lf. of building or tenant space frontage	100-sqft.	25-ft. measured from adjacent grade, paved surface, or walk	Indirect / Internal	-
	Directional	As determined by the Planning Commission	-	4-sqft.	3-ft.	Not permitted	-

**Table 5A Sign Types and Dimensional Regulations, Existing Commercial Shopping Centers and Big Box Stores in Regional Highway Commercial (RHC) Zoning District**

ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
<b>Regional Highway Commercial (RHC)</b>	Electronic Message Board / Electronic Display Screen (Refer to Table Note #9)	1-per lot or parcel, used as or incorporated as a freestanding	Limited by maximum signage area	100-sqft. / 20-sqft. min. / 30-sqft. in Residential Zoning Districts	25-ft. measured from adjacent grade, paved walk, or surface	Internal	-
	Exterior Directory	1-per building entrance	2-sqft. per tenant	10-sqft.	Refer to Table Note #4	Not permitted	-
	Flat / Individual Tenant on Lot with Freestanding Directory	1-per building or tenant frontage	2-sqft. per 1-lf. of building or tenant frontage	100-sqft.	Refer to Table Note #4	Indirect / Internal	-
	Flat / Individual Tenant or Business without a Freestanding Directory	1 per tenant	1-sqft. per 1-lf. of building or tenant space frontage	100-sqft.	Refer to Table Note #4	Indirect / Internal	-

Table 5A Sign Types and Dimensional Regulations, Existing Commercial Shopping Centers and Big Box Stores in Regional Highway Commercial (RHC) Zoning District							
ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
	Freestanding or Freestanding Directory	1-per lot or parcel	Limited by maximum signage area	150-sqft. each face, 2-sided signs	25-ft. measured from adjacent grade, paved surface, or walk	Indirect / Internal	-
	Bulletin or Directory	As determined by the Planning Commission	-	20-sqft.		Not permitted	
	Directional Sign	As determined by the Planning Commission	-	4-sq ft.	3-ft.	Not permitted	

Table 5B-Sign Types and Dimensional Regulations, Existing Industrial Centers and Commercial Medical Centers in Regional Highway Commercial (RHC) Zoning District and Industrial Park							
ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
Regional Highway Commercial (RHC) and Industrial Park	Electronic Message Board / Electronic Display Screen (Refer to Table Note #9)	1-per lot or parcel, used as or incorporated as a freestanding	Limited by maximum signage area	100-sqft. / 20-sqft. min. / 30-sqft. in Residential Zoning Districts	25-ft. measured from adjacent grade, paved walk, or surface	Internal	-
	Exterior Directory	1-per building entrance	2-sqft. per tenant	10-sqft.	Refer to Table Note #4	Not permitted	-
	Flat / Individual Tenant on Lot with Freestanding Directory	1-per building or tenant frontage	2-sqft. per lf. of building or tenant frontage	100-sqft.	Refer to Table Note #4	Indirect / Internal	-

<b>Table 5B-Sign Types and Dimensional Regulations, Existing Industrial Centers and Commercial Medical Centers in Regional Highway Commercial (RHC) Zoning District and Industrial Park</b>							
<b>ZONING DISTRICT</b>	<b>SIGN TYPES PERMITTED</b>	<b>NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)</b>	<b>SIGNAGE AREA DETERMINATION</b>	<b>MAXIMUM SIGNAGE AREA</b>	<b>MAXIMUM HEIGHT (Refer to Table Note #4)</b>	<b>ILLUMINATION PERMITTED (Refer to Table Note #5)</b>	<b>OTHER PROVISIONS Refer to Table Notes</b>
	Flat / Individual Tenant or Business without a Freestanding Directory	1 per tenant	1-sqft. per lf. of building or tenant space frontage	100-sqft.	Refer to Table Note #4	Indirect / Internal	-
	Freestanding or Freestanding Directory	1-per lot or parcel	Limited by maximum signage area	150-sqft. for each face, 2-sided signs / 300-sqft. for 1-sided sign	25-ft. measured from adjacent grade, paved surface, or walk	Indirect / Internal	-
	Bulletin or Directory	1-per lot or parcel	-	20-sqft.	5-ft.	Not permitted	-
	Directional	As determined by the Planning Commission	-	4-sq ft.	3-ft.	Not permitted	-

<b>Table 5C. Sign Types and Dimensional Regulations, New and Comprehensive Redevelopment: Commercial Shopping Centers and Big Box Stores (Table 5C) in Regional Highway Commercial (RHC) Zoning District</b>							
<b>ZONING DISTRICT</b>	<b>SIGN TYPES PERMITTED</b>	<b>NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)</b>	<b>SIGNAGE AREA DETERMINATION</b>	<b>MAXIMUM SIGNAGE AREA</b>	<b>MAXIMUM HEIGHT (Refer to Table Note #4)</b>	<b>ILLUMINATION PERMITTED (Refer to Table Note #5)</b>	<b>OTHER PROVISIONS Also, Refer to Table Notes</b>
<b>Regional Highway Commercial (RHC)</b>	Electronic Message Board / Electronic Display Screen (Refer to Table Note #9)	1-per lot or parcel, used as or incorporated as a freestanding	Limited by maximum signage area	100-sqft. / 20-sqft. min. / 30-sqft.	30-ft. measured from adjacent grade, paved walk, or surface	Internal	Table Note #10
	Exterior Directory	1-per building entrance	2-sqft. per tenant	As determined by the Planning Commission	Refer to Table Note #4	Internal	-

<b>Table 5C. Sign Types and Dimensional Regulations, New and Comprehensive Redevelopment: Commercial Shopping Centers and Big Box Stores (Table 5C) in Regional Highway Commercial (RHC) Zoning District</b>							
<b>ZONING DISTRICT</b>	<b>SIGN TYPES PERMITTED</b>	<b>NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)</b>	<b>SIGNAGE AREA DETERMINATION</b>	<b>MAXIMUM SIGNAGE AREA</b>	<b>MAXIMUM HEIGHT (Refer to Table Note #4)</b>	<b>ILLUMINATION PERMITTED (Refer to Table Note #5)</b>	<b>OTHER PROVISIONS Also, Refer to Table Notes</b>
	Flat / Individual Tenant on Lot with Freestanding Directory	As determined by the Planning Commission	As determined by the Planning Commission	20% of wall surface per tenant.	Refer to Table Note #4	Downlight / Internal / Indirect	-
	Flat / Individual Tenant or Business without a Freestanding Directory	As determined by the Planning Commission	As determined by the Planning Commission	20% of wall surface per tenant	Refer to Table Note #4	Downlight / Internal / Indirect	Shall not extend more than 18-in. from the building wall.
	Freestanding or Freestanding Directory	As determined by the Planning Commission	Limited by maximum signage area	200-sqft. each face, 2-sided signs	30-ft. measured from adjacent grade, paved surface, or walk	Downlight / Internal / Indirect	No closer than 20-ft. from the curb or Public Right-of-Way
	Bulletin or Directory	1-per lot or parcel	-	20-sqft.	5-ft.	Not permitted	
	Directional	As determined by the Planning Commission	-	4-sq ft.	3-ft.	Not permitted	

**Table 5D. New and Comprehensive Redevelopment: Industrial Centers and Commercial Medical Centers in Regional Highway Commercial (RHC) Zoning District and Industrial Park**

ZONING DISTRICT	SIGN TYPES ERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
Regional Highway Commercial (RHC) and Industrial Park	Electronic Message Board / Electronic Display Screen  (Refer to Table Note #9)	1-per lot or parcel, used as or incorporated as a freestanding	Limited by maximum signage area	100-sqft. / 20-sqft. min. / 30-sqft. in Residential Zoning Districts	30-ft. measured from adjacent grade, paved walk, or surface	Internal	-
	Exterior Directory	1-per building entrance	2-sqft. per tenant	-	Refer to Table Note #4	Not permitted	-
	Flat / Individual Tenant on Lot with Freestanding Directory	As determined by the Planning Commission	As determined by the Planning Commission	100-sqft 20% of wall surface per tenant	Refer to Table Note #4	Indirect / Internal	-
	Flat / Individual Tenant or Business without a Freestanding Directory	As determined by the Planning Commission	As determined by the Planning Commission	20% of wall surface per tenant	Refer to Table Note #4	Indirect / Internal	-
	Freestanding or Freestanding Directory	As determined by the Planning Commission	Limited by maximum signage area	200-sqft. for each face, 2-sided signs / 400 sq ft. for 1-sided sign	30-ft. measured from adjacent grade, paved surface, or walk	Indirect / Internal	-
	Directional	As determined by the Planning Commission	-	4-sqft.	3-ft.	Not permitted	

**Table 6. Government, Religious, Charitable, and Civic Organizations in all zoning districts**

<b>ZONING DISTRICT</b>	<b>SIGN TYPES PERMITTED</b>	<b>NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)</b>	<b>SIGNAGE AREA DETERMINATION</b>	<b>MAXIMUM SIGNAGE AREA</b>	<b>MAXIMUM HEIGHT (Refer to Table Note #4)</b>	<b>ILLUMINATION PERMITTED (Refer to Table Note #5)</b>	<b>OTHER PROVISIONS Refer to Table Notes</b>
<b>ALL ZONING DISTRICTS GOVERNMENT ONLY</b>	Electronic Message Board / Electronic Display Screen (Refer to Table Note #9)	1-per lot or parcel, used as or incorporated as a freestanding	Limited by maximum signage area	100-sqft. / 30-sqft. in Residential Zoning Districts	15-ft. measured from adjacent grade, paved walk, or surface	Internal	-
	Exterior Directory	1-per building entrance	Limited by Maximum Signage Area	10-sqft.	Refer to Table Note #4	Indirect / Internal	-
	Flat	1-per building frontage	2-sqft. per 100-lf. of building or tenant space frontage	40-sqft. / each sign	Refer to Table Note #4	Indirect / Internal	-
	Freestanding or Freestanding Directory	1-per lot or parcel	2-sqft. per 100-lf. of building or tenant space frontage	50-sqft. each face	15-ft. measured from adjacent grade, paved surface, or walk	Indirect / Internal	-
	Off-site Special Events	Unlimited	Limited by maximum signage area	16-sqft. each face	15-ft. measured from adjacent grade, paved surface, or walk	Not permitted	Remove within 2 days after the event
	Directional	As determined by the Planning Commission	-	4-sq ft.	3-ft.	Not permitted	-

Table 7. Sign Types and Dimensional Regulations, commercial signage in Suburban Residential (SR), Townscale Residential (TR), Mixed Residential (MR) Zoning Districts, Urban Residential (UR), and Rural Agriculture (RA) districts							
ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
SUBURBAN RESIDENTIAL (SR) TOWNSCALE RESIDENTIAL (TR) AND MIXED RESIDENTIAL (MR)	Exterior Directory	1-per building entrance	2-sqft. per tenant	10-sqft.	Refer to Table Note #4	Not permitted	-
	Flat or Projecting	1-per building or tenant frontage	Limited by Maximum Signage Area	15-sqft. / each sign	Refer to Table Note #4	Indirect	-
	Directional	As determined by the Planning Commission	-	4-sqft.	-3-ft.	Not permitted	-

Table 8. Sign Types and Dimensional Regulations, Commercial Signage in Planned Neighborhoods (PN)							
ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
P l a n	Exterior Directory	1-per building entrance	2-sqft. per business	10-sqft.	-	Not permitted	-



**Table 8. Sign Types and Dimensional Regulations, Commercial Signage in Planned Neighborhoods (PN)**

ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED (Refer to Table Note #3)	SIGNAGE AREA DETERMINATION	MAXIMUM SIGNAGE AREA	MAXIMUM HEIGHT (Refer to Table Note #4)	ILLUMINATION PERMITTED (Refer to Table Note #5)	OTHER PROVISIONS Refer to Table Notes
	Exterior Directory, Freestanding	1-per building used as or incorporated as a freestanding	1-sqft. per 1-lf. of street frontage	100-sqft. / 20-sqft. min.	15-ft. measured from adjacent grade, paved walk, or surface	Not permitted	-
	Flat	1 per tenant	1-sqft. per 1-lf. of business/building frontage	60-sqft. (for all tenants, all flat signage)		Indirect / Internal	Maximum of 9-inches projection
	Freestanding	1-per lot with front yard	1-sqft. per 1-lf. of street frontage	100-sqft. / 20-sqft. min.	15-ft. measured from adjacent grade, paved walk, or surface	Indirect / Internal	-
	Projecting	1 per tenant	1-sqft. per 1 lf. of business/building frontage	12-sqft. each face	7-ft. pedestrian clearance measured from adjacent grade, paved walk, or surface	Not permitted	Install at right angles to the building, maximum 6-ft. projection, minimum of 2-ft. from the property line
	Directional	As determined by the Planning Commission	-	4-sqft.	-3-ft.	Not permitted	-

**Table 9. Sign Types and Dimensional Regulations, Not Requiring a Permit/Subject to Regulations, All Zoning Districts**

ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED	MAXIMUM SIGNAGE AREA	ILLUMINATION PERMITTED (Refer to Table Note #4)	OTHER PROVISIONS Refer to Table Notes
CBC	Real Estate	1-per lot or parcel	10-sqft.	Not permitted	Remove after sale or lease.
	Denton Branding Logo	Any	Not included in the calculation for the signage area	-	-

**Table 9. Sign Types and Dimensional Regulations, Not Requiring a Permit/Subject to Regulations, All Zoning Districts**

<b>ZONING DISTRICT</b>	<b>SIGN TYPES PERMITTED</b>	<b>NUMBER OF SIGNS ALLOWED</b>	<b>MAXIMUM SIGNAGE AREA</b>	<b>ILLUMINATION PERMITTED (Refer to Table Note #4)</b>	<b>OTHER PROVISIONS Refer to Table Notes</b>
	Temporary Window or Door Signage	Limited by maximum signage area	20% of window or door area	Not permitted	Remove after 90 days.
	Construction Site Identification	1	32-sqft.	Not permitted	Remove after issuance of occupancy certificate
<b>CM / GC</b>	Real Estate	1-per lot or parcel	15-sqft.	Not permitted	Remove after sale or lease.
	Denton Branding Logo	Any	Not included in the calculation for the signage area	-	-
	Temporary Window or Door Signage	Limited by maximum signage area	20% of window or door area	Not permitted	Remove after 90-days
	Construction Site Identification	1	32-sqft.	Not permitted	Remove after issuance of occupancy certificate
<b>MI / I</b>	Real Estate	1-per lot or parcel	40-sqft.	Not permitted	Remove after sale or lease.
	Denton Branding Logo	Any	Not included in the calculation for the signage area	-	-
	Temporary Window or Door Signage	Limited by maximum signage area	20% of window or door area	Not permitted	Remove after 90-days
	Construction Site Identification	1	32-sqft.	Not permitted	Remove after issuance of occupancy certificate
<b>All other districts</b>	Real Estate	1-per lot or parcel	10-sqft.	Not permitted	Remove after sale or lease.
	Denton Branding Logo	Any	Not included in the calculation for the signage area	-	-

Table 9. Sign Types and Dimensional Regulations, Not Requiring a Permit/Subject to Regulations, All Zoning Districts					
ZONING DISTRICT	SIGN TYPES PERMITTED	NUMBER OF SIGNS ALLOWED	MAXIMUM SIGNAGE AREA	ILLUMINATION PERMITTED (Refer to Table Note #4)	OTHER PROVISIONS Refer to Table Notes
	Temporary Window or Door Signage	Limited by maximum signage area	20% of window or door area	Not permitted	Remove after 90-days
	Construction Site Identification	1	20-sqft.	Not permitted	Remove after issuance of occupancy certificate

**Table (1-9) Notes.**

1. **Government, Religious, Charitable and Civic Organizations.** Refer to Table 6 for signage types and dimensional regulations for government and governmental facilities and religious and civic organizations in any zoning district.
2. **Commercial Shopping and Industrial Centers.** Refer to Table 5 for signage types and dimensional regulations for Shopping and Industrial Centers applicable in any zoning district.
3. **Combinations of Types of Signs.** Multiple signs and a combination of types of signs are permitted in this district. The following combinations are permitted subject to the Table of sign types and dimensional regulations for this zoning district.
  - a. Maximum number of combination of types of signs: Two (2) per business/building.
  - b. Projecting and Window Signs.
  - c. Building (flat) and Window Signs.
  - d. Awning and Window Signs.
  - e. All other combinations are not permitted.
4. **Safety, Adequate Clearances, and Other Provisions.**
  - a. Maintain proper pedestrian traffic clearances surrounding all signs to avoid hazards.
  - b. The minimum clearance from the adjacent pedestrian walk surface is 7 ft., measured from the adjacent walk surface or grade to the bottom of the sign.

- c. Height shall be reduced from the permitted maximum to mitigate or avoid electrical or other hazards.
  - d. Properties located in the Denton Historic District are subject to the provisions of Article IV, Special District: Historic Overlay Zone.
  - e. Shopping centers, Big Box Stores, Commercial Medical Centers, and Industrial Centers shall maintain an overhead clearance of 10 ft. measured from adjacent grade for all projecting and marquee signs greater than 6 sq. ft. in signage area.
5. **Illumination.** All illumination of signs is subject to the provisions of Article XI, Outdoor Lighting.
6. **Off-Premise Signage Provisions in CBC Zoning District.** Freestanding off-premise signs are permitted on each gateway access point (Gay, Franklin, 6<sup>th</sup>, and Market Streets and 5<sup>th</sup> Avenue. Signage shall be directional only.
7. **Works of Art and Architectural features.** Integral decorative or architectural features of buildings and works of art that do not contain letters, trademarks, or moving parts are permitted in all zoning districts.
8. **Vehicle Signage.** Signs installed or erected to currently licensed motor vehicles used in normal day-to-day operations of a business and are not primarily used as freestanding signs are permitted in all zoning districts.
9. **Electronic Message Board, Electronic Display Screen Signs.** Electronic Message Boards and electronic Display Screen Signs are subject to the following standards:
- a. The electronic display background color tones, lettering, pictures, and illuminations shall not flash, blink, scroll, change appearances, or otherwise create a distraction that may be a hazard to vehicular traffic.
  - b. The transition or duration between displays or messages shall be no less than thirty (30) seconds. The Director of Planning and Codes or their designee may cause the transition or duration between displays to be modified from this standard if determined to be a distraction to vehicular traffic.
  - c. Illumination shall be in accordance with Article XI, Outdoor Lighting.
  - d. Electronic messaging signs shall have an automatic dimmer control to produce a distinct illumination change from higher to lower level of illumination for the period half an hour before sunset and after sunrise.
  - e. Audio speakers and any form of pyrotechnics are prohibited.