



TOWN OF BLACK MOUNTAIN

160 Midland Avenue ♦ Black Mountain ♦ N.C. ♦ 28711

Phone: (828) 419-9300 ♦ Fax: (828) 669-2030

MEMORANDUM

To: Town of Black Mountain Planning Board
From: Jennifer Tipton, Senior Admin
Re: Agenda Packet for May 11, 2023
Date: May 5, 2023

The **Town of Black Mountain Planning Board** will meet on **Thursday, May 11, 2023, at 6:00 p.m.** in Town Hall at 160 Midland Avenue.

Please find the following items for your information and use at the meeting:

1. The proposed agenda;
2. Second review of UDO Chapters 1, 7, 9, and 10; and
3. Dates for June workshop.

Please let Jennifer Tipton know if you are **unable** to attend this meeting.
jennifer.tipton@tobm.org or (828) 419-9371.

The Town of Black Mountain is committed to providing accessible facilities, programs and services for all people in compliance with the American with Disabilities Act. Should you need assistance or a particular accommodation for this meeting, please inform Jennifer Tipton at (828) 419-9371 or by email at jennifer.tipton@tobm.org.

CC: Jessica Trotman, Planning Director
Russell Cate, Planner I/Zoning Administrator
Ron Sneed, Town Attorney



**Planning Board Workshop
May 11, 2023**

PROPOSED AGENDA

- I. CALL TO ORDER**
 - Welcome
 - Determination of Quorum
- II. ADOPTION OF AGENDA**
 - **Motion:** To adopt the agenda as presented [or as amended]
- III. ADOPTION OF MINUTES**
 - No minutes to adopt
- IV. OLD BUSINESS**
- V. NEW BUSINESS**
 - Second Review of UDO Chapters 1, 7, 9, and 10
 - Date for June workshop
- VI. PUBLIC COMMENT**
- VI. COMMUNICATION FROM PLANNING BOARD**
- VIII. COMMUNICATION FROM STAFF**
- IX. ADJOURNMENT**



PUBLIC NOTICE **AVISO PÚBLICO**

BLACK MOUNTAIN PLANNING BOARD

WORKSHOP **TALLER**

Thursday, May 11, 2023, at 6:00 p.m.
Jueves 11 de mayo de 2023, a las 6:00 p.m.

The Black Mountain Planning Board will meet for a workshop to review the next sections of the Unified Development Ordinance (UDO) on **Thursday, May 11, 2023, at 6:00 p.m.** at Town Hall, 160 Midland Avenue, Black Mountain, N.C.

La Junta de Planificación de Black Mountain se reunirá para un taller para revisar las próximas secciones de la Ordenanza de Desarrollo Unificado (UDO) el **jueves 11 de mayo de 2023 a las 6:00 p.m.** en el Ayuntamiento, 160 Midland Avenue, Black Mountain, N. C.

The meeting is open to the public.
La reunión está abierta al público.

Jennifer Tipton
Senior Admin

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La ciudad de Black Mountain se compromete a proporcionar instalaciones, programas y servicios accesibles para todas las personas en cumplimiento con la Ley de Estadounidenses con Discapacidades (ADA). Si necesita ayuda o un alojamiento en particular para esta reunión, comuníquese con Jennifer Tipton al (828) 419-9371 o por correo electrónico a Jennifer.tipton@tobm.org.

Posted to the Town Bulletin Board 04/26/2023
www.townofblackmountain.org

Town of Black Mountain Unified Development Ordinance

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UDO Summary

Chapter 1: Purpose, Authority, and Jurisdiction

Chapter overview: Chapter 1 addresses the purpose, authority and jurisdiction of the Unified Development Ordinance.

Items coming over from existing Code: *As of 4.17.23, annotated outline has nothing.*

Significant changes: *As of 4.17.23, annotated outline has nothing.*



CHAPTER 1: PURPOSE, AUTHORITY, AND JURISDICTION

§ 1.01 Purpose, Authority, and Jurisdiction

- A. **Title.** This Ordinance shall be known as and may be cited as the Unified Development Ordinance. It may also be known and may be referred to as the 'UDO'. The map referred to herein is identified by the title 'Official Zoning Map of Black Mountain, North Carolina,' and may be known as the 'Zoning Map'.
- B. **Authority and Jurisdiction.** These regulations are adopted pursuant to the authority granted by Chapter 160D of the North Carolina General Statutes (NCGS). The provisions of this code shall be applicable to all property within the town limits.
- C. **Purpose and Intent.**
1. *Establish Zoning and Development Regulations.* The purpose of this UDO is to provide regulations for the subdivision of land and guidelines for its development, in order to protect and promote the health, safety, and general welfare of the town in accordance with the General Statutes of the State of North Carolina and the Town of Black Mountain Code of Ordinances.
 2. *Conformance with Other Plans.* It is also the intent of the Town of Black Mountain Town Council that this UDO implements the planning policies reflected in the town's adopted comprehensive plan and other current, adopted planning documents, and that these regulations be easy to understand and that all processes required be simple and efficient. Other than the comprehensive plan, other documents include but are not limited to the town's capital improvement program, comprehensive pedestrian plan, greenways plan, the French Broad River MPO Comprehensive Transportation Plan, and other local and regional plans adopted or endorsed by the town council.
 3. *Reasons for UDO.* This UDO is intended to protect individual property values and development rights while:
 - a. Securing safety from flooding, fire, panic, and other dangers;
 - b. Promoting health, the general welfare, and quality of life of the citizens of Black Mountain;
 - c. Providing adequate light and air;
 - d. Protecting ecosystems and trees;
 - e. Preventing the improper use of land;
 - f. Lessening congestion;
 - g. Avoiding undue concentration of population; and
 - h. Facilitating the adequate provision of transportation, public utilities, recreation, and other public requirements.
 4. *Character.* The Town Council has given due consideration to the character of each zoning district, its suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town. The goal of character comes from a desire for:
 - a. Maintaining the small town character and community identity of the town;
 - b. Promoting social, cultural and economic diversity in our community;
 - c. Promoting a vibrant downtown district that encourages small business development and preserves the historical integrity of the existing buildings;

- d. Providing a network of safe and convenient transportation options that accommodate freight, automobiles, transit vehicles, pedestrians and bicyclists;
- e. Preserving our natural resources, parks, open spaces, and view-sheds;
- f. Minimizing risk to property and water quality from flood damage and stormwater;
- g. Protecting environmental health and safety from natural and manmade disasters;
- h. Providing a variety of housing types for citizens of all income levels, ages and physical abilities; and
- i. Creating economic opportunities through organized development patterns that encourage investment and the redevelopment of blighted areas.

§ 1.02 Applicability

- A. **Applicability.** The Town is authorized by the North Carolina General Statutes (“NCGS”) to exercise broad powers in the regulation of zoning, planning, subdivision of land, and building. Through this UDO, the Town intends to use all powers provided by virtue of Article 2, Chapter 160D-201, *Planning and Development Regulation Jurisdiction*. The powers granted by NCGS Chapter 160D may be exercised by the Town within its corporate limits.
- B. **Required Conformance.** Except as specified otherwise in this UDO, no building or land may be used, and no building may be erected, altered, or moved that is used or designed to be used for any purpose other than a use that is permitted or conditionally permitted in a zoning district in which that building or land is located. To be built upon, a parcel of land shall be platted or meet the requirements of this UDO.
- C. **Repeal of Existing Ordinances.** The adoption of this UDO repeals the existing Land Use Code.
- D. **NCGS 160D.** The standards and regulations of NCGS 160D, as amended, shall govern where this ordinance does not or is more restrictive.

UDO Summary

Chapter 7: Administration

Chapter overview: Chapter 7 addresses administration and staff

Items coming over from existing Code: vested rights and administrative bodies (i.e., staff positions)

Significant changes:

- Adds information for Technical Review Committee



CHAPTER 7: ADMINISTRATION

Contents:

- § 7.01 General Provisions
- § 7.02 Administrative Provisions
- § 7.03 Legislative and Quasi-Judicial Bodies
- § 7.04 Administrative Bodies

§ 7.01 General Provisions

7.01.01 Title

This code is adopted by reference in Appendix A of the Town of Black Mountain Code of Ordinances and shall be known as the *Unified Development Ordinance* of the Town of Black Mountain.

7.01.02 Purposes

- A. **Generally.** The purpose of this UDO of the Black Mountain Code of Ordinances is to provide regulations for the subdivision of land and guidelines for its development, in order to protect and promote the health, safety and general welfare of the town in accordance with the General Statutes of the State of North Carolina and the Town of Black Mountain Code of Ordinances. It is also the intent of the Town of Black Mountain Town Council that this UDO implements the planning policies reflected in the Town's adopted comprehensive plan and other current, adopted planning documents, and that these regulations be easy to understand and that all processes required be simple and efficient.
- B. **Protection.** These policies are intended to protect individual property values and development rights while:
1. Maintaining the small town character and community identity of the town;
 2. Promoting social, cultural and economic diversity in our community;
 3. Promoting a vibrant downtown district that encourages small business development and preserves the historical integrity of the existing buildings;
 4. Providing a network of safe and convenient transportation options that accommodate freight, automobiles, transit vehicles, pedestrians and bicyclists;
 5. Preserving our natural resources, parks, open spaces, and view-sheds;
 6. Minimizing risk to property and water quality from flood damage and stormwater;
 7. Protecting environmental health and safety from natural and manmade disasters;
 8. Providing a variety of housing types for citizens of all income levels, ages and physical abilities; and
 9. Creating economic opportunities through organized development patterns that encourage investment and the redevelopment of blighted areas.

7.01.03 Authority and Jurisdiction

These regulations are adopted pursuant to the authority granted by Chapter 160D of the North Carolina General Statutes (NCGS). The provisions of this code shall be applicable to all property within the town limits.

7.01.04 Conflicts of Interest

NCGS Chapter 160D-109 shall govern financial and other conflicts of interest related to legislative and quasi-judicial bodies and administrative officials.

7.01.05 Enactment, Effective Date, and Repeal

- A. **Enactment.** The enactment of this UDO shall repeal and replace the previously adopted Land Use Code, that was in place prior to the effective date of this UDO as noted below.
- B. **Effective Date.** The effective date of this UDO is the later of:
 - 1. _____; or
 - 2. The date that the Town Council adopts the Official Zoning Map, which is _____.

§ 7.02 Administrative Provisions

7.02.02 Plan Consistency

- A. **Generally.** This UDO is intended to implement the goals, objectives, and policies of the Comprehensive Plan. Any amendments to, or actions pursuant to the UDO shall be consistent with the Comprehensive Plan.
- B. **Amendments to Text.** Any amendment to the UDO must conform to the goals of the Comprehensive Plan. Any amendment to the zoning map must be consistent with the future land use map contained in the Comprehensive Plan and/or the purpose statement for the zoning district found in Chapter 2.

7.02.03 Conformity with UDO

Any administrative body vested with the authority to make a final decision on a development review application under this UDO may not issue an approval for any use, structure, subdivision, or improvement that conflicts with any provision of this UDO.

7.02.04 Abrogation and Conflicting Provisions

- A. **Abrogation.** Except for those provisions of the Town Code explicitly repealed upon the adoption of this UDO, this UDO is not intended to repeal, abrogate, or impair any existing public or private laws, easements, covenants, or deed restrictions.
- B. **Conflict.**
 - 1. *Public Restrictions.* The following provisions apply to laws adopted by a federal, state, or local legislative body.
 - a. Where this UDO conflicts with another local, state, or federal law, whichever the Director finds imposes the more stringent restrictions controls. Where the Planning Director finds conflicting provisions to be equally stringent, then the provision more recently adopted controls.
 - b. Where the text of this UDO conflicts with its tables or illustrative material, the text controls. Where a table of this UDO conflicts with an illustration, the table controls.

2. *Private Restrictions.* The Town does not interpret or enforce private restrictions, including, but not limited to, deed restrictions, covenants, or easements, unless it is a party to them. If the Town is a party to private restrictions, and such restrictions conflict with this UDO then the more stringent restrictions control.

7.02.05 Minimum Requirements

- A. **Generally.** Regulations set forth by this UDO shall be minimum regulations. If the requirements set forth in this UDO are at variance with the requirements of any other lawfully adopted rules, regulations or ordinance, the more restrictive or higher standards shall govern.
- B. **Interpretation.** In the interpretation and administration of this UDO, all provisions shall be:
 1. *Minimum Requirements.* Considered as minimum requirements for promotion of the purposes of this UDO; and
 2. *Construed in Favor.* Liberally construed in favor of the Town.

7.02.06 Severability

- A. **Generally.** If the Superior Court holds any provision of this UDO to be illegal or invalid, the remainder of this UDO shall remain in full force without being affected by the judgment.
- B. **As-Applied.** If the Superior Court holds any application of a provision of this UDO to a particular structure, land, or water to be illegal or invalid "as-applied", such judgment shall not be applicable to any other structure, land, or water not specifically included in the judgment.

7.02.07 Transitional Provisions

- A. **Approvals.**
 1. *Completion.* Any building, structure, or development shall be completed in conformance with the issued permit and any other applicable permits and conditions, even if such building, structure, or development does not fully comply with provisions of this UDO.
 2. *Delay in Construction.* Should construction of any outstanding permit not begin within a period of 180 days subsequent to the passage of this UDO or any amendment thereto, or where it has not been prosecuted to completion within 18 months subsequent to the passage of this UDO or any amendment thereto, any further construction or use shall be in conformity with the provisions of this Ordinance or any such amendment.
 3. *No Building Permit.* If a Building Permit is not obtained according to the requirements of the prior Land Use Code or the applicable permit terms, the Town Council may, for good cause shown, grant and extension for the:
 - a. Development approval for up to one year for the purpose of obtaining a Building Permit under the terms of the previously applicable LUC; or
 - b. Building permits so that any building, structure, or development may be constructed, completed, or occupied only in compliance with this UDO.
- B. **Pending Applications.** Applications that are not pursued with due diligence may expire in accordance with other timelines within this UDO.

7.02.08 Fees

The Town Council may adopt a schedule of fees for permits and processing costs associated with the administration of these development regulations.

- A. **Fees to be Paid.** No application shall be processed until the established fee has been paid.
- B. **Refund of Fees.** Application fees are not refundable except where the Planning Director determines that an application was accepted in error, or in the event the fee paid exceeded the amount due, the amount of the overpayment will be refunded to the applicant.

7.02.09 Vested Rights

- A. **Generally.** A statutory vested right is established when:
 - 1. A site-specific vesting plan is approved;
 - 2. A final plat is approved for the initial phase of a multi-phase development;
 - 3. A development agreement is approved and entered into pursuant to Chapter 160D, Article 10 of the North Carolina General Statutes;
 - 4. For all other types of development, when a development permit has been issued;
- B. **Amendments.** During the period that a statutory vested right exists, no amendment to this UDO shall be applicable or enforceable without the written consent of the owner, except as specifically provided in this section.
- C. **Overlay Exceptions.** The establishment of a vested right shall not preclude the application of overlay zoning that imposes additional requirements but do not affect the allowable type or intensity of use, or regulations that are general in nature and are applicable to all property subject to the regulations of the Development Regulations of the Town of Black Mountain, including, but not limited to flood hazard prevention, building, fire, plumbing, electrical and mechanical codes and general regulations of the town.
- D. **Not a Personal Right.** A vested right is not a personal right but shall attach to and run with the land. Successors in title may exercise such right under the same conditions and for the same time that the original applicant could have exercised such right.
- E. **Common Law Principles.** Nothing in this section shall be construed to preclude the establishment of a vested right under one or more common law principles.
- F. **Expiration.** A development permit or approval shall expire, and the period of vested rights shall terminate, unless work authorized by the permit has substantially commenced, on the date which is:
 - 1. For a multi-phase development of at least 25 acres, seven years from the date the site plan for the initial phase of the development was approved by the planning board;
 - 2. Specified in the approved development agreement;
 - 3. For all other development permits or approvals, the date which is one year from the date the permit was issued or approval was given, whichever is later;
 - 4. For an incomplete development project in which development work is intentionally and voluntarily discontinued, the date which is two years from the date work was last performed on the site.
- G. **Substantial Commencement.** Substantial commencement of work shall be determined by planning director based on any of the following:
 - 1. The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis and not discontinued it for more than 30 days;
 - 2. The development has installed substantial on-site infrastructure; or
 - 3. The development has received and maintained a valid building permit for the construction and approval of a building foundation.

- H. **Extension.** Development permits or approvals, other than site-specific vesting plans, that would otherwise expire, may be extended for additional periods of one year if the Planning Director determines that:
1. The permit has not yet expired;
 2. The permit holder has proceeded with due diligence and in good faith; and
 3. Conditions have not changed so substantially as to warrant a new application.
- I. **Site-specific Vesting Plans.** The following types of development approvals are site-specific vesting plans for purposes of this section:
1. Any development for which a special use permit is required;
 2. Major and minor subdivisions.
 3. Conditional zoning designation.
- B. **Conditions.** Approval of a site-specific vesting plan may contain conditions as provided in this code. Conditional approval establishes a vested right for purposes of this section, except that a condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained.
- C. **Follow-Up.** Approval of a site-specific vesting plan may be conditioned upon subsequent reviews by the approving authority or administrative staff to ensure compliance with the terms and conditions of the original approval.
- D. **Revocation.** Approval of a site-specific vesting plan may be revoked for failure to comply with applicable conditions.
- E. **Action by the Town.** Once established, a vested right pursuant to a site-specific vesting plan precludes any action by the town that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of property allowed by these development regulations, except under one or more of the following conditions:
1. With the written consent of the affected landowner;
 2. The town council, by ordinance issued after notice and a public hearing, determines that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan;
 3. To the extent the landowner receives compensation for all costs, expenses, and other losses incurred, together with interest as provided in N.C.G.S. § 160D-106;
 4. The town council, by ordinance issued after notice and a public hearing, determines that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the approval authority of the site-specific vesting plan; or
 5. A state or federal law or regulation precludes development as contemplated, in which case the approval authority may modify the affected provisions upon a finding that the change in state or federal law has a fundamental effect on the plan.
- F. **Time Limit.** A vested right for a site-specific vesting plan remains vested for a period of two years from the date the first development approval or permit is issued for the site. The period of vested rights may be extended by the approving authority for subsequent periods of one year each up to a total of five years.
- G. **Permit Choice.**
1. If an applicant submits a complete application for a development permit or approval and a development regulation is amended before the permit decision, the applicant may choose which version of the rule or ordinance (the former version or the new version) applies to the application.

2. When a development requires multiple permits, the applicant may choose the version of each of the applicable development regulations upon submittal of the application for the initial development permit. This provision is applicable for subsequent development permit applications filed for the same development project within 18 months of the date following the approval of the initial permit. For purposes of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

H. Vested Rights Relative to Annexation.

1. A vested right may be established for a single- or multi-tract development outside of the town's jurisdiction but seeking voluntary annexation upon the effective date of the town's action or ordinance relating thereto and as described in a preliminary plat or master plan approved by the town planning board and the town council. In such cases, the following also apply:
 - a. Approval of a site-specific development plan may contain a variance from the proposed zoning district or other terms and conditions as may reasonably be necessary to protect the health, safety, and welfare of the citizens of the town and of the prospective residents or businesses of the proposed development.
 - b. A petition for annexation filed with the Town of Black Mountain under N.C.G.S. § 160A-31 or N.C.G.S. § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established under N.C.G.S. § 160D-108.
 - c. A statement that declares that no zoning vested right has been established under N.C.G.S. § 160D-108, or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.
2. The applicable zoning district shall be established at the time of annexation.

§ 7.04 Administrative Bodies

7.04.01 Technical Review Committee

- A. Generally.** A regulatory body to be known as the Technical Review Committee (TRC) is hereby established for the purpose of:
1. Administering the requirements of this UDO;
 2. Ensure that all information necessary to determine compliance with this UDO has been provided;
 3. Formulating staff recommendations;
 4. Rectifying review comments between Town departments and referral agencies; and
 5. Providing cohesive and timely review of subdivision applications.
- B. Membership.**
1. The TRC shall be comprised of the Town staff designated by the Director and representatives from each referral agency that reviews development projects in conjunction with the Town.
 2. Based on the nature of a development, TRC meetings can be limited to those staff and agencies affected by the development, or can be expanded to include additional agencies or staff with review responsibilities
- C. Powers and Duties.** The TRC shall have the authority to make recommendations.

D. **Meetings.** TRC meetings shall be convened by the Director, as necessary.

7.04.02 Planning Director

- A. **Powers and Duties Relative to Matters in this UDO.** The Planning Director or their designee shall have the authority to make final decisions where another authority is not listed.
- B. **Powers and Duties Relative to Matters Outside of this UDO.** In addition to the powers and duties set forth above, the Planning Director shall perform duties as outlined in the remainder of the Town Code.

7.04.05 Floodplain Administrator

- A. **Designation of the Floodplain Director.** The Planning Director or his/her designee, hereinafter referred to as the "Floodplain Director", is hereby appointed to administer and implement the provisions of this Section.
- B. **Powers and Duties.**
1. *Recommendations and Final Decisions.* The Floodplain Director shall have the authority to make recommendations or final decisions on the development review applications.
 2. *Other Powers and Duties.* The Floodplain Director shall have the following additional powers and duties. The Floodplain Director:
 - a. Shall maintain and hold open for public inspection all records pertaining to the floodplain provisions of this UDO;
 - b. Shall review permits for proposed development to assure that all necessary permits have been obtained from those federal, state, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required;
 - c. May, under the provisions of CFR Title 44, Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, approve certain development in zones A1-30, AE, AH, on the City's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the City first completes all of the provisions required by CFR Title 44, Chapter 1, Section 65.12, Section 65.12.
 - d. Shall require that no new construction, substantial improvements, or other development (including fill) be permitted within zones A1-30 and AE on the community's Flood Insurance Rate Map (FIRM), when a regulatory floodway has not been designated, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
 - e. Shall maintain a record of all actions involving a Floodplain Variance and shall report such Variances to FEMA upon request.
 - f. Shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a federal, state, or other source.
 - g. Shall notify North Carolina Department of Crime Control and Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA); and
 - h. Shall make the necessary interpretation, where interpretation is needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions).

UDO Summary

Chapter 10: Enforcement and Remedies

Chapter overview: Chapter 10 sets out procedures for enforcing the UDO and the remedies available to the Town

Items coming over from existing Code: enforcement procedures, violation procedures, and remedies

Significant changes:

- Removes criminal penalties
- Adds requirements for right of entry
- Unsafe buildings will be added to this section from the existing code



CHAPTER 9: NONCONFORMITIES

Contents:

§ 9.01 Classification of Nonconformities

§ 9.01 Classification of Nonconformities

9.01.01 Purpose and Applicability

- A. **Purpose.** The purpose of regulating nonconformities is to determine which uses and structures would be allowed to continued under the approval of new or amended regulations.
- B. **Establishing Approval Date of Pending Applications.** Any building, structure, or development for which legislative development approval with an expiration date was issued and had not expired prior to the effective date of this UDO may, at the applicant's option, be completed in conformance with the issued permit and any other applicable permits and conditions, even if such building, structure, or development does not fully comply with provisions of this UDO.
- C. **Existing Nonconformities.** Any use, structure, or lot which does not conform to the requirements of this code but which existed before the effective date of this chapter as a legal "pre-existing nonconformity" and which remains nonconforming, and any use, structure, or lot which has become nonconforming as a result of the adoption of this code or any subsequent rezoning or amendment to the text or official map of this chapter, may be continued or maintained only in accordance with the terms of this section.
- D. **Variances.** This section shall not apply to any feature which is the subject of a variance from particular development regulations that has been granted by the Board of Adjustment. Where a variance has been granted which does not otherwise conform to the requirements of this section, that feature shall be deemed conforming.
- E. **Continuance.** Subject to the conditions and exceptions set out in the following sections, a nonconforming lot, building, structure, or use of land existing at the time of the enactment of this code or any amendment thereto may be continued or maintained provided that such nonconformity shall not be:
 - 1. Enlarged or extended except in conformity with this chapter;
 - 2. Reestablished after a discontinuance of 180 days; or
 - 3. Extended beyond the adopted amortization period if applicable.

9.01.02 Nonconforming Uses

- A. **All Nonconforming Uses.** The following shall apply to nonconforming uses:
 - 1. A nonconforming use shall not be changed to another nonconforming use.
 - 2. If a nonconforming use is changed to a conforming use, the nonconforming use shall not be resumed.
 - 3. If the use of only a portion of a building or property is changed from a nonconforming use to a conforming use, then the use of that portion of the building or property shall not be changed back to the nonconforming use.
- B. **Continuance.** As stated in [9.01.01](#) and subject to the conditions and exceptions set out in this section, a nonconforming use of land existing at the time of the enactment of this code or any amendment thereto may be continued or maintained provided that such nonconforming use shall not be:

1. Enlarged or extended except in conformity with this chapter as described below;
 2. Reestablished after a discontinuance of 180 days unless otherwise stated below for a period less than 180 days; or
 3. Extended beyond the adopted amortization period if applicable.
- C. **Damage and Restoration of Structure Housing a Nonconforming Use.** Any conforming structure housing a nonconforming use that is damaged by any means to an extent exceeding 50 percent of its replacement cost shall comply with the use standards of this UDO when it is re-constructed. Any conforming structure housing a nonconforming use that is damaged by any means to a lesser extent may continue the nonconforming use if it is reconstructed and used as before within two years of the damage.
- D. **Extension of a Nonconforming Use.** A nonconforming use may be extended through any portion of a completed building that, when the use was made nonconforming by this Ordinance, was designed or arranged to accommodate the extension of the use. A nonconforming use may not be extended to:
1. Building area constructed after the effective date of this UDO;
 2. Additional buildings or to land outside the original building; or
 3. To cover more land than was occupied, or designed and arranged to be occupied by that use, when it became non-conforming.
- E. **Nonconforming Temporary Uses.** Certain nonconforming uses, due to their individual temporary circumstances, cannot be maintained as a year-round use. These uses, which are identified in Section [2.04.09](#), Temporary Use and Structure Standards, shall be considered abandoned if the temporary use is discontinued for longer than any 12 month period.
- F. **Nonconforming Bona Fide Farms.** Existing bona fide farms may continue as of the time of the effective date of this UDO. Such farms may continue in their current state and with their existing level of activity in accordance with the following:
1. *Expansion.* Such farms shall be permitted to expand to the maximum extent permitted under the requirements of the district on the same property or adjacent property (also having the bona fide farm designations).
 2. *Non-Bona Fide Designation.* New or expanded agri-business operations on property not having a bona fide farm designation shall not be permitted.
- G. **Discontinuance of Nonconforming Sexually-Oriented Businesses.** Nonconforming sexually-oriented businesses shall be discontinued if that business ceases active operation for a period of 30 days regardless, of the purpose or reason, shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.

9.01.03 Nonconforming Buildings or Structures

- A. **Limitations on Nonconforming Building or Structures.**
1. *Continuance.* As stated in [9.01.01](#) and subject to the conditions and exceptions set out in this section, a nonconforming building or structure existing at the time of the enactment of this code or any amendment thereto may be continued or maintained provided that such nonconforming building or structure shall not be:
 - a. Enlarged or extended except in conformity with this chapter as described below;
 - b. Reused after a discontinuance of 180 days unless otherwise stated below for a period less than 180 days; or
 - c. Extended beyond the adopted amortization period if applicable.

2. *Expansion or Additions.* Expansions or additions to structural parts of a nonconforming building or other structure shall be permitted with the issuance of a building permit. Any expansion or enlargement shall comply with all applicable zoning district dimensional regulations. If this cannot be met, the Board of Adjustment may consider a variance.

B. Specific Nonconforming Buildings or Structures. Certain buildings or structures require additional regulations as follows:

1. *Nonconforming Towers.*

- a. *No Expansion.* Towers that are constructed and antennas that are installed, in accordance with the provisions of this chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.
- b. *Preexisting Towers.* Preexisting towers constructed prior to the adoption of this UDO shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this chapter.
- c. *Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas.* Notwithstanding this Section, bona fide nonconforming towers or antennas that are damaged or destroyed by weather events or other non-manmade causes shall be allowed to be replaced or repaired provided the type, height, and location of the tower onsite shall be of the same type and intensity as the original facility; provided, however, that any destroyed lattice or guyed tower shall be replaced with a monopole structure only. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned.

2. *Single-Family or Manufactured Homes on Nonconforming Lots.* A single-family dwelling unit or manufactured home not in a park shall be permitted on any existing, residentially zoned lot of record which contains an area or width less than the required minimum lot size for a single-family dwelling in the district in which a lot is located as long as:

- a. The lot is in separate ownership and not of continuous frontage with other lots in the same ownership on the effective date of this section. Where single ownership exists among adjacent lots, nonconforming lots shall be brought into compliance.
- b. Variance of any district regulations other than lot size requirements shall be obtained from the BOA.
- c. A replacement, nonconforming manufactured home may be placed within 180 days after the previous home is removed and shall conform to the setback standards of the district in which it is located if possible, and, in the event it is not possible to conform to the setback standards of the district, the replacement manufactured home shall not increase the nonconformity of the current setback requirements and shall be placed to achieve the maximum setback possible. After 180 days, new construction or replacement manufactured homes shall conform to the setbacks and other standards of the district in which it is located. All replacement and new manufactured housing shall comply with the requirements for manufactured homes found in this UDO.

3. *Replacement of Nonconforming Manufactured Homes in a Nonconforming Manufactured Home Park.*

- a. Manufactured homes may be placed and replaced in nonconforming manufactured home parks so long as the mobile home park:
 - i. Retains its nonconforming status and so long as the space was designed and arranged as a manufactured housing home space prior to the adoption of this UDO; and
 - ii. Meets the definition of a manufactured home.

- b. Nonconforming manufactured homes, located in manufactured home parks, which have been unoccupied for a period of 180 days; shall be either removed or replaced with a new manufactured home.

4. *Nonconforming structures occupying conforming lots.*

- a. Any nonconforming structures on conforming lots may be occupied by a conforming use. If any nonconforming structure is proposed to be changed by improving but not expanding the structure to an extent exceeding one-half or 50 percent of its current value, exclusive of foundations, as determined by the building inspector, or if any additions or expansions are made to the structure, then the entirety of the improved building or structure must be in conformance with the dimensional requirements of the district or a variance must be obtained through an action of the BOA.
- b. Structures which are nonconforming in so far as they violate the front, side and/or rear setback requirements of the district in which they are located can be added to providing that no further encroachment occurs to the setback.
- c. Any multi-family dwellings that are in nonconforming structures must meet the minimum lot area standards for multi-family or for the applicable special use permit requirements in the zoning district in which it is located and may not be expanded. No variance may be provided by the board of adjustment to expand a nonconforming multi-family structure.
- d. An existing nonconforming structure may be incorporated within a new special use permit request as long as the other structures and components of the master plan conform to the special use permit requirements.
- e. A nonconforming structure does not make other structures, such as accessory structures and fences, nonconforming on the same lot. Each nonconforming structure stands alone in its nonconformance and will not affect a conforming structure.

C. **Maintenance and Repairs of Nonconforming Structures.**

- 1. Maintenance and repair necessary to keep any nonconforming structure in sound condition, or to maintain a conforming structure on a nonconforming lot in sound condition, are permissible as long as the repairs do not increase the nonconformity.
- 2. Nothing in this chapter shall prevent the strengthening of, or restoration to, a safe or lawful condition of any part of any building or structure declared unsafe or unlawful by the building inspector, fire marshal, or any other duly authorized town official.
- 3. Any nonconforming building or structure which is damaged by fire or natural casualty may be repaired, provided such repair be accomplished:
 - a. Without any increase in the square footage, building height, or floor area;
 - b. Without any change in location except to provide greater conformance with district setback requirements;
 - c. Within 180 days of a fire; provided that the fire-damaged structure does not otherwise violate the state fire prevention code;
 - d. That the use to which the building or other structure is put after repair does not result in a change from one nonconforming use to another nonconforming use;
 - e. Any nonconforming building or any building containing a nonconforming use which has been damaged by fire to an extent exceeding 50 percent of its structure or 50 percent of its value at the time of the destruction, shall cause any repair, reconstruction, or re-use to be in conformity with the provisions of this chapter.

9.01.04 Nonconforming Lots

- A. **Continuance.** Permitted uses in any district may be allowed on any single lot of record existing at the effective date of adoption or amendment of this UDO if:
 - 1. A nonconforming lot does not expand or extend on the same or adjoining property; or
 - 2. A nonconforming lot is discontinued or changed, that any future use of land or portion conforms with this UDO's provisions; and
 - 3. Such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, generally applicable in the zoning district.
- B. **Creation of Nonconforming Lots Prohibited.** The subdivision of any land may not result in a lot area or dimension that does not meet the minimum standards of this UDO.
- C. **Permitted Use.** Any existing lot of record which does not conform with lot area, depth, or width requirements may be used for any permitted use in that zoning district so long as the parcel is not reduced in any manner or diminished so as to cause yards, lot coverage, or other open spaces to be less than required, except as provided in subsection D, below.
- D. **Dimensional Requirements.** Dimensional requirements other than those applying to lot area, depth, or width shall be met, provided that the Board of Adjustment may grant a variance to allow a reduction of yard requirements.

9.01.05 Development Standards

- A. **Generally.** This Section ensures that the site elements that met the requirements of previous development regulations are not modified to increase their degree of nonconformity.
- B. **Nonconforming Driveway.**
 - 1. *Continuance.* Any nonconforming driveway access is permitted to continue as a nonconforming driveway until:
 - a. Any additional driveway is constructed for the subject property or for the unified development of which it is a part; or
 - b. The driveway requires reconstruction or repaving.
 - 2. *Termination.* If the criteria in Subsection B., Nonconforming Driveway, are met, the nonconforming driveway shall no longer be permissible, and the Director shall require new driveway access to meet the requirements of this UDO.
- C. **Other Nonconforming Site Elements.** No other nonconforming site element may be modified except to bring the site element into greater compliance with the requirements of the UDO.

9.01.06 Signs or Billboards

- A. **Nonconforming Sign Defined.** A nonconforming sign or billboard means any existing sign or billboard on or after the effective date of this UDO that does not comply with all the regulations applicable to the zoning district and development standards in which the sign or billboard is located.
- B. **Sign Includes Billboard.** The use of the term "sign" in this Section includes the term "billboard" unless specifically stated otherwise.
- C. **Moving.** A nonconforming sign shall not move in whole or in part from or within the lot in which it is located, unless every portion of such sign is made to conform to all regulations of the district in which it is located.

1. *New Copy.* A nonconforming sign existing at the time of the effective date of this Section may continue if changed to or replaced with another sign that complies with this UDO. If the existing sign face is structurally safe and holds a valid permit, additional new sign copy is permitted if that change or alteration does not result in:
 - a. A change in message method or technology;
 - b. An increase in sign illumination;
 - c. An increase in sign face area;
 - d. Structural alteration to extend its useful life;
 - e. Any dimensional expansion;
 - f. Reestablishment of the sign after damage or destruction if the cost of repairing the sign is greater than 50 percent of its replacement value at the time of damage or destruction;
 - g. Modification or relocation that increases the sign's nonconformity;
 - h. Modification or additional lighting or any other enhancement;
 - i. Replacement poles subject to a Building Permit, but only if not more than one-half of the total number of poles of the sign structure are replaced in any 12 month period and the same material is used for the replacement poles;
 - j. Addition of a catwalk to the sign structure;
 - k. Addition of lighting to an unilluminated sign or addition of more intense lighting to an illuminated sign, whether or not the lights are attached to the sign structure;
 - l. Changing the number of poles in the sign structure;
 - m. Addition of permanent bracing wires, guy wires, or other reinforcing devices;
 - n. Changing the material used in the construction of the sign, such as replacing wooden material with metal material;
 - o. Addition of faces to a sign or changing the sign configurations;
 - p. Increase in sign height;
 - q. Changing the configuration of the sign structure;
 - r. Moving the sign.

2. *Repair or Maintenance.* This provision shall not prevent repair or maintenance of any part of a sign structure to a safe condition or performing normal maintenance operations on a sign or sign structure. The following actions are considered maintenance and are allowed without losing the legal nonconforming status of the sign:

- a. Replacement of nuts and bolts;
- b. Nailing, riveting or welding;
- c. Cleaning and painting;
- d. Manipulation of sign structure to level it;
- e. Replacement of minor parts if the material of the minor parts are the same type as those being replaced and the basic design or structure of the sign is not altered; and
- f. Changing all or part of the sign face with materials similar to those being replaced.

- D. **Abandonment and Termination of a Nonconforming Sign.** A nonconforming sign is deemed abandoned and the right to operate a nonconforming sign terminates immediately if any of the following occur:

1. *Non-Use.* The non-use of the sign for a continuous period of more than 180 days.

2. *Damage or Destruction.* A portion or all of the sign is damaged or destroyed by the intentional act of the owner or his or her agent.
3. *Dilapidation.* Discontinuance or abandonment occurs irrespective of the intent of the property owner if the nonconforming sign is dilapidated, substandard, or is not maintained in a suitable condition during a continuous period of 180 days.
4. *Change in Business.* If a nonconforming sign which advertises a business service, commodity, accommodation, attraction, or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within 180 days after the use has ceased operation or the service or commodity has ceased being offered.
5. *Change in Business Name.* If there is a change of name of a business on a particular piece of property, and there were one or more signs which advertised the business, any new signs placed for the new business name must meet all sign requirements of the underlying zoning district
6. *Blank Signs.* If a nonconforming sign remains blank for a continuous period of one hundred eighty (180) days, that sign shall be deemed abandoned and shall, within thirty (30) days after such abandonment, be altered to comply with this Ordinance or be removed by the sign owner, owner of the property where the sign is located, or other person having control over such sign. For purposes of this ordinance, a sign shall be deemed "blank" when:
 - a. It advertises a business, service, commodity, accommodations, attraction, or other enterprise or activity that is no longer operating or being offered or conducted;
 - b. the advertisement message it displays becomes illegible in whole or part; or
 - c. It does not contain an advertising message. (For such purposes, the terms "Sign For Rent" "Sign For Lease", "Sign For Sale", etc. shall not be deemed to be an advertising message.

UDO Summary

Chapter 9: Nonconformities

Chapter overview: Chapter 9 provides regulations for nonconformities (including uses and structures)

Items coming over from existing Code: nonconforming uses, nonconforming buildings and structures, and nonconforming lots

Significant changes:

- Adds development standards
- Adds requirements for signs or billboards



CHAPTER 10: ENFORCEMENT AND REMEDIES

Contents:

§ 10.01 Enforcement Procedures

§ 10.02 Remedies

§ 10.01 Enforcement Procedures

10.01.01 Purpose

- A. **Purpose.** The purpose of this Section is to set out the procedures for enforcing this UDO, and the remedies available to the Town for violations of this UDO.
- B. **Applicability with Law.** These development regulations shall be enforced by the town council and administrative staff through their authority to abate violations, and to enjoin, restrain, and prosecute any person violating these development regulations pursuant to North Carolina law.
- C. **Establishes Procedures.** This section establishes the procedures by which the town seeks corrections of violations of these development regulations. It also sets forth the remedies and penalties that apply to violations of these development regulations. The provisions of this section are intended to encourage the voluntary correction of violations.

10.01.02 Applicability

- A. **Compliance Required.** No person may use, occupy or develop land, buildings or other structures, or authorize or permit the use, occupancy or development of land, buildings or other structures, except in accordance with all the provisions of this UDO.
- B. **Continuation of Prior Enforcement Actions.** Nothing in this UDO shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to regulations in effect before the effective date of this UDO. Enforcement actions initiated before the effective date of this UDO, and amendments hereto, may be continued to completion or settlement under the terms of the regulations in effect prior to the effective date of this UDO.

10.01.03 Right of Entry

Under the powers of this article, the enforcement officers of the planning and development department, including the building inspector, fire marshal, zoning administrator and planning director, shall have the authority to enter onto land within the town's jurisdiction to inspect for violations of this code or to investigate complaints as follows:

- A. **Inspection.** Entry shall be for the purpose of inspection to ensure compliance;
- B. **Hours.** Inspection shall be performed during business hours, unless an emergency exists; and
- C. **Permission.** Inspection shall be made only after:
 - 1. Contact and permission is granted by the owner or tenant; or
 - 2. An order from a court of competent jurisdiction.

10.01.04 Violations

- A. **Complaints.** Whenever a violation of these development regulations occurs or is alleged to have occurred, any person may file a written complaint documenting the alleged violation and submit it to the planning and development department for investigation by the zoning administrator. The planning and development department shall supply complaint forms.
- B. **Activities Constituting Violations.** Unless otherwise expressly stated by the NCGS §160A-175, any violation of this UDO, including but not limited to the following, will be subject to the remedies and penalties provided for in this Section:
1. To place any use, structure, or sign upon land that is subject to this UDO without all of the approvals required by this UDO.
 2. To subdivide land in violation of this UDO or transfer or sell land by reference to, exhibition of, or any other use of an unapproved plat. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land does not exempt the transaction from this penalty. The Town may bring an action for injunction of:
 - a. Any illegal subdivision;
 - b. Transfer of land;
 - c. Conveyance of land; or
 - d. Sale of land.
 3. To file or record a plat of subdivision within the jurisdiction of this UDO without receiving approval that has not been approved in accordance with this UDO.
 4. To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure, or sign, or to engage in development or subdivision of any land in contravention of any zoning, subdivision, sign, or other regulation of this UDO. This section is not intended to address legal nonconforming uses or structures. [Chapter 9, Nonconformities](#), regulates expansions or other alterations to legal nonconforming uses or structures;
 5. To engage in any subdividing, development, construction, remodeling, or other activity of any nature upon land that is subject to this UDO without all of the approvals required by this UDO;
 6. To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other forms of authorization required in order to engage in such activity;
 7. To violate, by act or omission, any term, condition, or qualification placed by a decision-making body upon any permit or other form of authorization;
 8. To reduce or diminish any lot area so that the setbacks or open spaces shall be smaller than prescribed by this Ordinance;
 9. To increase the intensity of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this UDO;
 10. To remove, deface, obscure, or otherwise interfere with any notice required by this UDO;
 11. To fail to remove any sign or other improvement installed, created, erected, or maintained in violation of this Ordinance, or for which the permit, approval, permission, or other authorization has lapsed. This section is not intended to address legal nonconforming uses or structures. This UDO regulates expansions or other alterations to legal nonconforming uses or structures; and
 12. To otherwise undertake any development or to establish any use in a manner which does not comply with this UDO.

- C. **Provision of Warning.** On determining that a violation exists, Staff shall issue a written warning. The written warning shall include a description of the violation and the actions necessary to correct the violation, and invite the person responsible for the violation to meet with the enforcement official to discuss the violation and how it may be corrected. The warning shall be delivered by personal delivery, electronic delivery, or first-class mail to the responsible party. If the violation creates an imminent risk of harm to persons or property, the enforcement official shall not provide a warning, and shall proceed immediately to issue a notice of violation as set out below.
- D. **Notice of Violation.**
1. *Delivery of Notice.* The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice may also be posted on site.
 2. *Certification of Notice.* The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud.
 3. *Notice Contents.* The notice shall contain the violation description, citation of the Section, Subsection, or Paragraph of this UDO being violated, address or location of property, date of noticed infraction, steps to correct, and the deadline to correct the infraction.
- E. **Timeframe for Violation to be Corrected.** Failure to correct the violation within 90 days from the date of mailing the letter shall constitute an offense.
- F. **Correction.** Correction of the violation in the manner stipulated by the violation notice at any point during this enforcement process, shall deem the notice null and void, and enforcement activity shall cease.
- G. **Existing Violations.**
1. *Generally.* Any violation of the repealed provisions of the Town's Code of Ordinances that this UDO replaced shall continue to be a violation under this UDO and shall be subject to the penalties and enforcement set out in this Ordinance unless the use, development, construction, or other activity complies with the provisions of this UDO.
 2. *Fines and Penalties.* Payment of fines shall be required for any civil penalty assessed under the repealed provisions of the Town's Code of Ordinances, even if the original violation is no longer considered a violation under this UDO.
- H. **Penalty.** In addition to the other remedies cited in this UDO for the enforcement of its provisions, and pursuant to North Carolina General statute 16, the regulations and standards in this UDO may be enforced through the issuance of civil penalties by the administrator.
1. *Subsequent Citations.* Subsequent citations for the same violation may be issued by the Administrator if the offender does not pay the citation (except as otherwise provided in a warning citation) after it has been issued unless the offender has sought an appeal to the actions of the Administrator through the Board of Adjustment.
 2. Once the fifteen day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Director.
- I. **No Additional Approvals.** No additional land use approvals will be issued for properties with existing, unpaid zoning violations.

10.01.05 Owner Responsibility

For the purposes of this code, the responsible person or party shall include but not be limited to:

- A. A person or firm maintaining the condition that results in or constitutes a violation. This could include but not be limited to an architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of these development regulations.
- B. The owner of the land on which the violation occurs, any tenant or occupant of the property, or any person, who has control over, or responsibility for, its use or development.
- C. The holder of a development approval.

§ 10.02 Remedies

10.02.01 Civil Liability

- A. **Civil Liability.** The Code Enforcement Officer:
 - 1. Has the authority to issue a citation and deliver it to a person believed to be committing a civil violation; and
 - 2. Is declared to be the official with the duty of enforcing this UDO with respect to:
 - a. Appearing and testifying in any trial held with respect to a citation;
 - b. Notifying the court of competent jurisdiction of any notice of intention to stand trial or any request for adjudication when a fine is not paid after formal notice has occurred;
 - c. Mailing formal notices of the violation to persons who do not give notice of intention to stand trial or pay the established fine within the time set in the citation; and
 - d. Receiving and filing a copy of each original citation and any fines or notices of intention to stand trial.
- B. **Injunction and Abatement.** This UDO may be enforced by any means or any remedy provided for in NCGS §160A-175 and §160D-1208. The Administrator, with assistance from other applicable Town staff members, may enforce any violation of this UDO prior to, and without, judicial process by:
 - 1. *Withhold Permit.* Withholding all permits or approvals if there is:
 - a. A repeat violation of this UDO;
 - b. There is a condition or qualification of approval granted by the Planning Board or the Town Council that has not been met.
 - c. The Staff may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, developed, or otherwise caused an uncorrected repeat violation of this UDO. This provision shall apply whether or not the property for which the permit or other approval is sought is the property in violation.
 - 2. *Revoke Permits.* Any Development Permit or other form of authorization required under this UDO may be revoked for any reason.
 - 3. *Stop-Work Order.* With or without revoking permits, Staff may stop work on any land or structure on any land on which there is an uncorrected violation of a provision of this UDO or of a permit or other form of authorization issued hereunder, in accordance with the power to stop work pursuant to NCGS §160D-404. The stop order shall be in writing, directed to the person doing the work, and shall state the

specific work to be stopped, the specific reasons, and the conditions under which the work may be resumed.

4. *Revoke Plan or Approval.* Where a violation of this UDO involves a failure to comply with approved plans or conditions to which the approval of such plans was made subject, Staff may, upon notice to the applicant and other known parties in interest (including any holders of Building Permits affected), revoke the plan approval pursuant to NCGS 160D-403(f). Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.
- C. **Other Remedies.** The Staff, Town Council, Planning Board, and the Board of Adjustment shall have such other remedies as are, and as may be from time to time, provided by North Carolina law provided in North Carolina General Statue 160A-175, including, but not limited to, all appropriate equitable remedies issued from a court of competent jurisdiction as provided in General Statute 160A-175 and particularly the remedy of injunction and order of abatement as allowed by North Carolina General Statue 160A-175.for the violation of zoning, subdivision, sign, or related UDO provisions.