

CHAPTER A - ADMINISTRATION

TABLE OF CONTENTS

1. GENERAL.....	4
1-1. SHORT TITLE	4
1-2. PURPOSE	4
1-3. MEANING OF DEFINITIONS	4
1-4. TENSES	5
1-5. ILLUSTRATIONS.....	5
2. DEFINITIONS	6
3. REVIEW AND DECISION-MAKING BODIES	44
3-1. PURPOSE	44
3-2. SUMMARY DEVELOPMENT PROCESS TABLE.....	45
3-3. PLANNING DIRECTOR.....	46
3-3.1. DESIGNATION AND RESPONSIBILITY	46
3-3.2. POWERS AND DUTIES	47
3-4. TECHNICAL REVIEW COMMITTEE	48
3-5. ZONING BOARD OF ADJUSTMENT	49
3-5.1. ESTABLISHMENT AND MEMBERSHIP	49
3-5.2. RULES OF PROCEDURE	49
3-5.3. POWERS AND DUTIES	50
3-5.4. RECONSIDERATION OF ZBOA ACTION.....	50
3-6. PLANNING BOARD.....	51
3-6.1. ESTABLISHMENT AND MEMBERSHIP	51
3-6.2. RULES OF PROCEDURE	51
3-6.3. POWERS AND DUTIES	52
3-7. TOWN COUNCIL.....	53
3-7.1. PURPOSE AND INTENT	53
3-7.2. RESPONSIBILITIES	53
4. PROCEDURES.....	54
4-1. ADMINISTRATION.....	54
4-2. GENERAL STANDARDS AND REQUIREMENTS	55

4-2.1. GENERALLY	55
4-2.2. PERMIT CHOICE	55
4-2.3. VESTED RIGHTS	55
4-2.4. MAJOR AND MINOR MODIFICATIONS	60
4-3. REVIEW PROCESSES	63
4-3.1. DEVELOPMENT REVIEW PROCEDURES	63
4-3.2. UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT	70
4-3.3. ZONING MAP AMENDMENTS (REZONINGS)	72
4-3.4. PLANNED RESIDENTIAL DEVELOPMENT	75
4-3.5. SPECIAL USE PERMIT	75
4-3.6. VARIANCE	77
4-3.7. APPEALS	78
4-3.8. CERTIFICATE OF APPROPRIATENESS (COA)	79
4-3.9. SUBDIVISIONS	88
4-3.10. INDUSTRIAL AND COMMERCIAL SUBDIVISIONS	88
4-3.11. SITE PLAN	89
4-3.12. TEMPORARY USE PERMIT	96
4-3.13. ZONING PERMIT	97
4-3.14. CERTIFICATE OF OCCUPANCY	98
5. NONCONFORMITIES	99
5-1. PURPOSE	99
5-2. NONCONFORMING USES	100
5-2.1. DEFINITION	100
5-2.2. APPLICABILITY	100
5-2.3. CONTINUATION	101
5-2.4. REQUIRED ALTERATIONS OR REMODELING	101
5-2.5. DISCONTINUANCE	101
5-3. NONCONFORMING VACANT LOTS	102
5-3.1. DEFINITION	102
5-3.2. COMBINATION OF NONCONFORMING VACANT LOTS AND NONCONFORMING VACANT LOTS APPROVED PRIOR TO DECEMBER 31, 1994	102
5-3.3. H DISTRICT	103
5-4. NONCONFORMING STRUCTURES AND IMPROVEMENTS	103
5-4.1. DEFINITION	103

5-4.2. APPLICABILITY.....	104
5-4.3. CONTINUATION.....	104
5-4.4. MINOR REPAIRS AND MAINTENANCE.....	104
5-4.5. MAJOR REPAIR, DAMAGE OR DESTRUCTION	104
5-4.6. REQUIRED IMPROVEMENTS FOR CERTAIN NONCONFORMING STRUCTURES AND IMPROVEMENTS.....	105
5-5. NONCONFORMING DEVELOPMENT FEATURES.....	105
5-5.1. DEFINITION	105
5-5.2. CONTINUTATION	106
5-6. SPECIAL USES ARE CONFORMING.....	106
6. UDO VIOLATIONS AND ENFORCEMENT	107
6-1. VIOLATIONS, ENFORCEMENTS, AND PENALTIES	107
6-1.1. VIOLATIONS OF UDO REGULATIONS.....	107
6-1.2. NOTICE PROCEDURES	108
6-1.3 ENFORCEMENT, PENALTIES, AND REMEDIES	108
6-1.4 AUTHORIZATION.....	109
6-1.5 REMOVAL OF TEMPORARY SIGNS.....	109
7. FEES	110
7-1. GENERAL.....	110
7-2. READVERTISING, CONTINUANCES, OR PETITIONS REMANDED TO THE PLANNING BOARD BY THE TOWN COUNCIL	110
7-3. REFUND OF FEES	111
7-4. PENALTIES FOR VIOLATIONS	111

A.1

1. GENERAL

1-1. SHORT TITLE

This Ordinance shall be known and may be cited as *Chapter A Administration*, except as referred to herein, where it shall be known as *this Ordinance*. This Chapter, *Chapter B Zoning and Development Standards*, *Chapter C Environmental Standards* and *Chapter D Subdivision Standards* shall collectively be known and cited as the *Unified Development Ordinance (UDO)*.

1-2. PURPOSE

The purpose of this Chapter is to establish a set of definitions and administrative standards applicable to the *Chapter B Zoning and Development Standards*, *Chapter C Environmental Standards*, and *Chapter D Subdivision Standards* of The Town of Lewisville.

1-3. MEANING OF DEFINITIONS

Unless otherwise expressly stated, or unless the context clearly indicates a different meaning, the words and phrases in the

1. General.....	4
1-1. Short Title.....	4
1-2. Purpose.....	4
1-3. Meaning of Definitions.....	4
1-4. Tenses	5
1-5. Illustrations	5

following list of definitions shall, for the purposes of the *Unified Development Ordinance*, have the meanings indicated. All words and phrases not defined in *Section A.2 Definitions* shall have their common meaning.

1-4. TENSES

When used in this Ordinance, the present tense includes the future, the singular includes the plural, and words of one gender include the other, as may be applicable. The word *shall* is mandatory, not discretionary. The word *use* includes structures, facilities, and other development features designed for use.

1-5. ILLUSTRATIONS

Illustrations are provided for purposes of describing, clarifying, or providing examples of the definitions in the text, and do not replace or limit the meaning of the text.

2. DEFINITIONS

ABC STORE (LIQUOR). An establishment run by the Alcoholic Beverage Control Board selling alcoholic beverages.

ACTIVITY CENTER. An area with existing or potential for mixed use development, as described in the Lewisville Comprehensive Plan, including neighborhood activity centers.

ADMINISTRATIVE DECISION. Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in G.S. 160D or local government development regulations. These are sometimes referred to as "ministerial" decisions or "administrative determinations."

ADMINISTRATIVE HEARING. A proceeding to gather facts needed to make an administrative decision.

ADULT ESTABLISHMENT. Any structure or use of land which meets the definition of adult establishment as outlined in G.S. 14-202.10. Licensed health massage/body work therapists shall not be considered a massage business under G.S. 14-202.10.

AGRICULTURAL PRODUCTION, CROP. The use of land for the primary purpose of raising and harvesting row, field, or tree crops on a commercial basis. The growing and sale of agricultural crops on the premises shall not constitute agricultural crop production.

AGRICULTURAL PRODUCTION, LIVESTOCK. The use of land for the primary purpose of raising animals or producing animal products, such as eggs or dairy products, on a commercial basis, including grazing, ranching, and dairy farming.

ALLEY. A service way providing a secondary means of public access to abutting property.

AMORTIZATION. The process of phasing out a use that is no longer in compliance with this Ordinance.

ANIMAL FEEDING OPERATION. An establishment primarily engaged in raising hogs or poultry, or the fattening of beef cattle, in a confined area.

ANIMAL SHELTER, PUBLIC. A permanent structure(s) and facilities for the purposes of providing animal sheltering, animal veterinary care, animal control, public education, and law enforcement.

ARCHITECT. A person licensed to practice architecture in the State of North Carolina.

AREA PLAN. See Development Plan.

ASSISTED LIVING FACILITY. Any group housing and services program for two or more unrelated adults, by whatever name it is called, that makes available, at a minimum, one meal a day and housekeeping services and provides personal care services overnight, directly or through a formal written agreement with one or more licensed home care or hospice agencies. Settings in which services are delivered may include self-contained apartment units or single or shared room units with private or area baths. Assisted living residences are to be distinguished from nursing homes subject to provisions of G.S. 131E-102. There are three types of assisted living residences: adult care homes, adult care homes that serve only elderly persons, and multiunit assisted housing with services. As used in this section, "elderly person" means:

- A. Any person who has attained the age of 55 years or older and requires assistance with activities of daily living, housing, and services, or
- B. Any adult who has a primary diagnosis of Alzheimer's disease or other form of dementia who requires assistance with activities of daily living, housing, and services provided by a licensed Alzheimer's and dementia care unit.

AUTOMATIC TELLER MACHINE. A type of banking and financial services with automated or self-service banking features with no staff or personnel provided.

AUTOMOBILE DEALER. An establishment primarily engaged in the retail sale or lease of new and used motor vehicles.

BANKING AND FINANCIAL SERVICES. A facility engaged in deposit banking or extending credit in the form of loans.

BASEMENT. A fully enclosed space with fifty percent (50%) or more of its cubical content below the finished grade of the ground surface at the walls of the building.

BED AND BREAKFAST. An owner-occupied or manager-occupied residential structure providing rooms for overnight lodging, or lodging and meals, including no more than five (5) rooms.

BLOCK. An area of land bounded by streets or by a combination of streets and public parks, cemeteries, railroad rights-of-way, waterways, shorelines, or any other barrier to the continuity of development.

BOARDING OR ROOMING HOUSE. An owner-occupied dwelling, or part thereof, in which lodging is provided to more than three (3) but not more than eight (8) paying guests on a weekly or longer basis.

BONA FIDE FARM PURPOSES. Agricultural activities as set forth in G.S. 160D-903.

BORROW SITE. Any place or premises where not more than one acre of land is disturbed at any one time, and where dirt, soil, sand, gravel, or other material is removed for any purpose other than that necessary and incidental to grading or building construction on the site.

BROADCAST STUDIO. An establishment primarily engaged in providing two-way radio/telephone communication services, telephone voice and data communications, telegraph services, radio and television broadcasting, or cable and other pay television services, but excluding those uses classified as utilities.

BUFFERYARD. The portion of a yard where special plantings may be required by the Zoning Ordinance to separate and partially screen two (2) adjacent land uses that are ordinarily incompatible by virtue of their use.

BUILDABLE AREA. The area of a zoning lot remaining after the minimum setback requirements of this Ordinance have been satisfied.

BUILDING. Any structure used or intended for supporting or sheltering any use or occupancy.

BUILDING, PRINCIPAL. The building in which the principal use of the zoning lot is conducted.

BUILDING CONTRACTORS, GENERAL. An establishment providing general contracting and/or building construction services for residential, farm, industrial, or commercial uses, and which typically does not involve outdoor storage of machinery or equipment.

BUILDING CONTRACTORS, HEAVY. An establishment providing general contracting and/or building construction services other than for buildings, such as highways and streets, bridges, sewers, and flood control projects, and which may involve outdoor storage of machinery or equipment.

BUILDING HEIGHT. The vertical distance measured from the average elevation of the finished grade of all sides of a building, measured at the midpoint of each side, to the topmost elevation of the roof or to the topmost projection of the building above any roof, including parapet walls. Enclosed penthouses or equipment rooms are considered a part of the building and included in the calculation of building height. See *Section B.2-4.2(F) Accessory Structures Permitted in Required Yards* of the Zoning Ordinance for calculation of height of accessory buildings.

BUILDING MATERIALS SUPPLY. An establishment engaged in selling lumber and a general line of building materials and hardware to the public.

BUILD-TO-LINE (BTL). The line at which construction of a building is to occur on a lot.

BULK STORAGE OF PETROLEUM PRODUCTS. The storage on a zoning lot of two thousand five hundred (2,500) gallons or more of flammable liquid, or two thousand (2,000) gallons water capacity or more of flammable gas, excluding storage tanks, above ground.

CAMPGROUND. A commercial establishment containing two or more campsites or cabins available for overnight camping use whether by rental fee or short-term lease. Campgrounds may include recreational facilities, a store for the sale of food or camping supplies while on the premises, and facilities for the assembly of campers and guests. Campground does not include a summer camp, migrant labor camp, manufactured or mobile home park, or recreational vehicle park.

CAMPUS HOUSING. A multifamily facility intended for exclusive use of students or employees of a school or medical campus.

CANOPY. A structure, either detached from or attached to and extending from the enclosed portion of a building and used principally to provide shelter in connection with activities conducted in the principal building.

CARPORT. A roofed structure enclosed on not more than two (2) sides and used for the parking of motor vehicles.

CAR WASH. A facility where motor vehicles are washed, cleaned, and/or waxed by hand or with manually operated equipment or automatic machinery.

CEMETERY. Land and facilities used for burial of the dead, both licensed and unlicensed. Licensed cemeteries include any burial ground, mausoleum, or columbarium which meets the requirements of a perpetual care cemetery under State law, operated by a cemetery company. Unlicensed cemeteries include municipal, private family, farm, church or animal cemeteries which have not been licensed and do not meet the licensing requirements of a perpetual care cemetery under State law.

CERTIFICATE OF APPROPRIATENESS. A document issued by the Forsyth County Historic Resources Commission (HRC) allowing an applicant to proceed with a proposed exterior alteration, demolition or new construction in a locally zoned Historic District or Historic Overlay District, following a determination of the proposal's suitability according to applicable criteria.

CERTIFICATE OF OCCUPANCY. A permit issued by the Planning Director or designee, setting forth that a lot, building, structure, or use complies with the *Chapter B Zoning and Development Standards* and that the same may be used for the purposes stated therein.

CHILD CARE (DROP-IN). A childcare arrangement where children attend on an intermittent, unscheduled basis and care is provided for less than four (4) hours per day.

CHILD CARE FACILITY. Includes childcare centers, family child care homes, and any other child care arrangement that provides child care, regardless of time of day, wherever operated, and whether for profit or not. A child care center is an arrangement where, at any one time, there are three or more preschool-aged children or nine or more school-age children receiving child care. A family child care home is a child care arrangement located in a residence where, at any one time, more than two children, but less than nine children, receive child care.

CLUB OR LODGE. A building or land used for the activities of a private club or social organization, and not adjunct to, or operated as, or in connection with a public tavern, cafe, or other place open to the public.

COLLEGE OR UNIVERSITY. Any post-secondary educational institution offering undergraduate or graduate degrees.

COMMERCIAL CRYPTOCURRENCY MINING. The commercial process by which cryptocurrency transactions are verified and added to the public ledger, known as the

block chain, and also the means through which new units of cryptocurrencies are released, through the use of server farms or data centers employing data processing equipment. Any equipment requiring a High-Density Load Service, for a server farm or data center, will constitute a commercial cryptocurrency mining operation.

COMMUNITY CENTER. A building, not otherwise defined, used for recreational, social, educational, and cultural activities, other than schools and churches, usually owned and operated by a public or non-profit group or agency.

CONDITIONAL ZONING. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

CONSTRUCTION, START OF. The first placement of a structure, including a manufactured home, on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work at the point of placing the foundation, or beyond the stage of excavation or the placement of a manufactured home on a foundation.

CONVENIENCE STORE. Any retail establishment offering for sale gasoline, diesel fuel, kerosene, automotive products, prepackaged food products, household items, and/or other goods commonly associated with the same and having a gross floor area of less than five thousand (5,000) square feet.

CORNER LOT. A lot abutting two (2) or more streets at their intersection, or upon two (2) parts of the same street, forming an interior angle of less than one hundred thirty-five (135) degrees as measured at the centerline of the street. The point of intersection of the street right-of-way lines, or of the street right-of-way lines as extended, is the corner.

CORRECTIONAL INSTITUTION. A facility providing housing and care for individuals confined by law, operated under the authority of local, State, or federal government.

CORRECTIONAL TRANSITIONAL GROUP CARE FACILITY. A transitional housing facility for forty (40) or fewer residents, licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant to G.S. Ch. 55A, which provides room and board, personal care, and rehabilitation services while persons receive therapy or counseling to assist them to adjust to society as an alternative to incarceration. Such facilities may have accessory uses conducted on the premises, including but not limited to, schooling of residents, training programs in occupational fields, and production of goods and crafts to be sold off premises.

CRITICAL ROOT ZONE. A circular region measured outward from a tree, representing the essential area of the roots that must be maintained in order for the tree to survive.

The Critical Root Zone is one (1) foot of radial distance from the tree's trunk for every one (1) inch of tree caliper, measured at breast height (DBH) as measured four and a half (4.5) feet above grade.

CRYPTOCURRENCY DATA CENTER. Leased or owned boundaries of floor space devoted to the operating data processing equipment for Commercial Cryptocurrency Mining; excludes spaces for commercial offices, storage, shipping and receiving, warehousing, or any other space that is not electronic processing.

CRYPTOCURRENCY SERVER FARM. Three or more interconnected computers housed together in a single facility whose primary function is to perform cryptocurrency mining or associated data processing.

CUL-DE-SAC. A local street having only one end open to traffic with the other end permanently terminated by a vehicular turnaround.

DAY CARE CENTER. A program or arrangement where three or more children less than thirteen (13) years old, who do not reside where the care is provided, receive care on a regular basis of at least once per week for more than four hours but less than 24 hours per day from persons other than their guardians or full-time custodians, or from persons not related to them by birth, marriage, or adoptions.

DAY CARE SERVICES, ADULT. Adult day care means a program established for the purpose of providing group care and supervision on a less than 24-hour basis to adults who are physically or mentally disabled. In addition to the regulations contained in this ordinance, adult day care services may require additional certifications and/or permits. The following programs are exempted from the provisions of G.S. 131D-6 and, therefore, are not required to be certified:

- A. Those that care for three people or less;
- B. Those that care for two or more persons, all of whom are related by blood or marriage to the operator of the facility;
- C. Those that are required by other statutes to be licensed by the Department of Human Resources.

DECISION-MAKING BOARD. A governing board, planning board, board of adjustment, historic resources commission, or other board assigned with making administrative, quasi-judicial, or legislative decisions.

DENSITY. The ratio of dwelling units permitted on a zoning lot to the area of the zoning lot. Density is expressed in this Ordinance as the number of units per acre.

DESIGN REVIEW GUIDELINES. Criteria developed by the Historic Resources Commission to identify design elements within designated H and HO Districts, and which are used by the Historic District Commission when it reviews applications for certificates of appropriateness.

DETENTION STRUCTURE. A permanent structure designed for the temporary storage of runoff in order to reduce the peak rate of discharge from a site.

DEVELOPER. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

DEVELOPMENT. Unless the context clearly indicates otherwise, the term means:

- A. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure;
- B. The excavation, grading, filling, clearing, or alteration of land;
- C. The subdivision of land as defined in G.S. 160D Article 8; or
- D. The initiation or substantial change in the use of land or the intensity of use of land.

DEVELOPMENT APPROVAL. An administrative or quasi-judicial approval made pursuant to the Unified Development Ordinances that is written and that is required prior to commencing development or undertaking specific activity, project or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, variances and certificate of appropriateness. The term also includes all other regulatory approvals, permits issued, development agreements entered into, and building permits issued.

DEVELOPMENT PLAN. A plan prepared through a public process containing land use and development policies for a specified area, recommended by the Planning Board and adopted by the Town Council.

DEVELOPMENT REGULATION. Any regulation adopted pursuant to G.S. 160D of General Statutes, or a local act or charter that regulates land use or development.

DIRT STORAGE. The stockpiling of graded soil which has been transported from another zoning lot.

DOUBLE FRONTAGE LOT. A lot having frontage and access on two (2) or more streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three (3) or more streets.

DOWNTOWN. As shown in Exhibit 5 in the Appendix of the Unified Development Ordinance on the map titled Lewisville Downtown Overlay Map, Downtown includes primarily properties that stretch from the area surrounding the US 421 interchange and Williams Road to Reid Acres Lane, encompassing properties that front Shallowford Road and Great Wagon Road.

DOWNTOWN CORE AREA (DCA). That portion of the Downtown lying east of the Williams Road/ Shallowford Road roundabout as shown in Exhibit 5 in the Appendix of the Unified Development Ordinance on the map titled Lewisville Downtown Overlay Map.

DOWNTOWN GATEWAY AREA (DGA). That portion of the Downtown lying west of the Downtown Core Area as shown in Exhibit 5 in the Appendix of the Unified Development Ordinance on the map titled Lewisville Downtown Overlay Map.

DOWNTOWN OVERLAY AREA (DTO). An area equivalent to the Downtown including the Downtown Core Area and the Downtown Gateway Area.

DWELLING UNIT. One (1) or more rooms used as a place of residence for one or more persons, in which there are independent living facilities, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

DWELLING UNIT, ACCESSORY. A secondary dwelling unit connected to the principal structure or located on the same lot as the principal structure, and it restricted in area, purpose, and occupancy in accordance with *Section B.2-5.2(B) Uses Accessory to Certain Principal Uses*.

DWELLING UNIT, EFFICIENCY. A dwelling unit in which the sleeping and living areas are contained in the same room.

EASEMENT. A grant of one or more of the property rights for a specific purpose by the property owner to, or for the use by, the public or another person.

EASEMENT, NEGATIVE ACCESS. An easement which allows no driveway or other vehicles access to a lot from an adjacent public street.

EASEMENT, PRIVATE DRAINAGE. An easement which grants the right to allow for the transport of stormwater runoff or drainage from adjacent properties upon the subject property.

EASEMENT, PRIVATE OFF-SITE ACCESS. An easement which grants the right of access to property zoned differently from the property underlying the access easement.

ELDERLY HOUSING. A multifamily residential development or facility occupied by persons aged fifty-five (55) years or older or handicapped, their spouses and/or surviving spouses, and resident staff personnel.

ELEVATED BUILDING. A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

ENGINEER. A person licensed to practice engineering in the State of North Carolina.

EVIDENTIARY HEARING. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under Chapter 160D and the Unified Development Ordinance.

FAMILY. One or more persons related by blood, adoption or marriage living together as a single housekeeping unit. All degrees of kinship are computed as provided in G.S. 104A-1. The following are not included in the determination of occupancy limits defined above:

- A. Five or fewer foster children placed in a family foster home licensed by the State of North Carolina.
- B. A bona fide live-in health care provider providing medical and personal care services to a resident.
- C. A live-in nanny providing child care services to a resident child.

For the purposes of this definition, the following persons shall be considered related by blood: (A) any relative of the head of household or of the spouse (whether living or dead) of the head of household to the third degree of collateral kinship, or to any degree of lineal kinship, as defined in State law; and, (B) a parent or child by adoption, marriage, or legitimization of any person (including the head of household or spouse of the head of household) described in (A) above; and, (C) a dependent, as defined in State law, of any person described in (A) or (B) above.

FAMILY CARE HOME. As defined by G.S. 160D-907, a family care home is a home with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for not more than six (6) resident persons with disabilities. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in G.S. 122C-3(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.

FAMILY GROUP HOME FACILITY. An establishment qualified for a license by the State of North Carolina for provision of resident services to more than six but not more than 20 residents who are physically disabled, mentally disabled, developmentally disabled, persons recuperating from alcohol or drug related problems, persons adjusting to society

as an alternative to imprisonment and persons recuperating from mental or emotional illness. This definition shall not include mentally ill persons who are dangerous to others. “Dangerous to others” means that within the relevant past, the individual has inflicted or attempted to inflict or threatened to inflict serious bodily harm on another, or has acted in such a way as to create a substantial risk of serious bodily harm to another, or has engaged in extreme destruction of property; and that there is a reasonable probability that his or her conduct will be repeated. Previous episodes of dangerousness to others, when applicable, may be considered when determining reasonable probability of future dangerous conduct. Professionals or paraprofessionals providing assistance to the occupants shall be allowed in addition to the maximum occupancy.

FARM TENANT HOUSING. A dwelling unit occupied by the family of a person employed in agriculture-related activities on the premises.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA). That agency or successor agencies which are responsible for the administration of the National Flood Insurance Program.

FIRE OFFICIAL. The officer or other designated authority, or his duly authorized representative, charged with the administration and enforcement of the Fire Prevention Code. All persons empowered with the administration and enforcement of this Code shall possess an appropriate valid certificate issued by the North Carolina Code Officials Qualification Board.

FLAMMABLE FUEL STORAGE (BELOW GROUND). The storage of flammable or other hazardous liquids at a below grade location in compliance with applicable State laws.

FLOOR AREA, GROSS. The total number of square feet on all floors of a building, as measured from the outside faces of the building.

FOOD OR DRUG STORE. An establishment primarily engaged in selling food for home preparation and consumption, or prescription drugs, nonprescription medicines, and related lines.

FRATERNITY OR SORORITY. A residence occupied by and maintained for the use of fraternal, sororal, social, honorary, or professional organizations.

FREEWAY OR EXPRESSWAY. A divided highway with full control of access and grade separation of all intersections.

FUEL DEALER. An establishment primarily engaged in the retail sale of fuel oil (excluding retail sale of motor fuels), bottled gas, coal, wood, or other fuels.

FUNERAL HOME. An establishment engaged in undertaking services, such as preparing the human dead for burial and in arranging and managing funerals. This definition includes crematories and mortuaries.

GENERAL RETAIL SALES, LESS THAN 10,000 SQUARE FEET. General retail and services establishments are involved in the sale, lease or rent of new or used products and services at the neighborhood level. Generally, general retail less than 10,000 square feet is localized retail meant to serve the needs of an immediate area.

- A. Accessory uses may include offices, storage, or repackaging of goods for on-site sale, and parking.
- B. Examples. Establishments selling leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationary, and videos, food sales, photographic studios, and photocopy and blueprint services.

GENERAL RETAIL SALES, 10,000 TO 25,000 SQUARE FEET. General retail and services establishments are involved in the sale, lease or rent of new or used products and services at the neighborhood level. Generally, general retail less than 25,000 square feet is neighborhood level retail meant to serve the needs of a neighborhood area.

- A. Accessory uses may include offices, storage or repackaging of goods for on-site sale, and parking.
- B. Examples. Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationary, and videos; food sales, photographic studios; photocopy and blueprint services.

GENERAL RETAIL SALES, 25,000 TO 50,000 SQUARE FEET. General retail and services establishments are involved in the sale, lease or rent of new or used products and services at the neighborhood level. Generally, general retail of 25,001 to 50,000 feet is community level retail meant to serve the needs of several neighborhoods.

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

- B. Stores selling, leasing, or renting consumer, home, and business goods including art, art supplies, bicycles, clothing, dry goods, electronic equipment, fabric, furniture, garden supplies, gifts, groceries, hardware, home improvements, household products, jewelry, pets, pet food, pharmaceuticals, plants, printed material, stationary, and videos; food sales, photographic studios, and photocopy and blueprint services.

GENERAL RETAIL SALES, 50,000 OR GREATER SQUARE FEET. General retail and services establishments are involved in the sale, lease or rent of new or used products and services at the neighborhood level. Generally, retail of this magnitude features regional commercial retail options.

- A. Accessory uses may include offices, storage or repackaging of goods for on-site sale, and parking.
- B. Examples. Large retail stores, shopping malls, and shopping plazas.
- C. Uses Not Included.
1. Lumber yards and other building material sales that sell primarily to contractors and do not have a retail orientation are classified as light industrial and manufacturing.
 2. Sales of landscape materials, including bark chips and compost, is classified as light industrial and manufacturing.
 3. Sales, rental, or leasing of heavy trucks and equipment is classified as light industrial and manufacturing.

GOVERNING BOARD. The Town Council. This term is interchangeable with terms "elected body" and "elected officials."

GOVERNMENT OFFICES. The offices of the executive, legislative, judicial, administrative, and regulatory branches of federal, State and local governments.

GRADE, FINISHED. The elevation at the top of the ground, walk, or terrace where the ground, walk, or terrace intersects the exterior walls of a structure or the vertical supports of a sign.

GREENWAY. A linear open space along a natural or constructed corridor, which may be used for pedestrian or bicycle passage. Greenways often link areas of activity, such as parks, cultural features, or historic sites with each other and with populated areas. Existing and proposed community greenways are identified in the Greenway Plan found in The Lewisville Comprehensive Plan.

GROUND LEVEL. For floodway purposes, the existing average elevation of the land.

HABILITATION FACILITY SERVICES. Any facility in which one or more handicapped persons receive habilitation services, rehabilitation services or engage in recreational activities, regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the State of North Carolina and do not provide room and board. This definition does not include the principal uses Schools, Elementary or Schools, Secondary. These facilities are intended to serve handicapped persons as defined in State law, in accordance with rights provided by applicable laws.

HANDICAPPED PERSON. A person with a physical or mental impairment which substantially limits one or more of such person's life activities; a record of having such impairment; or being regarded as having such an impairment. This definition does not include current illegal use of or addiction to a controlled substance. As defined by G.S. 168A-3(7)a.

HAZARDOUS MATERIAL. Any substance listed as such in the Superfund Amendments and Reauthorization Act (SARA) Section 302, Extremely Hazardous Substances; the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Hazardous Substances; or Section 311 of the Clean Water Act (CWA) (oil and hazardous substances).

HAZARDOUS SUBSTANCE. Any chemical defined as a physical hazard or a health hazard under standards of North Carolina Administrative Code (NCAC). Physical hazards include, but are not limited to, chemicals which are combustible, explosive, flammable, and reactive. Health hazards include, but are not limited to, chemicals which are carcinogens, toxins, corrosives, and irritants.

HEALTH CARE FACILITY. A facility that engages in the examination, diagnosis, and/or treatment of health care patients by providing medical, psychiatric, or surgical services, including emergency treatment, diagnostic services, training, research, and administration. Kidney dialysis centers, blood banks, birth control clinics, drug treatment centers, and similar uses are included in this definition. Can include establishments engaged in furnishing medical and surgical services to individuals and licensed by the State for such practices. This definition can include academic medical centers used by an accredited medical school and its affiliated teaching hospital.

HIGH-DENSITY LOAD SERVICE. The provision of electrical service where the requested load density has, for any monthly billing period, either an average power demand in excess of 300 kilowatts, OR an average power density in excess of 250 kilowatt-hours

per year per data center square foot, equivalent to 35.064 square feet per kilowatt, at 100% load factor.

HND. City of Winston-Salem Department of Housing and Neighborhood Development.

HOME OCCUPATION. The use of a dwelling unit or accessory building on the same zoning lot for commercial activities that are clearly subordinate to the principal use of the dwelling unit for residential purposes and located in a residential district.

HOTEL OR MOTEL. A commercially operated facility that offers transient lodging accommodations to the public, that includes five (5) or more rooms. May provide additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

HUD. United States Department of Housing and Urban Development.

IMPERVIOUS SURFACE COVER. Any structure or material which significantly reduces or prevents natural absorption of stormwater into the soil. Impervious surface cover includes any built upon area including, but not limited to, buildings or other structures with roofs, sidewalks, driveways, parking lots, streets, and any concrete, stone, brick, asphalt, or gravel surface. For purposes of calculating impervious surface coverage requirements pursuant to the Zoning Ordinance, calculation is based on the entire zoning lot. Gravel or paver block for parking lots containing more than twenty-five (25) spaces is considered impervious at a rate of eighty percent (80%) of the total area covered.

IMPLEMENT SALES OR SERVICE. An establishment engaged in the sale, service, or rental of agricultural machinery, trailers, construction equipment, or tools.

IMPROVEMENT. Any structure or constructed feature not included under the definition of structure.

INDUSTRIAL, LIGHT. A manufacturing establishment primarily engaged in the fabrication or assembly of products from pre-structured materials or components. Because of the nature of its operations and products, Light Industry produces little or no noise, odor, vibration, glare, and/or air and water pollution, and, therefore, has minimal impact on surrounding properties.

INDUSTRIAL, GENERAL. A manufacturing establishment whose operations, including outdoor and indoor storage of materials; processing, fabrication, or assembly of products; loading and unloading of new materials, and finished products may occur either inside an enclosed building or outside the premises. Toxic, hazardous, or explosive materials may be produced or used in large quantities as an integral part(s) of the manufacturing

process. Noise, odor, dust, vibration, or visual impacts, as well as potential public health problems in the event of an accident, could impact adjacent properties.

INSTITUTIONAL USE. For the purpose of this Ordinance, any use listed under the heading of Institutional and Public Uses in *Table B.2.12 Permitted Uses* in the Zoning Ordinance.

INTERNAL LANDSCAPED AREAS. An internal landscaped area is a peninsula or island-shaped planting area located within a parking lot or adjacent to the parking lot edges with the expressed purpose of mitigating the environmental and visual effects of a parking lot.

INTERSTATE SYSTEM. Roads so designated by federal agencies which provide interstate travel with controlled access. The Interstate System is a part of the National Highway System but retains a separate identity and a separate funding.

KENNEL. Any facility used for the purpose of boarding animals, excluding horses, cattle, swine, sheep, goats, geese, or peafowl. Kennels may conduct other such incidental activities, such as the sale of animals, treatment of the animals, grooming or cleaning, and the sale of pet supplies.

LANDFILL, CONSTRUCTION AND DEMOLITION. A landfill which accepts construction or demolition debris or waste including solid waste from construction, remodeling, repair or demolition operations on pavement, buildings, or other structures.

LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID). A landfill that is limited to receiving land clearing waste, concrete, brick, concrete block, uncontaminated soil, gravel and rock, untreated and unpainted wood, and yard trash.

LANDOWNER OR OWNER. The holder of the title in fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

LANDSCAPE ARCHITECT. A person licensed to use the title of landscape architect in the State of North Carolina.

LEGISLATIVE DECISION. The adoption, amendment, or repeal of a regulation under G.S. 160D or an applicable local decision determined by the Town Council. It also includes the decision to amend the Unified Development Ordinance.

LEGISLATIVE HEARING. A hearing to solicit public comment on a proposed legislative decision.

LEWISVILLE COMPREHENSIVE PLAN. The Comprehensive Plan adopted by the Town Council to guide decision making related to the physical development in the Town of Lewisville. The plan provides the policy direction used in framing land use decisions and growth management initiatives. It includes data and maps on existing conditions, analyses of those conditions, and based on that information, goals, objectives, and policies to guide future development and conservation activities.

LIBRARY, PUBLIC. A publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for use by the general public.

LIFE CARE COMMUNITY. An area of land under unified ownership planned and developed as a unit to provide for the transitional residency and care of persons aged fifty-five (55) years or older and/or handicapped. Life care communities may offer a full range of living and care arrangements, including independent living in attached or detached dwelling units, assisted living in congregate care facilities, and full-time health care in nursing care institutions.

LOT. A parcel of land designated by number or other symbol as part of a legally approved and recorded subdivision, or as described by metes and bounds in a recorded deed.

LOT, ADJACENT. Any lot or parcel which has a common boundary, right-of-way, or easement with the subject lot.

LOT COVERAGE. That portion of the lot area, expressed as a percent, that is covered by impervious surface cover.

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

LOT, NONCONFORMING. A lot or property which does not meet all the dimensional requirements of the zoning district in which it is located, which lawfully existed prior to the adoption of the current UDO, as may be amended.

LOT LINE. A line or series of connected line segments bounding a lot.

LOT LINE, FRONT. The line which separates the lot from a street right-of-way. Corner lots shall have only one front lot line.

LOT LINE, INTERIOR. A side lot line which separates the lot from another lot.

LOT LINE, REAR. That lot line which is opposite and most distant from the front lot line, except in the case of a triangular lot, a line ten (10) feet in length, entirely within the lot, parallel to, and at the maximum distance from the front lot line, or a chord thereof if the front lot line is curved, shall be considered as the rear lot line for purposes of determining the required rear yard. In cases where neither of these conditions is applicable, the Zoning Officer shall designate the rear lot line.

LOT LINE, SIDE. A lot line other than a front or rear lot line.

LOT, REVERSE FRONTAGE. A lot having frontage on two (2) or more streets, the access of which is restricted to one street.

LOT WIDTH. The horizontal distance between the side lot lines at the building setback line as measured along a straight line parallel to the front lot line or parallel to the chord thereof.

LOWEST FLOOR ELEVATION. The elevation of the bottom or lowest part of any habitable room intended to be used as living area, excluding unfinished or unventilated basement or garage area.

MANUFACTURED HOME. A new or pre-owned structure that is transportable in one or more sections, which, when in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length. When erected on site, the structure is three hundred twenty (320) or more square feet in floor area, and is built on a permanent chassis and 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 therein; or a structure that otherwise comes within the definition of a “manufactured home” under the National Manufactured Housing Construction and Safety Act of 1974, as may be amended from time to time (42 U.S.C. 5401, et seq.).

MANUFACTURED HOME/MOBILE HOME PARK. Any property which three (3) or more manufactured/mobile homes are located or intended to be located for purposed of residential occupancy.

MANUFACTURED HOME/MOBILE HOME SPACE. An area within a manufactured/mobile home park, distinguished from a lot in a subdivision under fee simple ownership, upon which a single manufactured/mobile home is or may be placed and which provides space for the belongings and activities of the occupant.

MANUFACTURED HOME/MOBILE HOME SUBDIVISION. A subdivision designed primarily for the use and occupancy of manufactured/mobile homes on individual lots.

MANUFACTURED HOME SPACE. The land in a manufactured housing development allotted to or designed for the accommodation of one manufactured home.

MANUFACTURED HOUSING DEVELOPMENT. Any zoning lot maintained, offered, or used for parking three (3) or more occupied manufactured homes, regardless of whether or not a charge is made for such accommodations, including services and facilities for the residents.

MEDICAL OR DENTAL LABORATORY. An establishment primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to the patient, on direction of a physician; or an establishment primarily engaged in making dentures, artificial teeth, and orthodontic appliances to order for the dental profession.

MICRO-BREWERY OR MICRO-DISTILLERY. A facility, no larger than twelve thousand (12,000) square feet of gross floor area, for the brewing of beer or the distilling of alcoholic beverages. Said facility must include a tasting room or taproom, as well as a retail space to sell the beer or liquor to patrons on site. The facility may or may not have a kitchen to provide hot food prepared on site.

MIXED USE DEVELOPMENT. A planned development where a variety of uses may be developed as a single operation or a programmed series of development operations, and which creates greater choices in living and working environments.

MOBILE HOME. See Manufactured Home.

MODEL HOME. A residential dwelling unit built within a subdivision, multi-family development, or planned residential development which will be temporarily used to display the dwellings and products offered to prospective buyers of homes within the same development.

MODULAR HOME. A dwelling unit consisting of one or more components constructed in compliance with the North Carolina Uniform Residential Building Code for One or Two-Family Dwelling Units and comprised of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation.

MOTOR VEHICLE. Every vehicle which is self-propelled, and every vehicle designed to run upon the highways which is pulled by a self-propelled vehicle. For purposes of this definition, the term motor vehicle shall also include vehicles or implements used in farming or construction, motorcycles, motor scooters, mopeds, all-terrain vehicles, snowmobiles, go-carts, utility trailers, and similar items.

MOTOR VEHICLE BODY OR PAINT SHOP. An establishment primarily engaged in body work, painting, or customizing of automobiles or other motor vehicles.

MOTOR VEHICLE DISMANTLING AND WRECKING YARD. Any open area of more than two hundred (200) square feet used for storing or dismantling inoperative motor vehicles.

MOTOR VEHICLE DISPLAY AREA. Any outdoor area where automobiles, other vehicles, or manufactured homes are stored throughout the day and the night and are held for the purpose of sale or lease as an entire or complete unit.

MOTOR VEHICLE, INOPERATIVE. A motor vehicle which meets at least one of the following criteria:

- A. Vehicle lacks a current inspection certificate, or displays an expired certificate;
- B. Vehicle is partially dismantled or wrecked;
- C. Vehicle cannot be self-propelled or move in the manner in which it originally was intended to move; or,
- D. Vehicle has expired license plate or is unlicensed.

MOTOR VEHICLE RENTAL AND LEASING. An establishment primarily engaged in furnishing motor vehicle rental, leasing, and parking services to the public.

MOTOR VEHICLE REPAIR AND MAINTENANCE. An establishment engaged in providing mechanical automotive maintenance and repair, such as engine repair, exhaust system replacement and transmission repair, and/or providing other related services, such as upholstery or glass replacement. This use includes service stations but does not include body work or painting.

MOTOR VEHICLE STORAGE YARD. An outdoor area for the storage of more than one wrecked, damaged, or inoperative motor vehicle awaiting insurance adjustment, major body work, other repair, or other disposition.

MOTOR VEHICLE SURFACE AREA. Any outdoor off-street area used to store or drive motor vehicles, including private driveways, parking lots, and parking aisles, but excluding uses to which the terms motor vehicle display area, motor vehicle storage yard, or motor vehicle dismantling and wrecking yard apply.

MUSEUM OR ART GALLERY. A structure used for the display and preservation of paintings, sculpture, and other constructed or natural objects illustrating human or natural history.

NATIONAL HIGHWAY SYSTEM. A classification of roads used as the basis for federal aid. A map of roads in the National Highway System has been adopted by the Winston-Salem Area Transportation Planning Organization (WSATPO) Transportation Advisory Committee and US Congress in its reauthorization of the Intermodal Surface Transportation Efficiency Act (ISTEA) in 1995.

NEIGHBORHOOD ORGANIZATION OFFICE. A facility operated by a nonprofit organization which provides informational, educational, social, or economic counseling or

similar services to persons residing in a neighborhood. A majority of the organization's membership and board must live in the neighborhood being served.

NURSERY, LAWN AND GARDEN SUPPLY STORE, RETAIL. An establishment primarily engaged in the retail sale of trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public. These establishments primarily sell products purchased from others, but may sell some plants which are grown at the establishment.

NURSING CARE INSTITUTION. A home for persons aged, ill or handicapped in which two (2) or more persons not of the immediate family of the owner or manager of said home are provided with food, shelter, and nursing care. The term nursing care institution includes convalescent home, home for the aging, sanitarium, home for the blind, rest home, or any similar establishment.

OPAQUE FENCE OR WALL. A vertical structure constructed of masonry, concrete, metal, or wooden material which does not allow light to pass through.

OPEN SPACE. The land used for recreation, natural resource protection, amenities, and/or bufferyards. Open space may include, but is not limited to, lawns, walkways, active recreation areas, playgrounds, wooded areas, greenways, and water courses.

OPEN SPACE, COMMON. Open space within a development not in individually owned lots, which is designed and intended for the common use or enjoyment of the residents of the development.

OUTDOOR DISPLAY. An establishment primarily engaged in the rental or sales of any goods, material, or merchandise. Such goods can include motor vehicles, manufactured homes, recreational vehicles, other large items, and retail goods.

OUTDOOR STORAGE AREA. Any area which contains trash collection areas or dumpsters, open air docks, outdoor storage of bulk materials and/or parts, or areas regularly used for outdoor repair areas or service stations, motor vehicle dealers, or inspection stations, but excluding temporary construction and related activities and closed bay docks.

OUTPARCEL SITE. A freestanding lot developed separately but linked functionally to a shopping center.

PARAPET WALL. A building wall which extends to or above a flat roofed platform or building roof.

PARK AND SHUTTLE LOT. Specially designated parking areas where commuting motorists park their vehicles and ride with other commuters who have a common destination. Ridesharing from the lots may be done by car pool, van pool, or public transit.

PARKING, COMMERCIAL. A principal use of a zoning lot with or without a parking structure for use as a place for the temporary or long-term parking of motor vehicles.

PLANNED RESIDENTIAL DEVELOPMENT. A residentially zoned area, planned and developed as a unit, which is characterized by environmentally sensitive design through the use of flexible development standards.

PLANNING BOARD. The appointed body whose purpose is to make recommendations to the Elected Body regarding legislative matters and to provide decisions on certain administrative land use matters.

PLANNING DIRECTOR. The Director of Planning of the Town of Lewisville. The Planning Director can also be referred to as Zoning Officer, Zoning Administrator, Watershed Administrator, and/or Floodplain Administrator.

PLANTING AREA. An outdoor area, the surface of which may not be covered by impervious surface cover, such as asphalt or concrete, nor by structures, and must be devoted entirely to the planting and maintenance of trees, shrubs, and groundcovers, or construction of fences, walls, and/or earthen berms.

PLAT. A surveyed map or plan or a parcel of land which is to be or has been subdivided.

PLAT, FINAL. The final map of all or a portion of a subdivision or site, showing the boundaries and location of lots, streets, easements, and any other requirements of the Subdivision Ordinance, which is presented for local government approval and subsequent recordation with the Register of Deeds.

PLAT, PRELIMINARY. A map indicating the proposed layout of the subdivision or site showing lots, streets, water, sewer, storm drainage, and any other requirements of the Subdivision Ordinance, which is presented for preliminary approval.

POLICE OR FIRE STATION. A facility established for public law enforcement purposes or public fire protection and prevention purposes.

POROUS PAVEMENT SURFACE. Interlocking, high strength blocks made of cement, plastic, or other approved materials that are designed to handle load support requirements while allowing for growth of turf grass.

POST OFFICE. A facility or structure used for the collection, sorting, and distribution of mail within several zip code areas, having retail services for the general public, such as stamps, postcards, or postal insurance.

PROFESSIONAL OFFICES. An establishment primarily engaged in providing engineering, architectural, and surveying services; accounting, auditing, and bookkeeping services; public relations services; legal services; real estate services; the services of insurance agents, brokers and carriers; the services of security and commodity brokers; and the services of bank holding companies.

PROPERTY. All real property subject to land-use regulation by a local government and includes any improvements or structures customarily regarded as a part of real property.

PUBLIC ART. Public art, defined as items expressing creative skill or imagination in a sensory form such as painting or sculpture which are intended to beautify or provide aesthetic influences to public areas or areas which are visible from the public realm, and not intended to identify or draw attention to a product, service or business. Public Art shall not constitute a sign under this ordinance.

QUASI-JUDICIAL DECISION. A decision involving the finding of facts regarding a specific application of development regulation that requires the exercise of discretion when applying the standards of the regulation. Quasi-judicial decisions include but are not limited to decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations.

RECREATION AREA, COMMON. An area of open space which is required in certain types of developments for active or passive recreational uses.

RECREATION FACILITY, PUBLIC. An area or facility designed to meet the demand for active recreation, including play fields, ball diamonds, parks with picnic and playground equipment, par courses, tennis courts, swimming pools, tot lots and similar uses, available to the public and under the management or control of a public agency.

RECREATION SERVICES, INDOOR. Establishments engaged in providing indoor amusement or entertainment services. This definition includes, but is not limited to, uses such as dance studios, schools, bowling centers, sports clubs, physical fitness facilities, coin operated amusement devices, and membership sports and recreation clubs.

RECREATION SERVICES, OUTDOOR. Establishments engaged in providing outdoor amusement or entertainment services. This definition includes, but is not limited to, uses such as athletic fields, track operation, public/private golf clubs, golf driving ranges, and batting cages.

RECREATIONAL VEHICLE. A vehicular type accommodation, other than a manufactured home, designed as temporary accommodations for travel, vacation, or recreation purposes, which is propelled by its own motive power or is mounted on or

drawn by another vehicle and may require registration with the North Carolina Department of Motor Vehicles.

RECREATIONAL VEHICLE PARK. A contiguous site or tract of land under unified ownership intended and designed to accommodate recreational vehicles or tent spaces as temporary living quarters for recreational or vacation purposes.

RECREATIONAL VEHICLE SPACE. A plot of land within a recreational vehicle park designed for the accommodation of one recreational vehicle, tent, or other individual camping unit on a temporary basis.

RECYCLING CENTER. A facility which recoverable resources such as newspapers, magazines, books, glassware, and metal and aluminum cans, waste oil, iron and steel, and other products are recycled, collected, stored, and treated in an enclosed building to which they can be used again for production.

RECYCLING COLLECTION POINT. An incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items is allowed. This facility would generally be located in a shopping center parking lot or in other public or institutional areas, such as churches and schools.

REDEVELOPMENT. Cumulative construction or reconstruction that exceeds fifty percent (50%) of existing heated floor area.

RELIGIOUS INSTITUTION. A facility of a religious organization operated for worship, and which may include religious training or study. Accessory uses may include facilities for related education, parking, kitchen/cafeterias, recreation areas, offices, meeting rooms, and caretaker's housing.

RELIGIOUS INSTITUTION, COMMUNITY SCALE. A religious institution in which the seating capacity in the sanctuary or main activity area is greater than six hundred (600) persons.

RELIGIOUS INSTITUTION, NEIGHBORHOOD SCALE. A religious institution in which the seating capacity in the sanctuary or main activity area is six hundred (600) persons or less.

RESIDENTIAL. Referring to permanent dwellings as defined herein.

RESIDENTIAL BUILDING. A building which contains one or more dwelling units.

RESIDENTIAL BUILDING, DUPLEX. A residential building which contains two (2) dwelling units and which occupies one zoning lot.

RESIDENTIAL BUILDING, MULTIFAMILY. A residential building which contains three (3) or more dwelling units and which occupies one zoning lot. This term includes Single Room Occupancy (SRO) facilities.

RESIDENTIAL BUILDING, QUADRAPLEX. A residential building which contains four (4) dwelling units and occupies one zoning lot.

RESIDENTIAL BUILDING, SINGLE FAMILY. A residential building which contains one dwelling unit and which occupies its own zoning lot. This term includes modular housing units. Can also be referred to as a single family dwelling.

RESIDENTIAL BUILDING, TOWNHOME. A residential building which contains three (3) or more dwelling units; each unit occupies one zoning lot.

RESIDENTIAL BUILDING, TRIPLEX. A residential building which contains three (3) dwelling units and occupies one zoning lot.

RESIDENTIAL BUILDING, TWIN HOME. A residential building which contains two (2) dwelling units; each unit occupies one zoning lot.

RESTAURANT (WITH DRIVE-THROUGH SERVICE). An establishment which delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

RESTAURANT (WITHOUT DRIVE-THROUGH SERVICE). An establishment which serves food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas. This includes cafes, tea rooms, and outdoor cafes.

RESUBDIVISION. A combination or recombination of previously recorded lots or tracts of contiguous land.

RETAIL STORE, SPECIALTY OR MISCELLANEOUS. An establishment primarily engaged in selling merchandise for personal or household use not classified elsewhere.

RETENTION STRUCTURE. A structure designed for the permanent storage of runoff in a pool of water.

RIDING STABLE. An establishment for the boarding and/or rental of horses for riding. A Riding Stable may also include the provision of veterinarian services for equine species (horses, mules, or donkeys) or cattle.

RIGHT-OF-WAY. The legal right of public passage, especially vehicular, over land.

SATELLITE DISH. A type of receive-only antenna which is dish-shaped and is used to receive satellite signals, primarily television transmissions.

SCHOOL, CHARTER. A private school established under the statutory provisions for charter schools of the State of North Carolina. Charter schools typically require approval by the State of North Carolina are eligible to receive State funding; are operated free from regulation by the State Department of Public Instruction; and have a special purpose or approach to education.

SCHOOL, ELEMENTARY. A public or private school providing instruction to students in kindergarten through grade five.

SCHOOL, MIDDLE. A public or private school giving instruction in grades six through eight.

SCHOOL, PRIVATE. A structure used primarily by and for any two (2) or more age or grade levels not operated by the public school system, but registered with the North Carolina Department of Public Instruction. Any school for children age six (6) or under not meeting these requirements shall be considered a day care facility for purposes of this Ordinance.

SCHOOL, PUBLIC. A structure used primarily by and for any two (2) or more age or grade levels and operated by the public school system or approved by the North Carolina Department of Public Instruction as meeting the requirements of State law. Any school for children age six (6) or under not meeting these requirements shall be considered a day care facility for purposes of this Ordinance.

SCHOOL, SECONDARY. A public or private school giving instruction to students in grades six through twelve. Secondary schools consist of middle schools and high schools.

SCHOOL STADIUM. An outdoor facility designed or used primarily for interscholastic athletic competition, which also includes permanent seating for persons to observe the sports activity taking place.

SCHOOL, VOCATIONAL OR PROFESSIONAL. A use providing education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as home occupation, college or university, or elementary or secondary school.

SCREENING. The method by which the view from one site to an adjacent site is shielded or hidden. Screening techniques include bufferyards, berms, and opaque fences or walls.

SERVICE BAY. An indoor area containing at least two-hundred forty (240) square feet designated and used solely for the purpose of performing diagnostic, maintenance, or repair work on motor vehicles.

SERVICE ROAD. A local street or road that is parallel to a full or partial access-controlled facility and functions to provide access to adjacent land.

SERVICES, BUSINESS A. An establishment primarily engaged in providing a service(s) to businesses and to a lesser extent, individuals. All merchandise and rental equipment is stored inside enclosed buildings. This definition includes, but is not limited to, uses such as mailing, commercial art, equipment rental and leasing (inside equipment storage only), computer programming, data processing, other computer related services, and miscellaneous business services.

SERVICES, BUSINESS B. An establishment primarily engaged in providing services to commercial and business establishments. Operations may include large scale facilities and storage of merchandise and equipment outside enclosed buildings. This definition includes, but is not limited to, uses such as laundry, cleaning and garment services, outdoor advertising services, services to dwellings and other buildings, equipment rental and leasing (outside storage of equipment), refrigeration service and repair, welding repair, and armature rewinding shops.

SERVICES, PERSONAL. An establishment primarily engaged in providing a service(s) to individuals such as a beauty and/or barber shop, a dry-cleaning establishment, advertising, personal fitting of prosthetics and orthotics or computer services. This definition includes, but is not limited to, uses such as garment pressing and agents for laundries and drycleaners, coin-operated laundries and cleaning, drycleaning plants, except rug, carpet and upholstery cleaning, photographic studios (portrait), beauty shops, barber shops, shoe repair and shoeshine parlors, miscellaneous personal services, electrical repair shops, jewelry repair, and reupholstery and furniture repair.

SETBACK. The minimum required horizontal distance between a structure and either the lot line, street right-of-way line, or the line that marks the beginning of street maintenance by the Town or the North Carolina Department of Transportation, whichever is less. For properties within the Downtown Overlay and for uses requiring site plan review by the Planning Board a part of the approval processes identified in *Table B.2.12 Permitted Uses* of the Zoning Ordinance, building setbacks shall be measured from either the existing street right-of-way, or the proposed right-of-way established by the adopted Thoroughfare Plan, whichever is more restrictive.

SETBACK LINE. The line which is parallel to and is a given distance from the applicable lot line of a lot or parcel of land as required by the dimensional requirements of this Ordinance. See Yard.

SHOOTING RANGE, INDOOR. An enclosed facility used for the discharge of firearms at targets.

SHOPPING CENTER. A building or group of buildings totaling thirty-five thousand (35,000) square feet or more of gross floor area, either connected or freestanding, which is designed with common parking, pedestrian movement, ingress and egress, and used for the sale of merchandise or services to the public. There must be a minimum of four (4) stores. No outparcel shall be included in the calculation of building square footage for shopping centers.

SIGHT EASEMENT. An easement which grants the right to maintain unobstructed view across property located at a street intersection.

SIGN. Any form of publicity which is visible from any public way, communicating information or directing attention to an individual, business, commodity, service, activity, or product, by means of words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trademarks, or other pictorial matter designed to convey such information, and displayed by means of paint, bills, posters, panels, or other devices erected on an open framework, or attached or otherwise applied to stakes, posts, poles, trees, buildings, or other structures or supports. As used in this section, "public way" shall include streets, as well as travel and pedestrian areas interior to shopping centers, including but not limited to parking areas.

SIGN, AWNING (ON-PREMISES). An on-premises sign constructed of fabric-like, non-rigid material which is a part of a fabric or flexible plastic awning framed and attached to a building.

SIGN, GROUND (OFF-PREMISES). Also referred to as an Off-premises Sign. A freestanding sign which draws attention to or communicates information about a business, service, commodity, accommodation, attraction, or other activity which is conducted, sold, or offered at a location other than the premises on which the sign is located.

SIGN, GROUND (ON-PREMISES). A freestanding on-premises sign.

SIGN, MARQUEE. Any canopy substantially framed in steel which is durably constructed and of sufficient strength and design to carry superimposed sign structures.

SIGN, MOVING OR FLASHING. A sign, which permits light to be turned on or off intermittently more frequently than once per five seconds.

SIGN, ON-PREMISES. A sign displaying information pertaining only to a business, industry, activity, or profession located on the premises where the sign is displayed, and

pertaining only to the name of the business, type of product sold, manufactured, or assembled, and/or service, activity, or entertainment offered on said premises, including business identification and occupancy signs.

SIGN, POLITICAL. Shall mean the same as defined in G.S. 136-32(c)(3).

SIGN, PROJECTING. An on-premises sign supported by a pole or other supporting structure, hanging from a building.

SIGN, REAL ESTATE. A sign which is designed for the sale, lease, promotion, and identification of real estate.

SIGN, ROOF. An on-premises sign located above the eaves and below the peak of the roof where the sign is located.

SIGN, TEMPORARY. Signs permitted through a temporary use permit to be used for a limited time.

SIGN, WALL. An on-premises sign affixed to the wall of any building and completely in contact with the building throughout its greatest dimension, which does not extend beyond the main wall of the building more than twelve (12) inches except in accordance with these regulations.

SITE PLAN. A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include, but is not limited to, site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads and stormwater control facilities, that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

SPECIAL USE PERMIT. A permit issued by the Board of Adjustment for a use specified in *Table B.2.12 Permitted Uses* in the Zoning Ordinance.

STADIUM, COLISEUM, OR EXHIBITION BUILDING. A structure or facility designed, intended, or used primarily for public gatherings; indoor exhibitions, galleries, or conventions; or indoor or outdoor spectator events including, but not limited to, professional and amateur sporting events, concerts, theatrical presentations, motor vehicle racing.

STORAGE AND SALVAGE YARD. The use of land for outdoor storage of machinery, construction equipment, construction supplies, used building materials, scrap metal, and similar items. This definition does not include motor vehicle storage yard and motor

vehicle dismantling operations which are principal uses defined elsewhere in *Section A.2 Definitions*.

STORAGE SERVICES, RETAIL. Moving and/or storage services for household and business goods, including self-service storage facilities.

STORAGE TANKS, ABOVE GROUND. Storage tanks located above ground which are accessory to industries or businesses in their operations and are used to store chemicals, fuels, water, and other liquids and materials.

STORAGE TRAILER. A structure originally constructed with wheels in order to be transported over the highways but now no longer transported and now converted to use as a storage structure. An uncoupled truck trailer, an inoperable travel trailer, and an uninhabitable manufactured dwelling all meet this definition if used for storage of materials of any kind. An uncoupled truck trailer placed at a church, school, government building, or business for the acceptance of goods donated to charity or dropped off for recycling and towed away on a regular schedule or whenever full does not meet this definition. A construction trailer at a construction site does not meet this definition.

STORMWATER QUALITY MANAGEMENT PLAN. A set of drawings and supporting documents submitted by the applicant for a stormwater quality management permit.

STREAM. A watercourse that is indicated on maps generated from the Forsyth County Land Records Information System.

STREAM BUFFER. A natural or vegetated area through which stormwater runoff flows in a diffuse manner and which provides for infiltration of runoff and filtering of pollutants. The buffer is measured landward from the top of the bank defining the edge of the stream channel.

STREAM, PERENNIAL. A watercourse that flows year-round, including rivers, streams, lakes, and ponds, indicated as a solid blue line on the most recent version of USGS 7.5 minute (1:24,000 scale) topographic maps. Perennial streams are also shown as such on the Official Zoning Maps.

STREET. A public right-of-way or private easement which affords traffic circulation and a means of access to abutting property. The term street includes road, avenue, place, way, drive, lane, boulevard, highway, and any facility principally designed for motor vehicle traffic, except an alley or an easement solely for utilities or pedestrians.

STREET, COLLECTOR. A street whose function consists of both carrying traffic from local residential streets to thoroughfares and providing access to abutting properties.

Collector streets should be designed so as not to be used as shortcuts by non-neighborhood traffic.

STREET, LOCAL. A street used primarily for providing direct access to abutting property.

STREET, STUB. A street which runs to a property line of adjacent property and is intended to continue on adjacent property at such time as that adjacent property is developed.

STREETYARD. That portion of a yard fronting on a public right-of-way or private access easement where special plantings may be required by this Ordinance to separate and partially screen the view of the property as seen from the street.

STRUCTURE. Anything constructed or erected which is above grade including a manufactured home and a storage trailer. For purposes of this Ordinance, structure does not include landscape features, such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-grade slab patios, driveways, walls or fences, shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, air conditioning compressors, pump houses, wells, mailboxes, privies, outdoor fireplaces, gate houses, burial vaults, cemetery markers or monuments, bus shelters, or wharves.

STRUCTURE, ACCESSORY. A structure detached from a principal building on the same zoning lot, the use of which is customarily incidental to the principal building. This includes freestanding satellite dishes, any other devices which access satellites, and amateur radio antennas.

STRUCTURE, DETACHED. For purposes of determining setback requirements for accessory structures, a structure which is separated from an adjacent structure by at least three (3) feet as measured from any part of the structures.

STRUCTURE OR IMPROVEMENT, NONCONFORMING. Any structure or improvement which does not meet the applicable dimensional requirements or other development that lawfully existed on the day before the effective date of the Zoning Ordinance or subsequent amendments, and which continues to exist.

SUBDIVISION. All divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or building development (whether immediate or future), including all divisions of land involving the dedication of a new street or a change in existing streets. Included in this general definition are subdivisions exempt by State law or court judgments, industrial or commercial subdivisions, minor subdivisions, and major subdivisions, as defined below:

- A. **Subdivision Exempted by State Law or Court Judgment.** A subdivision in which all lots must comply with the dimensional requirements of the Zoning Ordinance or any other applicable local or State land regulatory ordinances and meet any one (1) of the following criteria:
1. The combination or recombination of portions of previously subdivided and recorded lots does not increase and the resultant lots are equal to or exceed the standards of the local government subdivision regulations;
 2. Land is divided into parcels greater than ten (10) acres and no street right-of-way dedication is involved;
 3. The public acquires by purchase strips of land for the widening or opening of streets or public transportation system corridors ;corridors;
 4. A tract in single ownership whose entire area is no greater than two (2) acres is divided into not more than three (3) lots, where no public or private street right-of-way dedication is involved and the resultant lots are equal to or exceed the standards of the local government subdivision regulations; or,
 5. The division of a tract into parcels in accordance with the terms of a probated will or in accordance with interstate succession under Chapter 29 of the General Statutes.
- B. **Subdivision, Industrial or Commercial.** A subdivision primarily for the purpose of industrial or commercial building development.
- C. **Subdivision, Major.** A subdivision out of a tract in single or multiple ownership for the purpose of gift, sale, or building development where new public streets will be constructed.
- D. **Subdivision, Minor.** A minor subdivision shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or building development. All lots must comply with the requirements described in *Section D.5 Minor Subdivisions*.
- E. **Subdivision, large lot.** A major subdivision that has an overall residential density that does not exceed one (1) unit/ eighty thousand (80,000) square feet with a minimum lot size of forty thousand (40,000) square feet.

SUBSTANTIAL IMPROVEMENT. Any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place within any consecutive twelve (12) month period in which the cumulative cost equals or exceeds fifty percent (50%) of the present market value of the structure. The market value of the structure shall be:

- A. The appraised value of the structure prior to the initial repair or improvement; or,
 - B. In the case of damage, the value of the structure prior to the damage occurring.
- Substantial improvements does not include any alteration of a structure listed in the National Register, Study List for the National Register of Historic Places, or those properties inventoried in the Forsyth County's Architectural Survey, From Frontier to Factory, or located in an historic zoning district.

SURVEYOR. A person licensed to practice surveying in the State of North Carolina.

SWIMMING POOL, PRIVATE. A swimming pool intended for the private, noncommercial use of a property owner(s), homeowner's association, residential development, or club.

TELEMARKETING. An establishment which conducts sales of merchandise by telephone and ships merchandise to customers through a fulfillment center located within the same facility. For purposes of this Ordinance, telemarketing is considered a type of Wholesale Trade A use. Telemarketing does not include the use Non-store retailer.

TERMINAL, BUS OR TAXI. A facility for the storage, maintenance, and dispatch of buses or taxis, and associated customer ticketing and waiting areas.

TERMINAL, FREIGHT. Any facility for handling freight, with or without storage and maintenance facilities.

TESTING AND RESEARCH LABORATORY. An establishment primarily engaged in commercial research and providing testing services such as calibration and certification of instruments, food testing services, forensic laboratories, metallurgical testing, and industrial X-ray inspection services, etc.

THEATER, DRIVE-IN. An establishment for the outdoor viewing of motion pictures by patrons while in motor vehicles.

THEATER, INDOOR. An establishment for the indoor viewing of motion pictures by patrons.

THOROUGHFARE. An existing or proposed freeway/expressway, major thoroughfare, or minor thoroughfare as shown on the Transportation Plan.

THOROUGHFARE, MAJOR. Can also be referred to as an arterial street. A category of streets identified on the Transportation Plan, which function as the primary traffic arteries of the community. These arteries function to move intra-Town and inter-Town traffic, yet they may also provide access to abutting property. Major thoroughfares range from two-lane streets carrying lower traffic volumes to major thoroughfares with four (4) or more traffic lanes. Parking normally is not permitted on major thoroughfares.

THOROUGHFARE, MINOR. A category of streets identified on the Transportation Plan, which collect traffic from collector and local streets and carry it to the major thoroughfares. They may supplement major thoroughfares by facilitating minor through traffic movements. These streets may also provide access to abutting property.

TOBACCO and/or CBD, VAPE SHOP. A business that devotes at least fifty (50%) percent of gross floor area to the sale or display of tobacco, vaping products, or CBD oils and other consumable hemp derived commodities that are permitted under state law.

TOWN COUNCIL. The legislative body of the Town of Lewisville.

TRANSITIONAL HOUSING FACILITY. A transitional housing facility for forty (40) or fewer residents, licensed by the State of North Carolina or operated by a nonprofit corporation chartered pursuant to G.S. Ch. 55A, which provides room and board, personal care, and rehabilitation services while persons receive therapy and/or counseling for one or more of the following purposes:

- A. To assist them to recuperate from the effects of or refrain from the use of drugs or alcohol;
- B. To provide emergency and temporary shelter for persons in distress such as runaway children and battered individuals; and,
- C. To provide shelter and support for older adults and persons who are handicapped. A Group Care Facility A shall not serve primarily as an alternative to incarceration. Such facilities may have accessory uses conducted on the premises, including but not limited to, schooling of residents, training programs in occupational fields, and production of goods and crafts to be sold off-premises.

TRANSMISSION TOWER. A structure, either freestanding or attached to a building, principally intended to support and/or radiate or receive a source of Non-Ionizing Electromagnetic Radiation (NIER), and accessory equipment related to broadcast services, private radio services, cellular telephone services, and common carriers (as regulated by the Federal Communications Commission), including AM, FM, two-way radio, television and cable antenna television transmission and reception, and microwave transmission.

- A. For purposes of this definition, broadcast services include AM and FM radio and high and low power television signals which can be received by anyone with a radio or television. Private radio services include land-mobile or two-way radio, fixed-point microwave, and amateur public club station signals which can be received only with

special equipment. Common carriers provide two-way and one-way paging services on the same frequency to many users.

- B. The term transmission tower does not include electrical or telephone transmission lines or supporting structures, antennas of amateur radio (ham) operators, amateur club services licensed by the Federal Communications Commission, satellite dishes, and antennas less than sixty (60) feet in height with transmitting power of two hundred fifty (250) watts or less.

TRANSPORTATION PLAN. A map adopted by The Town of Lewisville, Winston-Salem Urban Area Metropolitan Planning Organization (WSUAMPO), and the North Carolina Department of Transportation, showing the location of existing and proposed freeways/expressways, major thoroughfares, and minor thoroughfares.

TRASH, YARD. The solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, and similar vegetative material.

TREE, LARGE. Any deciduous or evergreen tree whose maximum mature height is equal to or greater than fifty (50) feet.

TREE, MEDIUM. Any deciduous or evergreen tree whose maximum mature height is equal to or greater than thirty (30) feet and less than fifty (50) feet.

TREE, SMALL. Any deciduous or evergreen tree whose maximum mature height is less than thirty (30) feet.

TURKEY SHOOT. A match or contest for prizes, usually a turkey or ham, at which the participants fire handguns, rifles, or shotguns at a fixed target.

UNIFIED DEVELOPMENT ORDINANCE (UDO). The Unified Development Ordinance, also referred to as “this ordinance,” consolidates the Town's Zoning Ordinance, Environmental Ordinance, and Subdivision Ordinance as authorized by the North Carolina General Statutes and is adopted pursuant to: (1) The authority granted to the Town of Lewisville by the General Assembly of the State of North Carolina; (2) The North Carolina General Statutes Chapter 160D, Article 19; (3) All other relevant laws of the State of North Carolina; and (4) Any special legislation enacted for the Town.

USE. The purpose or activity for which land or structures are designed, arranged, or intended, or for which land or structures are occupied or maintained, including any such activity with respect to the requirements of this Ordinance.

USE, ACCESSORY. A use or activity which is customarily incidental to a specific principal use, and which is located on the same zoning lot as the associated principal use except for off-site parking or other use provided for by this Ordinance.

USE, NONCONFORMING. Any use not permitted in the zoning district in which it is located, which lawfully existed prior to the adoption of the current UDO, as may be amended.

USE, PRINCIPAL. Those uses of land listed in *Table B.2.12 Permitted Uses* in the Zoning Ordinance.

USE, TEMPORARY. A use which may be located in a zoning district not allowing the use on a permanent basis, after issuance of a permit specifying a limited duration for the use.

USGS. United States Geological Survey.

UTILITIES. Facilities of any agency which, under public franchise or ownership, provide the general public with electricity, gas, oil, water, sewage, electronic signals, or rail transportation. The term utility shall not be construed to include the following: corporate or general offices; storage or service buildings or yards; gas or oil processing, manufacturing, or storage facilities; transmission towers; or postal facilities.

UTILITY SERVICE AREA. An area which contains any surface mounted heating, ventilation, or air conditioning equipment or freestanding above ground devices, such as utility boxes, booster boxes, switchgear, and transformers, which are part of an underground utilities system:

- A. **Private Utility Service Area.** An area, on private property, which contains privately owned utility structures for the exclusive service of the premises where they are installed; or,
- B. **Public Utility Service Area.** An area, on either private or public property, which contains utility structures owned by a utility for the service of one or more premises, but excluding utility substations.

VARIANCE. Relief from the requirements of the Zoning Ordinance granted by the Board of Adjustment.

VESTED RIGHT. A right pursuant to G.S. 160D-108; -108.1 to undertake and complete the development and use of property under the terms and conditions of an approval secured as specified in G.S. 160D-108 or under common law. See *Section A.4-2.3 Vested Rights* of the Zoning Ordinance.

VETERINARY SERVICES. Any facility used for the purpose of giving licensed medical treatment to animals or pets and any other customarily incidental treatment of the animals, such as grooming, boarding, or selling of pet supplies.

VIENNA BUSINESS OVERLAY. As defined verbally and on the Preferred Land Use Map in the Lewisville Comprehensive Plan, being the stretch of Yadkinville Road from the

intersection of Glenn Ferry Road to Needham Road encompassing approximately one hundred thirty-five (135) acres.

VIEW CORRIDOR. Designated areas along thoroughfares that preserve the views of significant natural or constructed areas designated by the Town Council and shown on a map entitled View Corridors filed in the office of the Planning Board.

WAREHOUSING. Establishments primarily engaged in the warehousing and storage of general merchandise, refrigerated goods, and farm products.

WATER SUPPLY WATERSHED. An area from which water drains to a point of impoundment, and the water is then used principally as a source for a public water supply.

WETLANDS. Areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

WHOLESALE TRADE A (INDOOR). An establishment primarily engaged in selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business uses; or to other wholesalers. Merchandise is stored inside enclosed buildings. Activities including physically assembling, sorting, and grading goods in large lots and breaking bulk for redistribution in smaller lots are conducted inside enclosed buildings in such a way as to have a minimal impact on surrounding properties. Operations with over twenty-five percent (25%) of sales to retail customers require the appropriate retail zoning district.

WHOLESALE TRADE B (OUTDOOR). An establishment primarily engaged in selling durable and nondurable goods to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business uses; or to other wholesalers. Merchandise may be stored outside enclosed buildings. Activities including physically assembling, sorting, and grading goods in large lots, and breaking bulk for redistribution in smaller lots may be conducted outside enclosed buildings. Operations with over twenty-five percent (25%) of sales to retail customers require the appropriate retail zoning district.

YARD. Any area of land located between a lot line and a required setback line. The minimum depth of a yard shall be determined by horizontal measurement at a right angle from the applicable lot line.

YARD, FRONT. The yard extending across the full width of the lot and lying between the front lot line and the front setback line as required in this Ordinance.

YARD, INTERIOR SIDE. The yard extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and the side building setback line, as required in this Ordinance, provided that the side lot line is not adjacent to a public street right-of-way.

YARD, REAR. The yard extending across the full width of the lot and lying between the rear lot line and the rear building setback line as required in this Ordinance.

YARD, STREET SIDE. The yard extending along the length of the lot between the required front yard and the required rear yard adjacent to a public right-of-way or private access easement, and between the side lot line and the side building setback line as required in this Ordinance.

ZONING LOT. A single parcel of land according to the official tax map existing at the time of application for any permit or approval.

ZONING PERMIT. A permit which authorizes the recipient to use or occupy a tract of land or a structure; or to erect, alter or install a structure or sign which fully meets the requirements of this Ordinance.

A.3

3. REVIEW AND DECISION- MAKING BODIES

3-1. PURPOSE

A. **Purpose.** This Section intends to define the development review and decision-making entities of the Town of Lewisville, and is comprised of the following components:

1. **Summary Development Process**

Table. The summary table describes all development application review processes in this UDO and the review and decision-making bodies which decide them.

2. **Planning Director**

3. **Zoning Board of Adjustment**

4. **Planning Board**

5. **Town Council**

3. Review and Decision-Making Bodies	44
3-1. Purpose	44
3-2. Summary Development Process Table	45
3-3. Planning Director	46
3-4. Technical Review Committee	48
3-5. Zoning Board of Adjustment	49
3-6. Planning Board	51
3-7. Town Council	53

3-2. SUMMARY DEVELOPMENT PROCESS TABLE

The summary development process table lists each development review process under this UDO and the review and decision-making bodies involved in the decision-making process. Processes are organized by legislative, quasi-judicial, and administrative processes.

Table A.3.1 Summary Development Process Table

REVIEW PROCESS	SECTION	REVIEW AND DECISION-MAKING BODIES			
		Planning Director	Planning Board	Zoning Board of Adjustment	Town Council
ADMINISTRATIVE PROCESS					
Zoning/Building Permit	A.6-3.16	D			
Minor Subdivision	A.6-3.9	D			
Exempt Subdivisions	A.6-3.11	D			
Expedited Subdivisions	A.6-3.12	D			
Temporary Use Permit	A.6-3.15	D			
Certificate of Occupancy	A.6-3.8	D			
Preliminary Major and Large Lot Subdivisions	A.6-3.10	RR	D		
Final Major Subdivision	A.6-3.10	D			
Site Plan**	A.4-3.14				
QUASI-JUDICIAL PROCESS					

REVIEW PROCESS	SECTION	REVIEW AND DECISION-MAKING BODIES			
		Planning Director	Planning Board	Zoning Board of Adjustment	Town Council
Variance	A.6-3.6	R		D	
Special Use Permit	A.6-3.5	R		D	
Appeals*	A.6-3.7	R		D	
LEGISLATIVE PROCESS					
Zoning Map Amendments (Rezoning)	A.6-3.3	RR	RR		D
UDO Amendment	A.6-3.2	RR	RR		D
KEY: R = REVIEW, RR = REVIEW AND RECOMMEND, D = FINAL DECISION					
<p>*The ZBOA shall hear and pass upon appeals from and shall review any disputed order, requirements, decision or determination made by the Planning Director.</p> <p>**Site Plan approval is subject to the requirements of Section A.4-3.11.</p>					

3-3. PLANNING DIRECTOR

3-3.1. DESIGNATION AND RESPONSIBILITY

- A. The Planning Director (Director), including designees, is principally responsible for the administration and enforcement of this UDO.
- B. The Director shall administer and enforce this UDO and may request the assistance of any appropriate officer or agency of the Town.
- C. The Planning Director and the Planning Board are responsible for making recommendations to the Town Council regarding *Section C.2 Flood Damage Prevention*, *Section C.3 Stormwater Management and Watershed Protection*, and *Section C.5 Dam Breach Hazard Areas*. The Planning Director, Planning Board, and Town Council may seek legal advice regarding amendments to this Ordinance,

according to the procedures for UDO Text Amendments described in *Section A.4-3.2 Unified Development Ordinance Text Amendment*.

3-3.2. POWERS AND DUTIES

A. **Powers.** The Director will have the following powers:

1. **Administration and Enforcement.** The Director will administer and enforce the provisions of this UDO.
2. **Interpretation.** The Director will make written interpretations of this UDO setting forth the reasons and explanation thereof.
3. **Maintain Records.** Make and maintain records of all applications for permits submitted to the Planning Director, and records of all permits and plans submitted, which shall be available for inspection at reasonable times by any interested person.
4. **Inspect and Enforce.** Conduct inspections of premises and take other lawful action to obtain compliance with the provisions of this Ordinance as authorized in *Section A.6 Enforcement*.
5. **Designation.** The Planning Director shall designate the person responsible for carrying out all flood hazard management duties.

B. **Duties.** The Director will have the following duties:

1. **Zoning Map Amendment.** The Planning Director will review general and conditional district rezoning requests.
2. **UDO Text Amendment.** The Director will review amendments to the text of this UDO.
3. **Land Use Plan Amendments.** The Director will review amendments to the future land use map within Lewisville Tomorrow.
4. **Special Use Permit.** The Director will review special use permits.
5. **Planned Development.** The Director will review planned development applications.
6. **Variance.** The Director will review variance requests.
7. **Vested Rights.** The Director will review requests to confirm a vested right for a property.
8. **Appeals.** The Director will review appeals.
9. **Certificate of Appropriateness.** The Director will review applications for Certification of Appropriateness for minor work.

10. **Minor Subdivision Final Plat.** The Director will approve, approve with conditions, or deny minor subdivisions.
11. **Major Subdivision Final Plat.** The Director will approve, approve with conditions, or deny final plats for major subdivisions.
12. **Site Plan Review.** The Director will review and upon recommendation by the TRC approve, approve with conditions or disapprove site plans.
13. **Temporary Use Permit.** The Director will review and approve or deny temporary use permits less than 60 days.
14. **Zoning Permit.** The Director will approve or disapprove zoning permit applications.
15. **Parking Plan.** The Director will approve or disapprove parking plans.
16. **Administrative Adjustment.** The Director may approve minor modifications administratively per G.S.160D-705(c).
17. **Changes to UDO.** The Director may correct typographical errors, numerical reference errors, spelling errors, and errors in section or page numbering, and may make other non-substantive editorial changes to the text of this ordinance without formal adoption by the Town Council, provided that such changes do not change the meaning of the ordinance. Any changes made pursuant to this Section must be documented to the Town Council and made a part of their regular meeting minutes.

3-4. TECHNICAL REVIEW COMMITTEE

- A. There is established a Lewisville Technical Review Committee (TRC). This board serves in an advisory capacity to the Planning Director, Planning Board and Town Council. Members of the TRC represent various agencies, institutions and departments involved in aspects of the development review procedures described in this Ordinance.
- B. The TRC may provide information, commentary and expertise on topics such as transportation, environmental management, engineering, emergency services, public water and sewer, among others. The TRC meets on an as-needed basis. Records and the minutes of meetings shall be maintained by the Planning Director. Procedures in which the TRC may be involved include, but are not limited to:
 1. Major and Large Lot Subdivisions,
 2. Project site plans,

3. Planned Residential Developments
4. Conditional rezonings, and
5. Certain types of special use permits.

3-5. ZONING BOARD OF ADJUSTMENT

3-5.1. ESTABLISHMENT AND MEMBERSHIP

- C. **Creation.** The Lewisville Zoning Board of Adjustment (ZBOA), consisting of five (5) members with two (2) alternate members, appointed by the Town Council, has been created and is hereby continued. ZBOA members shall reside within the corporate limits of the Town of Lewisville.

3-5.2. RULES OF PROCEDURE

- A. **Generally.** The ZBOA shall adopt rules and procedures as it deems necessary.
- B. **Meetings of the Zoning Board of Adjustment.** The ZBOA shall adopt a regular meeting schedule.
1. In addition, the ZBOA may hold such special meetings as the conduct of its business may require. All meetings and hearings shall be open to the public.
- C. **Quorum.** No official business of the ZBOA may be conducted without a quorum present.
- D. **Participating and Voting.** The concurring vote of four-fifths of the board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in certiorari.
1. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.
 2. Once a member is physically present at a ZBOA meeting, any subsequent failure to vote will be recorded as an affirmative vote unless the member has recused himself or herself, or been excused in accordance with the paragraph below.
 3. A member shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial; business; or

other associational relationship with an affected person, or a financial interest in the outcome of the matter. For purposes of this Section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. In addition, a member who was not present at the hearing at which evidence relevant to the matter at issue was taken shall not vote on the matter.

4. Any member of the ZBOA who misses more than three consecutive regular meetings, or more than half of the regular meetings in a calendar year, shall be subject to removal and replacement by the Town Council.

3-5.3. POWERS AND DUTIES

- A. **Powers and Duties.** The ZBOA shall have all the powers and duties as authorized by State law and in the manner provided for in this UDO. Generally, such power and duties shall include, but not restricted to, the following:
 1. Special Use Permits.
 2. Variances.
 3. Appeals.
 4. Serve as the Watershed Review Board, per *Chapter C Environmental Ordinance*.

3-5.4. RECONSIDERATION OF ZBOA ACTION

- A. Whenever the ZBOA disapproves an application on any basis other than the failure of the applicant to submit a complete application, such action may not be reconsidered by the respective board for a period of one year unless the applicant clearly demonstrates that:
 1. Circumstances affecting the property that is the subject of the application have substantially changed; and/or
 2. New information is available that could not with reasonable diligence have been presented at a previous hearing. A request to be heard on this basis must be filed with the Planning Director within the 30-day time period for an appeal to superior court. However, such a request does not extend the period within which an appeal must be taken.
- B. Notwithstanding subsection A, the ZBOA may at any time consider a new application affecting the same property for which an application has previously been denied. A new application is one that differs in some substantial way from the application previously considered.

3-6. PLANNING BOARD

3-6.1. ESTABLISHMENT AND MEMBERSHIP

- A. **Creation.** The Planning Board of Lewisville has been created and is hereby continued. The Planning Board shall consist of seven (7) members appointed by the Town Council. Each member must reside in Lewisville and will be appointed to serve a term of three (3) years.

3-6.2. RULES OF PROCEDURE

- A. **Generally.** The Board may adopt rules for transaction of its business and shall keep record of its members' attendance and of its resolutions, discussions, findings, and recommendations, which shall be public record.
- B. **Meetings of the Planning Board.** The Planning Board shall adopt a regular meeting schedule.
1. The Board may hold such special meetings as conduct of its business may require.
 2. All meetings shall be open to the public.
 3. The Board shall keep minutes of its proceedings, showing the vote of each member upon every action or, if absent or failing to vote, indicate such fact.
 4. Unless otherwise provided by law, all records and minutes shall be public record.
- C. **Quorum.** No official business of the Planning Board may be conducted without a quorum present. There shall be a quorum of four (4) members for the purpose of taking any official action.
- D. **Participating and Voting.** The concurring vote of a majority of the board shall be required on all matters.
1. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a regular matter shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternatives available to take the place of such members.
 - (1) Once a member is physically present at a Planning Board meeting, any subsequent failure to vote will be recorded as an affirmative vote unless the member has recused themselves or been excused in accordance with the paragraph below.

2. Members shall not vote on any advisory or legislative decision regarding a development regulation where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship. For purposes of this Section, a “close familial relationship” means a spouse, parent, child, brother, sister, grandparent, or grandchild. This term includes the step, half, and in-law relationships. In addition, a member who was not present at the hearing at which evidence relevant to the matter at issue was taken shall not vote on the matter.
- E. **Attendance.** The Board shall adopt rules of attendance of its members and for transaction of its business, at the direction of Town Council.

3-6.3. POWERS AND DUTIES

- A. **General Powers and Duties.** It shall be the duty of the Planning Board, in general:
1. To prepare, review, maintain, monitor, and periodically update and recommend to the Town Council a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.
 2. To facilitate and coordinate citizen engagement and participation in the planning process.
 3. To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.
 4. To advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D-604.
 5. To exercise any functions in the administration and enforcement of various means for carrying out plans that the Town Council may direct.
 6. To perform any other related duties that the Town Council may direct.
 7. Decide on Preliminary Major Subdivision Applications.
 8. Additional powers and duties of the Planning Board may be found in Chapter 10 of the Lewisville, North Carolina, Code of Ordinances, *Planning Organizations*.

3-7. TOWN COUNCIL

3-7.1. PURPOSE AND INTENT

The Town Council is the elected body of the Town of Lewisville. Additional information for the Town Council may be found in the Lewisville, NC Code of Ordinances.

3-7.2. RESPONSIBILITIES

- A. The Town Council shall review and decide applications for:
1. Land Use Plans and Amendments
 2. Unified Development Ordinance Amendments
 3. Zoning Map Amendments
 4. Planned Residential Developments

4. PROCEDURES

4-1. ADMINISTRATION

To accomplish the purposes of this Ordinance and to ensure compliance with these regulations, the following administrative responsibilities are assigned:

- A. The Planning Director and the Planning Board are responsible for making recommendations to the Town Council regarding zoning and land use matters as required by this Ordinance.
- B. The Planning Director and designees, upon authorization by the Town Manager, shall enforce and administer the regulations of this Ordinance, under the general direction of the manager of the Town of Lewisville and shall serve as secretary to the Board of Adjustment.
- C. The Zoning Board of Adjustment (ZBOA), Planning Board, Town Manager, and the Planning Director, among other boards and committees, may seek needed legal advice of the attorney for the Town of Lewisville as needed.

4. Procedures.....	54
4-1 Administration.....	54
4-2 General Standards and Requirements.....	55
4-3 Review Processes	63

4-2. GENERAL STANDARDS AND REQUIREMENTS

4-2.1. GENERALLY

- A. Whenever the authorized board approves an application for a special use permit or a variance pursuant to *Section A.3-5 Zoning Board of Adjustment (ZBOA)* or *Section A.4-3.5 Special Use Permit*, or as a conditional district zoning pursuant to *Section A.4-3.3(C)(1)(1) Conditional Districts*, the Planning Director shall obtain the applicant's/landowner's written consent to conditions related to a special use permit or conditional rezoning, and shall cause issuance of any necessary building permit and certificate of occupancy in accordance with the terms of such approval. All other conditions are to be met prior to the issuance of building permits, certificates of occupancy, or other period of time as determined by the Planning Director.
- B. Whenever the Historic Resources Commission issues a certificate of appropriateness as required in the H and HO Districts, the Planning Director will oversee approvals of any necessary permits and certificate of occupancy in accordance with the terms of such approval.

4-2.2. PERMIT CHOICE

If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

4-2.3. VESTED RIGHTS

- A. **Rights Perfected Prior to this Ordinance.** Development rights perfected prior to the effective date of this Ordinance shall be subject to the Zoning Ordinance or other legal requirements under which the rights were perfected, unless and until such vested rights are withdrawn or expire in accordance with law.
- B. **General Statutes 160D-108.**
 - 1. **Purpose.** The purpose of this Section is to implement the provisions of G.S. 160D-108 and G.S. 160D-108.1.
 - 2. **Definitions.** As used in this Section, the following terms shall have the meaning indicated:

- (1) **Site Specific Vesting Plan.** A plan of land development submitted for purposes of obtaining one (1) of the following zoning or land use permits or approvals in accordance with *Section A.4 Procedures*.
 - i. Approval of a zoning permit that requires the submission and approval of a site plan in accordance with *Section A.4-3.13 Zoning Permit*.
 - ii. Approval of a use requiring a special use permit in accordance with *Section A.4-3.5 Special Use Permit*.
 - iii. Approval of a conditional zoning application that includes a site-specific development plan in accordance with *Section A.4-3.3(C)(1)(1) Conditional Districts*.
 - iv. Approval of a final development plan by the Planning Board in accordance with *Section A.4-3.3(C)(1)(1) Conditional Districts* pursuant to a two-phase special use district zoning petition approved by the Town Council in accordance with *Section A.4-3.3(C)(1)(1) Conditional Districts*.
 - v. Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that does not describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site-specific development plan.
 - (2) **Vested Right.** A right established pursuant to G.S. 160D-108 of the North Carolina General Statutes related to the establishment of vested rights.
3. **Establishment of Vested Right.**
- (1) A vested right shall be deemed established upon the valid approval or approval with conditions by the Town Council, Appointed Boards or Committees, or the Planning Director, in compliance with all provisions of this Ordinance or Subdivision Ordinance, as applicable, of a site-specific vesting plan, following notice and public hearing.
 - (2) The Town Council may approve a site-specific vesting plan upon such terms and conditions as authorized in *Section A.4 Procedures*, and upon making such findings as are required for approval by this Ordinance.
 - (3) Notwithstanding *Section A.4-2.3 Vested Rights*, approval of a site-specific vesting plan with the condition that a variance be obtained shall not confer a vested right unless and until the necessary variance is obtained.

- (4) A site-specific development plan shall be deemed approved upon the effective date of approval by the approving authority or ordinance relating thereto, and only to the extent of that approval.
- (5) The establishment of a vested right shall not preclude the application of overlay standards that impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the local jurisdiction, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new or amended regulations shall become effective with respect to property that is subject to a site-specific vesting plan upon the expiration or termination of the vested right in accordance with this Section.
- (6) A vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

4. Process to Claim Vested Right.

- (1) A landowner claiming a statutory or common law vested right may submit information to substantiate that claim pursuant to North Carolina General Statute 160D-108 in writing.
- (2) The claim shall be concurrent with an application for a zoning map amendment, subdivision plan approval, a conditional coning, a special use permit, a site plan approval or a planned unit development approval.
- (3) The Planning Director shall make an initial determination as to the existence of the vested right. Any determination may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-405(c).

5. Approval Procedures and Vested Rights for Site Specific Development Plans.

- (1) Plans shall be submitted and processed in accordance with the procedures established by this Ordinance and shall be considered by the designated approving authority for the specific type of zoning or land use permit or approval for which application is made. A vested right is established once

approval is granted by the approving authority following notice and public hearing.

- (2) The notice of public hearing required for vested rights shall follow the same procedure as is required by the approving authority for the specific type of approval for which application is made.
- (3) Nothing in this Section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval by the approving authority or of this Ordinance.

6. **Duration.**

- (1) **Vested Rights.** A vested right for a site-specific vesting plan shall remain vested for a period of two (2) years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan. The Town Council may provide that rights regarding a site specific vesting plan shall be vested for a period exceeding two (2) years, but not exceeding five (5) years, if warranted by the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions, or other considerations. This determination shall be in the discretion of the local government and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with subsection C of this Ordinance.
- (2) **Relation to Building Permits.** A right vested as provided in this subsection shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S. 160D, Article 1, shall apply, except that the permit shall not expire or be revoked because of the running time while a vested right under this subsection exists.
- (3) **Multiphase Developments.** A multiphase development shall be vested for the entire development with the zoning regulations, subdivision regulations, and unified development ordinances in place at the time a site plan approval is granted for the initial phase of the multiphase development. This right shall remain vested for a period of seven (7) years from the time a site plan approval is granted for the initial phase of the multiphase development. For purposes of this subsection, "multiphase development" means a development containing one hundred (100) acres or more that (i) is submitted

for site plan approval for construction to occur in more than one (1) phase and (ii) is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

- (4) **Development Agreements.** A vested right of reasonable duration may be specified in a development agreement under Article 10 of Chapter 160D of the North Carolina General Statutes.
 - (5) **Expiration or Termination.** Upon the expiration or termination of the vested right in accordance with this Section, the site-specific vesting plan shall be subject to all current Unified Development Ordinance (UDO) regulations or other applicable requirements of law relating to the development of the site.
7. **Termination.** A right that has been vested as provided in this Section shall terminate upon any of the following:
- (1) **No Building Permit.** Termination of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued;
 - (2) **Written Consent.** Written consent of the affected landowner;
 - (3) **Threat to Public Health or Safety.** Findings by the Town Council, by ordinance after notice and a public hearing, 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 approved vested plan;
 - (4) **Compensation.** Compensation to the affected landowner for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the local jurisdiction, together with interest as provided in G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by such action;
 - (5) **Misrepresentation.** Findings by the Town Council, by ordinance after notice and a hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the Town Council of the site-specific vesting plan; or,

- (6) **State or Federal Law.** Enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan, in which case the Town Council may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance, after notice and a hearing.
8. **Limitations.** Nothing in this Section is intended or shall be deemed to create any vested right other than those established pursuant to G.S. 160D-108.
- C. **The Powers of Town Council Pursuant to Vested Rights.** At its discretion, upon application from a property owner or affected party, or with reasonable cause the Town Council may pass a resolution extending the period of vested rights for any given development project beyond the requirements of G.S. 160D-108. The resolution shall set forth the terms, conditions, duration of the extension and any other relevant information.

4-2.4. MAJOR AND MINOR MODIFICATIONS

In reaching a decision as to whether proposed modifications are to be considered Major or Minor, the Planning Director shall review the proposed modifications pursuant to the following table. If the modification is not determined to be a Minor Modification by the Planning Director, it will be considered a Major Modification and will be approved subject to the requirements in the applicable sections.

Table A.4.1 Major and Minor Modifications

Land Development Regulation Standard	Minor Modification	Major Modification
General		
Any modification in a stipulation or condition specifically required by the Board.		✓
Scrivener errors that do not alter the location or boundary of any lot or easement	✓	
Any other modifications that are not specifically set forth in this table as a minor modification		✓
Corrections to the Final Plat to match the applicable Preliminary Plat	✓	

Land Development Regulation Standard	Minor Modification	Major Modification
Revising the terms and conditions of the applicable zoning district on the Final Plat	✓	
Site Standards		
A decrease in minimum Lot Area by 20 percent or more		✓
An increase in maximum Lot Coverage by 20 percent or more		✓
An increase in maximum Block Length by 15 percent or more		✓
Moving a side or rear lot line in common with an abutting lot on a Final Plat, so long as the resulting lots and setbacks remain in compliance with the Zoning Ordinance	✓	
A decrease in minimum Front, Side, or Rear Setback by 15 percent or more		✓
An increase in maximum permitted Encroachment Into Setback by 15 percent or more		✓
A modification to the location of provided open space, provided the applicant demonstrates all applicable Open Space Standards are still met.	✓	
A modification made to the final grade on previously approved and recorded documents of not more than 10 percent.	✓	
On the Final Plat, the combination of 2 lots to create 1 lot that is larger than the original lots being joined, so long as the resulting lot and development otherwise complies with the zoning ordinance and subdivision ordinance, and so long as the lot(s) have not already been combined with any other lot in such a manner.	✓	
Building Standards		
An increase in maximum Building Height by 20 percent or more		✓

Land Development Regulation Standard	Minor Modification	Major Modification
An increase in maximum Accessory Structure Height by 20 percent or more		✓
Development Standards		
An increase over the maximum Number Of Required Parking Spaces by 25 percent or less	✓	
An increase in maximum Lighting Height by 15 percent or more		✓
An increase in maximum permitted sign height by 15 percent or more		✓
A modification to the Minimum Landscape Requirements by 15 percent or more		✓
An alteration of the type of landscaping provided, provided all Landscape Screening requirements are met.	✓	
A modification of the Tree Replacement Schedule wherein no more than 20 inches of tree planting is either added or removed due to changes in tree removal or retention and does not require a revision to Tree Bank contributions.	✓	
On the Final Plat, the enlargement of a recorded non-residential lot to include abutting land that was part of the applicable Preliminary Plat, but which abutting land has not yet been included in a recorded Final Plat	✓	
Access		
A modification in the location of a street or access point by not more than 10 feet, provided the applicant demonstrates that all other applicable requirements are still met.	✓	

4-3. REVIEW PROCESSES

4-3.1. DEVELOPMENT REVIEW PROCEDURES

A. **Purpose and Intent.**

1. This Section describes the standard procedural steps and rules generally applicable to all development applications reviewed under this UDO.
2. The procedures provided in this Section are utilized by the Town for the processing of applications for development permits or approvals.
3. It is the intent of this Section to establish a uniform set of procedures for development applications to be more effective and efficient for applicants, adjacent properties, elected officials, and the Planning Director.
4. The use of property may not be substantially changed, and substantial clearing, grading, or excavation may not be commenced, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to this UDO.
5. Any deviation from these procedures, other than those required by statute, shall not be grounds for invalidating an otherwise valid decision.

B. **Preapplication Meeting.** Although not required in all circumstances, applicants are strongly encouraged to attend a Preapplication Conference with the Planning Director. It is understood that information provided by staff in Preapplication Conferences is not binding and for informational purposes only. Applicants are encouraged to provide staff with information to assist staff in providing guidance. Information may include maps, narrative, sketch plan for the site and general information on traffic circulation and utilities. A preapplication meeting is required for the following applications:

1. Development within the Lewisville Downtown Overlay (DTO).

C. **Applications.**

1. Development applications reviewed under this Section shall be submitted by the landowner, contract purchaser, agent, or other person having a recognized property interest in the land on which development is proposed.
2. The Planning Director shall establish application content and forms. The Director may change requirements for submission of required information when, in the Director's opinion, such information is otherwise available or is not necessary to review the application.

3. The Town Council shall establish application fees, which shall be identified in the Town's adopted fee schedule. Town Council may amend and update those fees as necessary.
4. No application shall be considered for review until it is deemed complete. If the application is incomplete, the Director shall notify the applicant of any deficiencies. A complete application shall:
 - (1) Contain all information and materials as required in the application form as designated by the Planning Director;
 - (2) Provide the number of copies required per the application;
 - (3) Be signed by the person with authority to file the application;
 - (4) Be legible and printed to scale;
 - (5) Include information in sufficient detail to evaluate whether the application complies with the applicable review standards in this Ordinance; and
 - (6) Include the required fee for the particular type of application.
5. **Neighborhood Outreach.**
 - (1) **Applicability.** Applicants for certain types of development proposals, rezonings and major projects are strongly encouraged to conduct a neighborhood outreach meeting during the application process. The Planning Director may require such outreach when it is determined that a project has the potential for neighborhood or community scale impacts. Rezoning resulting from annexation are exempt from this requirement.
 - (2) **Purpose.** The purpose of neighborhood outreach is for the applicant to inform owners of adjacent and nearby properties about the nature of a proposed development, explain the concept plans for an application and to provide a forum for residents to offer suggestions or present concerns.
 - (3) **Time, Location, and Procedure.**
 - i. The outreach meeting shall be conducted no sooner than ninety (90) days before, nor later than thirty (30) days before the Planning Board or Town Council conducts a public hearing or review of the development proposal.
 - ii. The meeting shall be conducted in a single group format, so that discussion can be heard by all participants and included in the meeting summary.

- iii. The Planning Director and designees shall not attend to meeting. This is to maintain neutrality, avoid the potential for perceived bias and to ensure that the meeting stays focused on the development application.
 - (4) **Notice.** The applicant shall send notice to all addresses included in tax records for all adjacent and nearby landowners within 500 feet of the subject property or properties. This notice shall be sent by the U.S. Postal Service, first class no later than ten (10) days before the scheduled outreach meeting. A copy of the notice shall also be mailed to the office of the Planning Director. The notice may include flyers, pamphlets and the like.
 - (5) **Record-Keeping.** A written summary of the neighborhood outreach efforts shall be submitted to the Planning Director at least fifteen (15) calendar days prior to the scheduled public hearing or review meeting. This summary shall be included in the staff report provided to the Planning Board or Town Council. At a minimum, the summary shall include a copy of mailed materials, a list of the addresses to which notices were mailed, the estimated number of attendees and a narrative (or minutes) highlighting the topics discussed/comments received.
6. **Staff Review of Applications.**
- (1) **Application.** The Planning Director shall establish required application forms and associated required content. Applicants shall fully complete any required application and provide all associated required content.
 - (2) **Fees.** No formal action or approval shall be given until all required application fees are paid in full.
 - (3) **Application Submittal.** Applications and associated fees shall be submitted to the Town for staff review. An application will not be considered officially submitted unless it is deemed complete.
 - (4) **Completeness Review.**
 - i. The Planning Director shall review any application required by the UDO for completeness within thirty (30) days after confirmation of receipt. No application shall be considered complete until any application fees as determined by Town Council have been paid.
 - (a) When an application is determined to be complete, the formal review will proceed according to the annual development schedule established by the Planning Director and Planning Board.

- (b) If an application is determined to be incomplete, the Planning Director shall provide a written determination to the applicant within 30 days. If a different time frame is noted elsewhere in the UDO, the shorter shall apply. The determine shall specify the information needed to complete the application. Once a corrected application is received, the 30-day review time period begins anew.
- (c) Unless specified elsewhere in the UDO, if the applicant fails to respond to the identified needs within ninety (90) days after receiving written notification, the application shall be considered withdrawn. The Planning Director may grant an extension for up to 180 days if determined necessary. If the applicant does not complete the application within the extension period granted, the application shall be considered withdrawn and reapplication will be necessary for future considerations.

(5) Conflicts of Interest.

- i. No staff member shall make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. Close (familial relationship) as used in paragraph A above means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half and in-law relationships.
- ii. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the Town Manager. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town Manager.

7. Public Meeting and Hearing Notice Requirements.

- (1) **Public Meetings and Public Hearings.** Public Meetings and Public Hearings shall comply with the Quasi-Judicial and Legislative provisions below.
- (2) **Public Notice Requirements.** Minor typographical, numerical or formatting errors that do not alter the intent and effect of information contained in any mailed or published notice shall not negate the validity of such notice. Notice shall be given as follows:

Table A.4.2 Public Hearing Notification Requirements

Process	Section Number	Evidentiary Hearing	Legislative Hearing	Published Notice	Mailed Notice	Posted Notice
Appeal	A.4-3.7	Yes	No	No	Yes	Yes
Rezoning	A.4-3.3	No	Yes	Yes	Yes	Yes
Special Use Permit	A.4-3.5	Yes	No	No	Yes	Yes
UDO Amendment	A.4-3.2	No	Yes	Yes	No	No
Variance	A.4-3.6	Yes	No	No	Yes	Yes

- i. **Public Legislative Hearing Notice.** A notice of each public hearing shall be given once a week for two (2) successive calendar weeks in a newspaper of general circulation in the Town of Lewisville, the first publication of said notice being no sooner than twenty-five (25) days and no later than ten (10) days prior to the date fixed for the hearing.
- ii. **Mailed Notice Requirements.** Mailed notices shall identify the date, time and place of the hearing, describe the subject property by address, describe the scope of proposed development, and identify a method to contact Town Staff for questions regarding the proposed development. In any instance where the provisions of G.S. 160D-406 or -602 require a mailed notice, the review authority shall ensure the mailed notice is completed in accordance with the following:

- (a) Mailed notices shall be provided to the applicant, landowner, and all landowners entitled to receive notice in accordance with G.S. 160D-406 or -602;
 - (b) The required mailed notice shall be sent via United States first class mail;
 - (c) A copy of the mailed notice shall be retained in the Office of Planning for public record purposes;
 - (d) Notice shall be provided at least ten (10) days but not more than twenty-five (25) days prior to the date of the hearing.
- iii. **Posted Notice Requirements.** Notice shall be posted on subject properties no sooner than twenty-five (25) days and no later than ten (10) days prior to the date of said public hearing. Said notice shall consist of a sign(s) posted on the property at a conspicuous location(s), which sign shall be legible from the nearest public road. Location(s) which are not conspicuous or require additional notification to the public, will be required to have a directional sign(s) posted. The signs are and shall remain the property of the governmental agency which provided them, and shall be prepared, posted, and reclaimed by it. Posted notices shall indicate that a public hearing has been scheduled that involves the property and identify a method to contact the Town for questions regarding the proposed development.
- (3) **Legislative Hearings.** Legislative hearings shall be held in accordance with all State law and comply with the following requirements:
- i. Legislative public hearings are not quasi-judicial in nature.
 - ii. The legislative public hearing shall be open to the public and attendees shall be allowed opportunity to comment.
 - iii. The provisions of G.S. 160D-109, -308, -309, shall apply with respect to Oath, Conflicts of Interest and record keeping.
 - iv. Decisions for legislative public hearing applications shall be decided by a simple majority vote.
 - v. Revisions may be made to an application during a public hearing in response to recommendations or suggestions of the review/approval authority. Any required or necessary modifications to the application shall be provided to Town staff prior to issuance of any permit approvals.

- (4) **Evidentiary Hearings.** Evidentiary hearings shall be held in accordance with all State law and G.S. 160D-406. Evidentiary hearings and rulings must be based upon only the evidence received by the review/approval board at the hearing and comply with the following requirements:
- i. Testimony and evidence may be provided by any party in attendance. The party shall be afforded a reasonable opportunity to provide testimony, ask questions, or cross examine an applicant and Town staff. The applicability, credibility, and relevance of any testimony regarding the matter at hand shall be determined by the chair of the decision-making body.
 - ii. The Planning Director shall transmit to the decision-making body all applications, reports, and written materials relevant to the matter being considered and comply with G.S. 160D-406(c).
 - iii. The chair or officer of the decision-making body may exclude or limit incompetent evidence and/or hearsay.
 - iv. The applicant, Town, and any person who would have standing to appeal the decision under G.S. 160D-1402 shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the decision-making body.
 - v. The decision-making body shall act as a fact-finding body and make a decision in accordance with evidence presented.
 - vi. Ex parte communications are prohibited between applicant or affected party and a member of the decision-making body, and among members of the decision-making body or others prior to the hearing.
 - vii. Any conflict of interest (perceived or actual) shall be disclosed, and a decision-making body member shall not participate in or vote on any quasi-judicial matter if a conflict of interest exists.
8. **Conditions of Approval.** Conditions of approval shall comply with the following:
- (1) Conditions of approval are limited to a conditional rezoning or quasi-judicial processes;
 - (2) Conditions of approval shall be limited to conditions necessary to ensure compliance with the UDO, or to prevent or mitigate adverse effects from the

proposed development, within the scope of powers delegated to local jurisdictions by the State of North Carolina;

- (3) Any condition of approval shall be set forth in any official notice of decision or permit approval; and
- (4) Conditions of approval may be proposed by applicant, Town staff, or the particular review/approval authority.
- (5) Only those conditions mutually agreed upon by the applicant and the deciding board may be incorporated into a conditional district rezoning.

9. **Timing.**

- (1) **Continued Hearings.** The reviewing board may continue or extend the period of any legislative or evidentiary hearing as deemed necessary. No further notice of a continued hearing need be published. A request to continue a hearing may be approved if the applicant needs additional time to gather additional information, gather additional public input, or prepare additional evidence.
- (2) **Withdrawal.** An application cannot be withdrawn after published notice has occurred or the scheduled public notice may not be canceled except with permission of the reviewing board. When applicable, once the appointed body has acted to forward a recommendation on the zoning application to the Town Council, the application may not be withdrawn by the applicant except with permission of the Town Council. A public hearing is not required to consider a request to withdraw. The filing fees are not refundable, except that the Planning Director may authorize refund of the fees if no notice expenses related to the application have been incurred.
- (3) **Subsequent Applications.** If an application is denied, no application proposing the same or similar development on the land may be submitted within two years after the official date of denial.

4-3.2. UNIFIED DEVELOPMENT ORDINANCE TEXT AMENDMENT

- A. **General Procedures.** Proposals to amend, supplement, change, modify, or repeal any of the regulations established by this Ordinance, or hereafter established, may be initiated by the Town Council, by the Planning Board, or by application of any interested person.
- B. **Application.** A text amendment shall be reviewed by the Director and the Planning Board and be considered in a public hearing by the Town Council. A text amendment

shall meet all applicable common application procedures defined in *Section A.4-3.1 Development Review Procedures*. The exact section and text of the Ordinance to be amended and the new or revised language of the Ordinance proposed shall be submitted.

- C. **Review Process.** A text amendment shall occur through a public hearing process and shall be reviewed by the Director for consistency with the regulations of this UDO and any other relevant ordinances and adopted plans as defined in *Section A.4-3.1 Development Review Procedures*. A staff report shall be provided to the Planning Board and Town Council.
- D. **Planning Board Public Meeting.**
1. **Criteria.** The Planning Board will review the proposed request in a public meeting.
 2. **Decision.** The Planning Board shall vote to recommend approval of the request or to recommend denial of the request to the Town Council. The Planning Board shall submit a brief statement describing whether the action is consistent or inconsistent with the Lewisville Comprehensive Plan to the Town Council within thirty (30) days of the Planning Board Public Meeting.
- E. **Town Council Public Hearing.** The Town Council will review the proposed request under legislative discretion, taking into consideration all relevant comments from the Planning Director and the Planning Board. Said proposed request shall be placed on the agenda of a regularly scheduled meeting of the Town Council according to the time frames established in the annual Development Review Schedule.
1. **Submission of Written Statements.** The Unified Development Ordinance may from time to time be amended, supplemented, changed, modified, or repealed. If any resident of property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to a zoning ordinance to the Town Clerk at least two (2) business days prior to the proposed vote on such change, the Town Clerk shall deliver such written statement to the Town Council.
 2. **Decision.** The Town Council shall vote for approval of the request or vote to deny the request. They may add additional requirements or modify proposed language with the consent of the applicant. The Town Council may approve the text amendment as requested, adopt a revised amendment, or deny the amendment.
- F. **Effect.** Any changes to the UDO text shall be made effective immediately after approval of the application by the Town Council.

4-3.3. ZONING MAP AMENDMENTS (REZONINGS)

- A. **General Procedures.** Proposals to amend, supplement, change, modify, or repeal any of the regulations or the district boundaries established by this Ordinance, or hereafter established, may be initiated by the Town Council, by the Planning Board, the Planning Director, or by application of any interested person.
- B. **Application Submitted.** An application to change zoning districts shall be submitted to the Planning Director, who will forward the application to the Planning Board for review and recommendation to the Town Council, who will then make a final determination on the request. All applicable common application procedures defined in *Section A.4-3.1 Development Review Procedures*, must be met. If the rezoning application submitted to the Director does not conform to all applicable regulations, the applicant shall resubmit the plans to the Director for redistribution and review. A zoning map amendment application may be initiated by a property owner, any person with written consent of the property owner or the local government.
1. **Additional Submittal Requirements.**
- (1) **Legal Description.** A legal description of the property for which rezoning is requested shall be included with the application.
 - (2) Proposals to change the zoning of property to more than one new zoning district may be processed as a single application, including the application and fee requirements of this Section, if all proposed zoning districts are contiguous. A scaled map marking the discrete areas to be rezoned shall be submitted with the application.
- C. **Review Process.**
1. **Rezoning Review Process.**
- (1) **Conditional Districts.** This Section establishes the option of conditional zoning within the Town of Lewisville. Conditional zoning provides an alternative to general zoning within the Town which allows flexibility in addressing the standards of this UDO. As part of conditional zoning, unique site specific conditions may be assigned to the property by Town Council (with agreement by the landowner). The following standards apply:
 - i. **Requirements.** All the legislative requirements for a zoning map amendment shall be followed. If the applicant elects to apply for conditional district zoning, the applicant must specify the actual uses intended. These uses may only be selected from among those permitted

in the underlying zoning district as described in *Table B.2.12 Permitted Uses*. If the applicant applies for two (2) or more conditional districts, the applicant shall submit a separate application for each district. The Town Council, in considering whether to approve each conditional district application, shall do so on the basis of the specific use(s) requested.

- ii. **Compliance with General Use Provisions.** Any application to amend district boundaries to create a conditional district shall comply with procedures for general use district amendments set out in *Section A.4 Procedures*.
- iii. **Site Plan.** A complete site plan may be required for certain conditional zoning applications. If a site plan is incorporated as a condition in conditional zoning, it is part of that legislative decision.
- iv. **Conditions of Approval.** In rezoning for a conditional district, the Town Council may impose additional reasonable conditions. If all requirements and conditions are accepted by the applicant, the Town Council shall rezone the property and issue a conditional district permit, attaching thereto and incorporating therein the conditions mentioned immediately above. Otherwise, the application shall be denied.
- v. **Permit Issuance.** No zoning permit or other governmental entitlement for the use, development, or division of land zoned to a conditional district shall be issued prior to the approval of conditional district zoning by the Town Council.
 - (a) **Effect of Conditional District Approval.** Once a conditional zoning district has been approved by the Town Council, it shall be binding upon the property, unless subsequently changed or amended by the Town Council as provided for in this Ordinance.
 - (b) **Amendment.** The Town Council may change or amend any conditional zoning district, only after public notice and hearing, upon recommendation of the Planning Board, and subject to the same procedures provided in this Ordinance for granting conditional district zoning.
- vi. **Minor Changes.** The Town Council may, by resolution, allow the Planning Director to grant minor changes to site plans and conditions, consistent with *Table A.4.1 Major and Minor Modifications* above, after

the site plans and conditions have been approved by the Town Council. Such resolution shall include authority for staff to make changes as consistent with law and the intent of the original site plan or conditions. Minor changes may include, but are not limited to, changes which do not alter the basic relationship of the proposed development to adjacent property, will not alter the uses permitted, or will not increase density or intensity of the development.

- vii. **Enforcement of Conditions of Conditional District Permit.** Any violation of a condition of a conditional district permit shall be a violation of this Ordinance and subject to the enforcement provisions of *Section A.6 Enforcement*.

D. Planning Board Legislative Hearing.

1. **Criteria.** The Planning Board will review the proposed request in a public meeting.
2. **Decision.** The Planning Board shall vote to recommend approval of the request or to recommend denial of the request to the Town Council. The Planning Board shall submit a brief statement describing whether the action is consistent or inconsistent with approved plans to the Town Council within thirty (30) days of the Planning Board Public Meeting.

E. Town Council Legislative Hearing. A public hearing shall be held by the Town Council on each proposed amendment to the *UDO*, after publication of notice, as hereinabove provided. Said proposed amendment shall be placed on the agenda of a regularly scheduled meeting of the Town Council according to the time frames established in the annual Development Review Schedule.

1. **Consideration.** In deliberating each application for zoning map amendments, the Town Council may consider such information and assertions as are presented in the application as well as information presented and public comments made at the public hearing. Additional considerations by the Town Council may include, but shall not be limited to the following:
 - (1) May include the size, physical conditions, and other attributes of the area proposed to be rezoned;
 - (2) May include the benefits and detriments to the landowners, the neighbors, and the surrounding community;

- (3) May include the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
 - (4) The public interest; and
 - (5) Any changed conditions warranting the amendment.
- F. **Effect.** Any property subject to a rezoning shall have its zoning districts modified on the Official Zoning Map immediately after approval of the rezoning by Town Council. Any property subject to a conditional rezoning shall be subject to all standards and conditions agreed upon and approved during the rezoning process. Approved rezoning requests shall not expire and shall run with the land.

34-3.4. PLANNED RESIDENTIAL DEVELOPMENT

- A. **Establishment of Planned Residential Development.** Planned Residential Developments (PRDs) may be established in any single-family residential zoning district according to the same procedures described for Conditional District Zoning. Approval of a PRD shall also include the approval of a comprehensive site plan and map, prepared in accordance with the mapping standards of this UDO, and in accordance with the development standards described in *Section B.2-5.4(A)(41) Planned Residential Development*.
- B. **Approval.** Approval of a planned development and corresponding planned development master plan (PRDMP) is required for a Planned Residential Development (PRD). Standards specific to planned developments are defined in *Section B.2-5.4(A)(41)(5) Development Standards*.

4-3.5. SPECIAL USE PERMIT

- A. **Regulatory Note.** With the adoption of this Unified Development Ordinance, all special use permits issued in the past that were subject to periodic renewal shall become permanent and run with the land. Henceforth, no special use permits shall be time-limited nor require renewal unless specified as a condition of approval.
- B. **Zoning Board of Adjustment Review.** The Zoning Board of Adjustment shall review all requests for Special Use Permits as designated in *Table B.2.12 Permitted Uses* and *Section B.2-5.4 Use Standards and Conditions*.
- C. **Planning Director Report.** Applications for special use permits may be approved by the Zoning Board of Adjustment after such board receives a report and site plan from the Planning Director. The Planning Director shall submit a report in writing to the

Zoning Board of Adjustment within the time frames established in the annual Development Review Schedule. The Planning Director report shall make a finding that the application as submitted either complies with the Ordinance, complies with recommended conditions, or does not comply with the Ordinance. The Planning Director shall have the authority to recommend conditions, as identified in *Section A.3-3 Planning Director*, to reduce impacts associated with the project.

D. **Required Findings.** The Zoning Board of Adjustment shall issue a special use permit only with an affirmative finding as follows:

1. That the use will not materially endanger the public health or safety if located where proposed and developed according to the application and plan as submitted and approved;
2. That the use meets all required conditions and specifications;
3. That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and,
4. That the location and character of the use, if developed according to the application and plan submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with *the Comprehensive Plan*.
5. Except with regard to the conversion of nonconforming uses in *Section A.5-2 Nonconforming Uses*, no provision of this Ordinance shall be interpreted as conferring upon the Zoning Board of Adjustment the authority to approve an application for a special use permit for any use unless authorized in *Table B.2.12 Permitted Uses*. In approving an application for the issuance of a special use permit, the Zoning Board of Adjustment may impose additional reasonable and appropriate conditions and safeguards to protect the public health and safety, and the value of neighboring properties, and the health and safety of neighboring residents. If the Zoning Board of Adjustment denies the application for the issuance of a special use permit, it shall enter the reasons for denial in the minutes of the meeting at which the action was taken.
6. The applicant/landowner must provide written consent to the conditions related to the special use permit.

E. **Effect.** A special use permit is binding and runs with the property unless amended or modified.

- F. **Permit Issuance.** When a special use permit is required, no zoning or building permit shall be issued until a special use permit for the requested use has been approved by the Zoning Board of Adjustment.
- G. **Additional ZBOA Findings.** In addition to the specific special use permit standards detailed in this UDO, the Zoning Board of Adjustment may also take into consideration:
 - 1. Conformity of the request with the Lewisville Comprehensive Plan.
 - 2. Where applicable, if public water and sewer services are available.
 - 3. The general layout and design of the requested use meets or exceeds the requirements of the UDO.
 - 4. The nature of streets, highways, and sidewalks in relation to the requested use, including carrying capacity and public safety.
- H. **Conditional District Zoning.** No separate special use permit is required for a use which is permitted as part of a conditional district zoning adopted by the Town Council and which meets the requirements of this Ordinance.

4-3.6. VARIANCE

- A. **Authority.** No provision of this Section shall be interpreted as conferring upon the Zoning Board of Adjustment (ZBOA) the authority to approve an application for a variance except as described in this UDO and as allowed by G.S. 160D.
- B. **Limitations.** The ZBOA shall not grant a variance to permit a use not permitted in the applicable zoning district, nor shall it grant a variance for a site plan feature or condition adopted in conjunction with a conditional zoning district approval.
- C. **Evidentiary Hearing.** Applications for variances may be approved by the Zoning Board of Adjustment.
- D. **Findings.** In accordance with G.S. 160D-705, the ZBOA shall approve a variance only if each of the following criteria are met:
 - 1. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - 2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.A variance may be granted when necessary and appropriate to make a

reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved.

- E. **Review of Applications.** Any such variance shall observe the spirit and purpose of this Ordinance and shall be granted only with reference to conditions and circumstances peculiar to the property involved. When approving a variance the ZBOA may specify additional reasonable and appropriate conditions and safeguards to protect the public health and safety, the value of neighboring properties and the health and safety of neighboring residents. If the ZBOA denies the application for a variance, it shall enter the reasons for the denial in the minutes of the meeting at which the action was taken.

4-3.7. APPEALS

- A. **General.** The ZBOA shall consider appeals from and shall review any disputed order, requirements, decision or determination made by the Planning Director. The Zoning Board of Adjustment shall also consider all other matters upon which it is required to act under this Ordinance, including but not limited to, decisions of the Floodplain Administrator, the Watershed Administrator, the Erosion and Sedimentation Control Administrator, and the Subdivision Administrator. All matters that are considered under appeal by the ZBOA shall follow all application procedures and pay all required fees prior to the appeal being accepted.
- B. **Zoning Board of Adjustment Authority.** Upon appeal, the Zoning Board of Adjustment shall have the following powers:
1. To hear and decide appeals based on alleged error in any order, requirement or decision made by the Planning Director in the enforcement of this Ordinance;
 2. To hear and decide an appeal of any other matter as authorized by this Ordinance.
- C. **Appeals of Zoning Board of Adjustment Decisions.** Appeals of ZBOA decisions shall be in the nature of certiorari and may be filed within thirty (30) days of the date the appellant receives written notice of the decision. Appeals shall be made to Superior Court.

4-3.8. CERTIFICATE OF APPROPRIATENESS (COA)

A. Requirements For Certificates Of Appropriateness For Local Historic Landmarks (LHL).

1. From and after the designation of a Local Historic Landmark (LHL), no exterior designated portion of any building or other structure, including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features, nor interior designated portion of any building or structure as specified in the recorded LHL regulation, nor above-ground utility structure, nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished on such designated LHL until after an application for a certificate of appropriateness as to such features has been submitted to and approved by the Commission.
2. The Town shall require a Certificate of Appropriateness to be issued by the Historic Resources Commission (Commission) prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which Certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Ordinance.
3. If a Certificate of Appropriateness is required, then the applicant shall be provided with instructions and a means for applying for such a certificate.
4. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in *Section A.4-3.8(E) Standards for Review*.
5. A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued in conformity with this Section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this Section, whether a building permit is otherwise required or not.
6. For the purposes of this Section, the term “Designated Portion” shall mean any portion of a designated LHL that was included in the regulation designating the LHL, including the main structure or structures, the interior or portions of the interior, any outbuildings or secondary structures, site elements, and landscaping.
7. Where the exterior of a building or structure is designated as an LHL, the term “Exterior Features” shall mean the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building or other

structure, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. These Exterior Features may include historic signs, color, an significant landscape, archaeological, and natural features of the area.

8. In the case of outdoor advertising signs, the term Exterior Features shall mean the style, material, size, and location of all such signs. These Exterior Features may include historic signs, color, and significant landscape, archaeological, and natural features of the area.
9. Jurisdiction of the Commission over the interior, or portions thereof, is limited to specific interior features of architectural, artistic, or historical significance (herein Interior Features) in publicly owned LHLs and of privately-owned LHLs for which consent for interior review has been given by the owner. The consent of an owner for interior review binds future owners and/or successors if the consent has been filed in the office of the register of deeds of Forsyth County. The LHL regulation shall specify the Interior Features to be reviewed and the specific nature of the Commission's jurisdiction over the interior.

B. Requirements For Certificates Of Appropriateness In Historic And Historic Overlay Districts.

1. Within a Historic or Historic Overlay District, no exterior portion of any building or other structure, including masonry walls, fences, light fixtures, steps, pavement, or other appurtenant features, nor any above-ground utility structure, nor any type of outdoor advertising sign shall be erected, altered, restored, moved, or demolished until after an application for a certificate of appropriateness as to such Exterior Features has been submitted to and approved by the Commission.
2. The Town shall require a Certificate of Appropriateness to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving, or demolishing structures, which Certificate may be issued subject to reasonable conditions necessary to carry out the purposes of this Ordinance.
3. If a Certificate of Appropriateness is required, then the applicant shall be provided with instructions and a means for applying for such a certificate. Certificates of Appropriateness shall be issued or denied in accordance with the Standards for Review found in *Section A.4-3.8(E) Standards for Review*.
4. A Certificate of Appropriateness shall be issued prior to any application for a building permit being made. Any building permit or other such permit not issued

in conformity with this Section shall be invalid. A Certificate of Appropriateness shall be required for all activities specified in this Section, whether a building permit is otherwise required or not.

5. For the purposes of the section, the term Exterior Features shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building or other structure, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant features. These Exterior Features may include historic signs, color, and significant landscape, archaeological, and natural features of the area.
6. In the case of outdoor advertising signs, the term Exterior Features shall be construed to mean the style, material, size, and location of all such signs.

C. Circumstances Not Requiring Certificates of Appropriateness. No certificate of appropriateness shall be required for:

1. The ordinary maintenance or repair, as defined in the applicable Design Review Standards, of any Exterior Feature in a Historic District or Historic Overlay District or Designated Portion of an LHL that does not involve a change in design, material, or appearance;
2. The construction, reconstruction, alteration, restoration, moving, or demolition of any such feature which the building inspector or similar official shall certify in writing to the property owner and to the Commission is required by the public safety because of an unsafe or dangerous condition; and,
3. The maintenance of any existing above-ground utility structure or, in the event of an emergency, the immediate restoration of any existing above-ground utility structure.

D. Procedures. The following procedures shall govern the issuance of a Certificate of Appropriateness:

1. Applications.

- (1) Application for a Certificate of Appropriateness shall be submitted as specified in the instructions or as directed by Commission staff.
- (2) The Commission shall, in its Rules of Procedure, require such data and information as is reasonably necessary to evaluate the nature of the application.

2. **Application to Historic Resources Commission.** Commission staff shall transmit the Certificate of Appropriateness application, together with the supporting information and material, to the Commission for consideration.
3. **Notice and Hearing.**
 - (1) Commission staff shall notify by mail the owners of any property located within one hundred (100) feet on all sides of the property which is the subject of the hearing within Historic Districts and Historic Overlay Districts. Commission staff shall notify by mail the owners of all parcels of land abutting the LHL parcel of land that is the subject of the hearing. Commission staff shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way.
 - (2) The applicant, the local government, and any person who would have standing to appeal the decision under G.S. 160D-1402(C) shall have the right to participate as a party at the evidentiary hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the Commission.
4. **Viewing Site.**
 - (1) As part of its review procedure, the Commission and Commission staff may, solely in performance of its official duties and only at reasonable times, enter upon private lands to view the premises.
 - (2) However, no member, employee, or agent of the Commission may enter any private building or structure without the express permission of the owner or occupant thereof.
 - (3) Additionally, the Commission may seek the advice of the North Carolina Office of Archives and History or such other expert advice as the Commission may deem necessary.
5. **Time for Action.**
 - (1) Failure of the Commission to act upon applications within one hundred eighty (180) calendar days after the filing shall be deemed to constitute approval and a Certificate of Appropriateness shall be issued, unless an extension of time has been mutually agreed upon between the Commission and the Applicant.

6. Form of Decision.

- (1) All formal actions of the Commission shall be set forth in writing, reflect the Commission's determination of contested facts and their application to the applicable Design Review Standards, and be approved by the Commission and signed by the chair or other duly authorized member of the Commission.
- (2) A decision of the Commission shall be effective upon filing the written decision with the Historic Resources Officer of the Commission.
- (3) The decision of the Commission shall be delivered within a reasonable time by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.
- (4) The person required to provide notice shall certify to the local government that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.

7. Time Limits.

- (1) Unless otherwise designated by the Commission, all work approved under a Certificate of Appropriateness shall be completed within three (3) years of the effective date of the Certificate of Appropriateness.
- (2) If a request is made to renew a Certificate of Appropriateness prior to its expiration, Commission staff may renew it for one (1) additional year.
- (3) If the work approved under a Certificate of Appropriateness has not been completed within the designated time period, the Certificate of Appropriateness shall expire.

8. Approval of Minor Works.

- (1) The Commission may delegate to Commission staff the review and approval of minor works for the LHLs, and for the Historic and Historic Overlay Districts after approval of Design Review Guidelines for the LHL and each Historic and Historic Overlay District.
- (2) Minor works are defined as projects which do not involve substantial alterations, additions, or removals that could impair the integrity of an LHL, property, and/or a Historic or Historic Overlay District as a whole or be incongruous with the special character of an LHL, property, or Historic or Historic Overlay District.
- (3) Minor works require a Certificate of Appropriateness.

- (4) A minor works application may be filed at any time and no public notification is required for review of a minor work application.
- (5) No minor works application may be denied by Commission staff.
- (6) If Commission staff cannot approve a minor works application, the Applicant may withdraw the application or request that it be presented to the Commission for review and formal action.

9. Reapplication after Denial.

- (1) If the Commission determines that a Certificate of Appropriateness should not be issued, a new application for the same work may be considered only if the Commission finds a substantial change in the applicable law or Design Review Standards, the environment surrounding the property, or in the application itself.
- (2) A reconsidered application shall be treated as a new application.

10. Demolition Permits.

- (1) An application for a Certificate of Appropriateness authorizing the relocation, demolition, or destruction of a designated LHL or building, structure, or site within an Historic or Historic Overlay District may not be denied; however, the effective date of such Certificate may be delayed for not more than three hundred sixty-five (365) calendar days from the date of approval.
- (2) The maximum delay shall be reduced by the Commission when it finds that owner would suffer extreme hardship or be permanently deprived of all beneficial use of or return property by virtue of the delay.
- (3) During the period of delay, the Commission shall negotiate with the owner and with any other parties in an effort to find a means of preserving the building or site.
- (4) If the Commission finds that the building or site has no special significance or value toward maintaining the character of the designated LHL or Historic or Historic Overlay District, it shall waive all or part of such period and authorize earlier demolition or removal.
- (5) If the Commission has voted to recommend designation of a property as an LHL or designation of an area as a Historic or Historic Overlay District, and final designation has not been made by the governing board, the demolition or destruction of any building, site, or structure located on the property of the proposed LHL or in the proposed Historic or Historic Overlay District may be

delayed by the Commission for a period of up to 180 days or until the governing board takes final action on the designation, whichever occurs first.

- (6) An application for certificate of appropriateness authorizing the demolition of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

11. **Applicability to Utility Companies.** The Town and all public utility companies shall be required to obtain a Certificate of Appropriateness prior to initiating on a LHL or in an Historic or Historic Overlay District any changes in the character of street paving, sidewalks, trees, utility installations, walls, lighting, fences, structures, and buildings on property, easements, or streets owned or franchised by the Town or public utility companies.

12. **Appeals.**

- (1) Appeals of administrative decisions allowed by regulation, i.e. minor works, may be made to the Commission within thirty (30) calendar days of the Minor Works Report being made publicly available.
- (2) An appeal of a decision of the Commission in granting or denying any Certificate of Appropriateness shall be taken to the appropriate Board of Adjustment.
- (3) Appeals of Commission decisions shall be taken by any aggrieved party by the later of thirty (30) calendar days after the decision is effective or after a written copy thereof is delivered in accordance with *Paragraph F Form of Decision* above and shall be in the nature of certiorari (only evidence presented at the Commission's meeting shall be considered at the appeal).
- (4) Appeal from the decision of the Board of Adjustment shall be to the Forsyth County Superior Court.

13. **After-The-Fact Certificates of Appropriateness.**

- (1) **After-the-Fact Certificate of Appropriateness Applications.** An after-the-fact Certificate of Appropriateness application includes any major or minor work projects that have been initiated or completed prior to obtaining the required Certificate of Appropriateness.

(2) **After-the-Fact Certificate of Appropriateness Application Fee.**

- i. To discourage activity without a Certificate of Appropriateness and to assist in offsetting the costs associated with the additional staff work that accompanies an after-the-fact application, a fee system has been implemented.
- ii. The after-the-fact Certificate of Appropriateness application fee, as established by the Lewisville Town Council and the County Commissioners of Forsyth County, shall be due upon submission of the application.

(3) **Application Consideration.** All after-the-fact Certificate of Appropriateness applications shall be brought before the Commission for consideration upon payment of an after-the-fact application fee.

(4) **Approval of After-the-Fact Certificate of Appropriateness Applications.**

Unless otherwise designated by the Commission, if an after-the-fact Certificate of Appropriateness application is approved, the applicant shall have ninety (90) days to complete the approved work.

(5) **Denial of After-the-Fact Certificate of Appropriateness Applications.**

- i. If an after-the-fact application for a Certificate of Appropriateness is denied by the Commission, the subsequent Certificate of Appropriateness application, if required, shall be considered anew.
- ii. A subsequent Certificate of Appropriateness application must be submitted to the Commission within thirty (30) days of the effective date of the denial of the original after-the-fact application.
- iii. Commission staff shall determine if the subsequent application qualifies as a major or minor work and said application shall be reviewed accordingly.

E. **Standards For Review.** A Certificate of Appropriateness shall be issued or denied in accordance with the following standards:

1. **General Criteria.**

- (1) In granting a Certificate of Appropriateness, the Commission shall take into account the historic or architectural significance of the property under consideration and the exterior and interior (where applicable), form and appearance of any proposed additions or modifications to a structure.

- (2) The Commission shall not consider interior arrangement in Historic and Historic Overlay Districts unless the property is also designated as an LHL. The Commission shall only consider the Interior Features of interior Designated Portions as specified in the LHL regulation.
2. **General Restriction on Denial.** The Commission shall not refuse to issue a Certificate of Appropriateness except for the purpose of preventing the construction, reconstruction, alteration, restoration, or moving of buildings, structures, appurtenant features, outdoor advertising signs, or other significant features which would be incongruous with the special character of the LHL or Historic or Historic Overlay District.
3. **Design Review Guidelines Required.**
- (1) The requirement for a Certificate of Appropriateness shall not become effective until after the Commission has prepared and adopted principles and guidelines not inconsistent with Chapter 160D of the North Carolina General Statutes.
- (2) Such principles and standards, herein referred to as Design Review Guidelines, shall be prepared for the LHLs, and for each Historic and/or Historic Overlay District and shall address new construction, alterations, additions, moving, and demolition to properties and/or sites.
- (3) These criteria shall take into account the historic, architectural, and visual elements which are unique to the designated landmarks and districts.
4. **Design Review Guidelines Amendment.**
- (1) Prior to the amendment of Design Review Standards for the LHLs or any Historic or Historic Overlay District, any person may comment upon the proposal.
- (2) Not less than forty-five (45) days prior to the public hearing at which the Commission proposes to act upon the amendment(s), copies of the proposed amendment(s) shall be made available to the Elected Bodies, and any other interested person upon request.
- (3) Concurrently, the Commission shall cause notice of the public hearing at which the proposed amendment(s) will be considered for adoption to be published in a newspaper having general circulation in the area.
- (4) **Compliance.** Compliance with the provisions of this Section shall be enforced by the Planning Director. Failure to comply with this Section and

provisions of a Certificate of Appropriateness shall be unlawful and a violation of the Zoning Ordinance, and all remedies authorized by law for noncompliance with this Ordinance may be exercised to enforce this Section.

4-3.9. SUBDIVISIONS

- A. **Exempt Subdivisions.** All review processes shall comply with the requirements of *Section D.3 Exempt Subdivisions*.
- B. **Expedited Subdivisions.** All review processes shall comply with the requirements of *Section D.4 Expedited Subdivisions*.
- C. **Minor Subdivisions.** All review processes shall comply with the requirements of *Section D.5 Minor Subdivisions*.
- D. **Major Subdivisions.** All review processes shall comply with the requirements of *Section D.6 Major Subdivisions*.

4-3.10. INDUSTRIAL AND COMMERCIAL SUBDIVISIONS

- A. **Definition.** An industrial or commercial subdivision of land whether in single or multiple ownership shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of a gift, sale, or industrial or commercial building development. These subdivisions may construct new public or private streets to access new lots. All lots must comply with the size and area requirements of the *Zoning Ordinance* or any other applicable local or state land regulatory ordinances.
- B. **Public Street Subdivisions.** Preliminary subdivision approval of a plat by the Town Council is required if new public streets are proposed. The subdivision must follow the same process and procedures as in *Section D.6 Major Subdivisions* however, only the applicable development standards and other requirements in that section will apply to industrial or commercial subdivisions. Final plats must be recorded in the office of the Register of Deeds when all the requirements have been met for the subdivision in accordance with *Section D.6(D) Approval Process for Preliminary Major Subdivisions*.
- C. **Private Street Subdivisions.** Private street industrial or commercial subdivisions shall follow the same process and procedures as in *Section D.5 Minor Subdivisions*. These subdivisions will not be subject to the requirement of no more than three (3) lots off private access easements as found in *Section D.5 Minor Subdivisions*.

4-3.11. SITE PLAN

- A. **Purpose.** To review site plans for compliance with all applicable regulations defined in this UDO, protect public interest through high quality design, and create an aesthetically pleasing community environment through the review of proposed site plans for projects.
- B. **Site Plan Approval Required For Permit.**
1. No building permit shall be issued on a lot until the site plan requirements of this Section are met.
 2. **Concept Plan and Consultation Meeting.** Prior to the submittal of a site plan in the development process, which may include but not be limited to Rezoning, Planning Board Review, Special Use Permit, Building Expansion, Demolition, and Major/Minor Subdivision, the developer or representative shall attend a pre-application conference with Planning Director concerning the proposed plan of development. The purpose of this meeting is to discuss and assess constraints, opportunities and potential approaches to site design prior to the commencement of formal engineering design. At this pre-application meeting, the developer or representative shall submit a sketch plan giving general information on site layout, storm water control, traffic circulation and access, and utilities for tentative review, comments, and recommendations by Planning Director.
- C. **Uses and Activities Requiring Site Plans.** A site plan shall be submitted in conjunction with the following:
1. **Site Specific Development Plans.** Site specific development plans pursuant to establishing vested rights, as identified in *Section A.4-2.3(B)(2)(1) Site Specific Vesting Plan*.
 2. **Uses Requiring Review or Permit.** Uses identified in *Table B.2.12 Permitted Uses* which require:
 - (1) Planning Board Review;
 - (2) Special Use Permit from the Board of Adjustment
 3. **Request for Conditional District Zoning.** No separate site plan review by the Planning Board is required for a use which is permitted as a part of a conditional district zoning adopted by the Town Council, and which meets the requirements of this Ordinance. Requests for conditional district zoning is pursuant to *Section A.4-3.3(C)(1)(1) Conditional Districts*.

4. **Uses in Certain Districts.** Any use requested within the YR, NO, C, MU-C, H, and HO zoning districts;
 5. **Nonresidential Development Standards.** All nonresidential development within the Town of Lewisville, excluding agricultural uses.
- D. **Application.** All site plans required by this Ordinance shall contain the following information.
1. **Number Required.** One (1) electronic version submitted in a format readable by appropriate Town staff and two (2) full-size paper copies. If any changes are made, two (2) copies and one (1) electronic copy will be required to be provided again.
 2. **Scale.** All site plans shall be submitted at the appropriate scale as follows:
 - (1) Site plans for developments less than twenty-five (25) acres shall be submitted at a scale no smaller than one inch represents fifty (50) feet (1" to 50').
 - (2) Site plans for developments twenty-five (25) or more acres shall be submitted at a scale no smaller than one inch represents one hundred (100) feet (1" to 100').
 - (3) Site plans for very large developments may be submitted at a scale of one inch represents two hundred (200) feet (1" to 200') with approval of Planning Director.
 3. **Location Map.** A location map at a scale of not smaller than one inch represents two thousand (2,000) feet (1" to 2,000') shall be included on the site plan. The location map shall contain a north arrow and shall show the intersection of at least two (2) public streets nearest to the property.
 4. **Title Block.** A title block shall appear in the lower right-hand corner of the site plan, showing:
 - (1) The development name;
 - (2) The name and address of the owner and petitioner;
 - (3) The name and address of the architect, land planner, landscape architect, engineer or surveyor who prepared the map, and his/her registration seal, except that only the name and address of the site plan preparer is required for applications for a single manufactured home on one and one-half acres or less;

- (4) The date the survey was made, if applicable, except that a survey is not required for the first phase site plan submittal of a two-phase conditional district zoning petition; and,
- (5) The scale, date and north arrow.
- 5. **Property Boundaries.** The boundaries of the property, including bearings and distances, shall be shown on the site plan.
- 6. **Adjacent Property.** The location, ownership, and zoning of adjacent property shall be shown on the site plan.
- E. **Specific Application Requirements.** The additional specific site plan submittal information required for different types of applications shall be determined from Table B.5.1 Submittal Requirements. The additional submittal requirements for each application form shall be as provided in this Section.

Table B.5.1 Submittal Requirements

Type of Application	Submittal Requirements
<i>Table B.2.12 Permitted Uses</i> , Use Requiring Planning Board Review	Form 1
<i>Table B.2.12 Permitted Uses</i> , Use Requiring Special Use Permit from Board of Adjustment	Form 1
Conditional District Zoning Except Manufactured Home on Individual Lot (on $\leq 1\frac{1}{2}$ acre)	Form 1 Form 2
Use in C Districts	Form 1
Use in MU-C Districts	Form 1
Use in H and HO Districts	<i>Section B.4 Historic Preservation</i>

F. Review Process.

- 1. **Initiation.** An application for site plan approval may only be submitted by the owner, or any other person having a contractual interest in the land, or their authorized agent.

2. **Submittal Of Application.** Site plan applications shall be submitted to the Planning Director.
3. **Site Plan Standards.** In addition to the requirements of this Ordinance, all site plans shall comply with the following standards:
 - (1) **Consistency with the *Lewisville Comprehensive Plan*.** The site plan shall be consistent with the purposes, goals, objectives and policies of *Lewisville Tomorrow*.
 - (2) ***Environmental Ordinance*.** The site plan shall comply with *Chapter C Environmental Ordinance*.
 - (3) **Subdivision.** The site plan shall comply with all applicable provisions of *Chapter D Subdivision Ordinance*.
 - (4) **Other Relevant Standards.** Any government regulations, permits, and/or approvals shall comply with the fire and building standards and all other relevant and applicable provisions of this Ordinance.
4. **Effect Of Site Plan Approval.** Approval of a site plan shall authorize an application for a building permit given that any other relevant portions of this ordinance are met. All approved site plans shall expire two (2) years after the effective date of the approval if no development has taken place. This shall not affect the underlying zoning district designation of the subject property or the status of any approved Special Use Permits.
5. **Minor Changes.** The Town Council may, by resolution, allow the Planning Director to grant minor changes to site plans and conditions after the site plans and conditions have been approved by an Town Council. Such resolution shall include authority for staff to make changes as consistent with law, the intent of the original site plan or conditions, and which were not the subject of controversy during any public hearing or meeting. Minor changes may include, but are not limited to, changes which do not alter the basic relationship of the proposed development to adjacent property, will not alter the uses permitted, or will not increase density or intensity of the development.
6. **Site Plan Amendment.** Any change to a site plan not approved as a staff change shall be approved only pursuant to the procedures and standards established for its original approval.
7. **Planning Director Review.** In addition to the site plan requirements stated elsewhere in this Ordinance, the Planning Director may provide assistance on

any site plan review matter, including, but not limited to, bufferyard requirements (*Section B.3-4 Bufferyard Standards*) and *Chapter C Environmental Ordinance*.

- (1) **Planning Director.** Whenever the Planning Board approves a use requiring site plan review pursuant to *Section A.3-6 Planning Board*, the Planning Director shall issue any necessary permits in accordance with the terms of such approval. All other conditions are to be met prior to the issuance of building permits, certificates of occupancy, or other period of time as determined by the Planning Director.

G. **Planning Board and Town Council Review.** The provisions of *Section A.4-3.11(C) Uses and Activities Requiring Site Plans* apply to site plans required to be submitted for review and recommendation or approval by the Planning Board and/or the Town Council, as identified in *Section A.4 Procedures*. Site plan and application requirements for other approvals or permits are determined by the Planning Director. The Planning Board shall review all requests for permits requiring site plan review, as designated in *Table B.2.12 Permitted Uses* to assure that the Use Conditions (*Section B.2-5.4 Use Standards and Conditions*) and other provisions of this Ordinance are met.

1. **Approval and Conditions.** The Planning Board shall approve site plans which meet all the requirements of this Ordinance and deny any such requests which do not meet all the requirements of this Ordinance. The Planning Board may, as part of its approval, require one or more of the following conditions:
 - (1) Public right-of-way dedication to meet projected needs for roads shown on the *Transportation Plan*, or for other roads as determined by the Town of Lewisville, or North Carolina Department of Transportation.
 - (2) Road and/or sidewalk improvements as recommended by the Town of Lewisville, or North Carolina Department of Transportation.
 - (3) Access control, including the location, number, and dimensions of driveways; and combining driveways with and providing connections to adjacent properties, as recommended by Planning Director or other appropriate agencies.
 - (4) Reorientation of parking areas or building access to insure on-site traffic flow and pedestrian safety.
 - (5) Dedication or granting of easements for greenways identified on the adopted *Greenway Plan*.

- (6) Screening and location of dumpsters, loading areas, on-site utilities, or other visually obtrusive features as determined by the Planning Board.
- (7) Space for public transit vehicle maneuvering and/or public transit shelter if determined necessary by the Winston-Salem Transit Authority.
- (8) Stormwater management plans as recommended by Planning Director and appropriate agencies.
- (9) Location and screening of improvements or activities which may generate substantial noise.
- (10) Compliance with recommendations of the Town of Lewisville, or State of North Carolina or other governmental departments reviewing the projects.
- (11) Compliance with all applicable conditions previously approved for the property in question.

H. **Form 1 Submittal Requirements.** Applications for conditional district rezonings other than a single manufactured home on one and one-half acres or less; development plans for conditional district rezoning, including uses in MU-C; special use permits issued by the Town Council and the Board of Adjustment which require Planning Board Review; uses requiring site plan review by the Planning Board; and uses in the C Districts shall contain the following information:

1. **Legend.** Legend (on right hand side of map) indicating:
 - (1) If petition is for residential zoning - maximum number of dwelling units by type and density;
 - (2) If nonresidential petition, type of use(s) and proposed maximum square footage of land and building in nonresidential uses;
 - (3) Total acreage;
 - (4) Approximate percent of building coverage to land;
 - (5) Approximate percent of paved or graveled surface to land;
 - (6) Approximate percent of open space to land;
 - (7) Acreage in common open area used for active recreational uses, indicating purposes and uses (common open space as computed shall not include streets, drives, parking or loading areas); and,
 - (8) Total number of parking spaces, and information necessary to calculate needed parking.

2. **Natural Features.** Natural features - existing and proposed:
 - (1) Streams and stream buffers, drainageways, floodway and flood hazard boundaries and elevations;
 - (2) Wooded areas and other natural features;
 - (3) Topography at four (4) foot intervals (distinction between existing and proposed topography lines to be shown according to the following: (existing - light dashed lines; proposed - thin solid lines);
 - (4) Natural features to be left undisturbed. Any existing trees to be retained shall be preserved during construction in accordance with *Section B.3-3.2(H)(3) Protection From Encroachment* and,
 - (5) Slopes at twenty percent (20%) or greater grade, if bonus density is requested for a planned residential development under *Section A.4-3.4 Planned Residential Development*.
3. **Constructed Features.** Constructed features - existing and proposed:
 - (1) Buildings with setbacks from property lines and maximum height indicated;
 - (2) Other structures, fences, walls, signs, plantings, etc.;
 - (3) Rights-of-way and easements with type and widths indicated and an indication of whether public or private (access drives and parking areas to be shaded in);
 - (4) Private and public drives including pavement widths, curbcuts, names, and an indication of whether public or private;
 - (5) All other easements, parklands, playgrounds and other common or public areas;
 - (6) Sidewalks, greenways, and other pedestrian ways;
 - (7) Parking and loading areas with typical dimensions for spaces and lots;
 - (8) Solid waste disposal facilities;
 - (9) Utility lines over and under the site including storm drainage system;
 - (10) Finished elevation on all center lines of new streets and any stub streets, both on site and at connection with adjacent property(s);
 - (11) All streets, driveways, etc. (including pavement and right-of-way) within one hundred (100) feet of the project site; and,
 - (12) Public/private water system.
4. **Other Requirements of this Ordinance.** Other requirements of this Ordinance which are applicable to the proposed use shall be reflected in the site plan.

- I. **Form 2 Submittal Requirements.** Applications for conditional district rezoning for a single manufactured home on one and one-half (1.5) acres or less shall contain the following information:
1. **Natural Features.** Natural features - existing and proposed:
 - (1) Streams and stream buffers, drainageways, floodway and floodway fringe boundaries and elevations; and,
 - (2) Wooded areas and other natural features.
 2. **Constructed Features.** Constructed features - existing and proposed:
 - (1) Buildings with setbacks from property lines and maximum height indicated;
 - (2) Other structures, fences, walls, signs, plantings, etc.;
 - (3) Rights-of-way and easements with type and widths indicated and an indication of whether public or private (access drives and parking areas to be shaded in);
 - (4) Private and public drives including pavement widths, curbcuts, names, and an indication of whether public or private;
 - i. Connection to a Town/State maintained roadway shall require a Town of Lewisville driveway access permit to be approved and/or issued as part of any review under *Section B 3-2.7 Driveway Access (Management)*.
 - (5) Utility lines over and under the site and storm drainage system;
 - (6) All streets, driveways, etc. (including pavement and right-of-way) within one hundred (100) feet of the project site; and,
 - (7) Public/private water system.
 3. **Other Requirements.** Evidence of compliance with the use conditions for manufactured homes in *Section B.2-5.4(A)(29) Manufactured Home*, and other applicable provisions of this Ordinance shall be provided.

4-3.12. TEMPORARY USE PERMIT

Temporary use permits shall be issued or renewed by the Planning Director in compliance with *Section B.2-5.3 Temporary Uses*, provided that such permits are issued only upon written agreement by the owner to remove the structures or uses upon expiration of the permit.

- A. **Application.** All applications for temporary use permits shall be made to the Planning Director by the owner or his authorized agent;

- B. **Requirements.** Before the issuance of a temporary use permit, the Planning Director shall determine that all other pertinent regulations which may apply to such proposed use are complied with.

4-3.13. ZONING PERMIT

- A. **When Required.** A zoning permit shall be obtained from the Planning Director, prior to the following:
1. **Building or Structure.** The construction, reconstruction, erection, enlargement, relocation, or structural alteration of any building or structure or part thereof, including any principal use permitted in *Table B.2.12 Permitted Uses*, *Section B.2-5.2 Accessory Uses*, *Section B.3-1 Sign Regulations*, or any other use or improvement which requires a permit.
 2. **Change of Use.** Any change of use of any building or land.
 3. **Use expansion.** Expansion of a previously approved use by more than fifty (50) percent.
- B. **Application.** An application for a zoning permit shall be made to the Planning Director by the owner or his authorized agent and shall include a statement as to the intended use of the building or land. Any such application shall be accompanied by a plan so dimensioned or annotated as to show the proposed building and existing buildings, if any, in exact relation to lot lines. The water supply and sewage disposal methods of the proposed development shall have prior approval in compliance with *Section B.3-8 Drinking Water Supply and Wastewater Management*.
- C. **Posting.** Any person performing the work covered by a zoning permit shall post said permit on the premises before the work begins and shall keep such permit posted on the premises until the certificate of occupancy for the premises is issued. Any time limitation relating to appeals from the issuance of a building permit shall run from the date the building permit is posted on the premises. The party to whom the building permit is issued shall be furnished a copy of the permit on which such person may certify as to the date of the posting of the permit and return such certificate to the Planning Director. The date certified to the Planning Director as the date of posting shall be the date from which any time limitations regarding appeals shall run. If the recipient of the permit does not return the certificate of posting to the Planning Director, there shall be a rebuttable presumption that the permit was not posted as required by this Section.

- D. **Action Within One Year.** No zoning permit shall be valid unless acted upon within one year of issuance or renewed after written application.
- E. **Revocability.** Any permit or document issued by the Planning Director shall be revocable should any of the conditions under which it is issued not be complied with.

4-3.14. CERTIFICATE OF OCCUPANCY

A certificate of occupancy shall be approved by the Planning Director and designees upon approval of any building or other structure, or approval of other preparations for site occupancy, if the requirements of this Ordinance and other applicable laws or codes are complied with. Occupancy of such building or site prior to the issuance of the certificate of occupancy is a violation subject to the provisions of *Section A.6 Enforcement*.

- A. **Application.** No application for a zoning permit shall be deemed acceptable unless accompanied by an application for a certificate of occupancy. Both applications shall include a statement of the intended use of the building or land.
- B. **Phase of Construction.** As each phase of construction, if any, is completed and inspected, the appropriate inspector shall so certify on the application for certificate of occupancy.

5. NONCONFORMITIES

5-1. PURPOSE

The purpose of this Section is to regulate and limit the continued existence of nonconforming uses of land, vacant lots, structures and improvements that were lawfully established before the effective date of this Ordinance, or a subsequent amendment thereto, but that do not conform to the standards and requirements of this Ordinance or subsequent amendment. Such uses of land, vacant lots, structures and improvements are collectively referred to as “nonconformities.” It is the general policy of the Town to allow nonconformities to continue to exist. The purpose and intent of this article is to recognize the interests of property owners in continuing to use the land, but to preclude the expansion of a nonconformity or the reconstruction or reestablishment of a substantially destroyed or discontinued nonconformity unless doing so can serve as an incentive to achievement of even greater public benefit.

- A. **Determination of a Nonconformity.** The burden of establishing that a nonconformity lawfully exists shall be the responsibility of the person who owns or rents the property

A.5

5. Nonconformities	99
5-1. Purpose.....	99
5-2. Nonconforming Uses.....	100
5-3. Nonconforming Vacant Lots....	102
5-4. Nonconforming Structures and Improvements	103
5-5. Nonconforming Development Features	105
5-6. Special Uses Are Conforming .	106

upon which the nonconformity exists. Evidence that may be used to prove the legal status as a lawful nonconformity may include approved permits, construction plans, and records of previously approved regulations.

- B. **Ownership Changes.** No change of title or possession of property shall be construed to prevent the continuance of the nonconformity.
- C. **Increases in a Nonconformity.** A nonconformity shall not be expanded, intensified, or enlarged except as provided by this Section.

5-2. NONCONFORMING USES

5-2.1. DEFINITION

A nonconforming use is a use of land, buildings, and/or structures that was lawfully established before the effective date of this Ordinance, or a subsequent amendment thereto, but does not comply with the use standards applied by this Ordinance or the subsequent amendment.

5-2.2. APPLICABILITY

- A. This section applies to nonconformities created by initial adoption of, or amendments to, this Ordinance unless otherwise expressly provided by provisions in this Ordinance. Any use of land or a building is considered nonconforming if:
 - 1. The use is not permitted in the zoning district in which it is located; and,
 - 2. The use existed before the effective date of the most recent Zoning Ordinance; or
 - 3. The use met the standards of the zoning ordinance in effect at the time the use was established.
- B. A nonconforming use may not be changed to any use other than a permitted use in the zoning district where located. A use shall be deemed to have been changed when an existing nonconforming use has been terminated and a permitted use has commenced. A change of use from an existing nonconforming use to a permitted use shall require the following:
 - 1. Parking and loading areas shall be improved to the minimum standards specified in *Section B.3-2: Parking and Loading Standards*, of this UDO.
 - 2. Landscaping and buffering shall be provided, as defined in *Section B.3-3: Landscaping Standards* and *Section B.3-4 Bufferyard Standards*, of this UDO, to the greatest extent possible.

3. Nonconforming signs shall be removed from the property and replaced with conforming signs.

C. Historic District (H).

1. In any H District, the provisions of this section shall not apply. Regulations governing nonconforming uses in the H District are contained in *Section B.4 Historic Preservation*.

5-2.3. CONTINUATION

Nonconforming uses as defined in *Section A.5-2.1 Definition* may continue under the provisions of *Section A.5 Nonconformities*, except as provided in *Sections A.5-2.5 Discontinuance*.

5-2.4. REQUIRED ALTERATIONS OR REMODELING

In the interest of the public safety and health, structural alterations or remodeling required by any public law, and so ordered by a public officer in authority, shall be permitted. This shall not be construed to permit any structural alterations that will increase the floor area or cubicle content of the structure.

5-2.5. DISCONTINUANCE

- A. **Applicability.** Any nonconforming use which has been discontinued shall not thereafter be reestablished. Any structure or land formerly devoted to a nonconforming use, which has been discontinued, shall not again be devoted to any use other than those uses permitted in the applicable district.
- B. **Definition.** The term “Discontinuance” shall mean the voluntary termination or cessation of a use. Any one of the following shall constitute conclusive evidence of discontinuance:
 1. Any positive act indicating such discontinuance;
 2. In the case of a building or portion thereof, discontinuance of the nonconforming use for a period of three hundred sixty-five (365) consecutive days, unless the use is vested under the provisions of *Section A.4-2.3(B)(2)(1) Site Specific Vesting Plan*, in which case the period shall be two (2) years;
 3. In the case of land but not of a building, discontinuance of the nonconforming use for a period of thirty (30) successive days.

5-3. NONCONFORMING VACANT LOTS

5-3.1. DEFINITION

- A. **Nonconforming Lot.** A nonconforming lot is a lot that was lawfully created before the effective date of this Ordinance, or a subsequent amendment thereto, but does not conform to the lot standards applied by this Ordinance or the subsequent amendment. Legally established lots (including platted lots) predating the adoption date of this ordinance that do not conform to the minimum lot standards set for in this ordinance may be used as if they are conforming.
- B. **Changes to Nonconforming Lot.** The boundaries, lot lines, shape, or size of a nonconforming lot may only be changed if doing so does not extend or enlarge the degree of nonconformity.

5-3.2. COMBINATION OF NONCONFORMING VACANT LOTS AND NONCONFORMING VACANT LOTS APPROVED PRIOR TO DECEMBER 31, 1994

- A. **Combination of Nonconforming Lots.** This Section shall not be construed as prohibiting the erection of a use on a lot which was in existence before the effective date of this ordinance; and even though the lot is nonconforming, provided that:
1. **Same Ownership.** Such lot does not abut upon one or more unoccupied lots in the same ownership with which it could be combined; and,
 2. **Water and Sewage Disposal.** Water supply and sewage disposal facilities for such lot are approved in accordance with *Section B.3-8 Drinking Water Supply and Wastewater Management*.
- B. **Nonconforming Lots Approved Prior to December 31, 1994.** Notwithstanding the provisions of *Section A.5-3.2(A) Combination of Nonconforming Lots*, the following categories of nonconforming vacant lots may be issued a zoning permit in accordance with the uses permitted in the zoning district:
1. **Final Plat Approval.** Any lot which has received final plat approval as of December 31, 1994, under the major subdivision process contained in the Subdivision Regulations;
 2. **Approval Pursuant to *Section D.6.(C) Approval Process for Preliminary Subdivision Approval*.** Any lot which has received final plat approval pursuant to a subdivision granted preliminary approval prior to December 31, 1994, according to the provisions of *Section D.5 Minor Subdivisions*; or,

3. **Minor Subdivision.** Any lot legally created by deed or a minor subdivision process prior to December 31, 1994, which met the standards of the Zoning Ordinance in effect at the time of its creation.
- C. **Nonconforming Lots in the AG and YR Districts.** Any nonconforming lot meeting the requirements of *Section A.5-3.2(B) Nonconforming Lots Approved Prior to December 31, 1994* and located in the YR or AG Districts must meet the minimum setback requirements of the RS-20 Zoning District.

5-3.3. H DISTRICT

In any H District, the provisions of this Section shall not apply. Regulations governing nonconforming vacant lots in the H District are contained in *Section B.4 Historic Preservation*.

5-4. NONCONFORMING STRUCTURES AND IMPROVEMENTS

5-4.1. DEFINITION

A nonconforming structure is a structure other than a sign, exterior lighting fixture, or structure associated with a nonconforming site feature that was lawfully established before the effective date of this Ordinance, or subsequent amendment thereto, but does not comply with the floor area ratio, setback, dimensional, elevation, location, material, height, or other standards applied by this Ordinance or the subsequent amendment. However, no new use that has a greater lot size requirement than the ordinance established minimum lot size is permissible on a nonconforming lot. Development on a nonconforming lot shall comply with the following standards:

- A. If a structure is legally conforming and meets all standard requirements in this ordinance, the structure may be continued, enlarged, or reconstructed in any way that is in conformance with this ordinance.
- B. Nonconforming structures established on nonconforming lot(s) shall follow the provisions of *Section B.5-4 Nonconforming Structures and Improvements*.

5-4.2. APPLICABILITY

- A. **Nonconforming Structure or Improvement.** Any structure or improvement to real property is considered nonconforming if:
1. The location of any structure or improvement on the lot does not conform with the dimensional requirements of this Ordinance; or,
 2. The structure or improvement does not meet one or more of the other applicable requirements of this Ordinance; and,
 3. The structures or improvements legally existed as of the effective date of this Ordinance, or the structures or improvements legally existed as of the effective date of subsequent amendments thereto.
- B. **H District.** In any H District, the provisions of this Section shall not apply. Regulations governing nonconforming structures or improvements in the H District are contained in *Section B.4 Historic Preservation*.

5-4.3. CONTINUATION

Nonconforming structures and improvements devoted to a use permitted in the zoning district in which it is located may continue to be used and occupied in compliance with this Section.

5-4.4. MINOR REPAIRS AND MAINTENANCE

Minor Repairs and Maintenance. Minor repairs to, and routine maintenance on, nonconforming structures shall be allowed. Minor repairs and routine maintenance shall mean repairs and maintenance that are necessary to maintain a nonconforming structure in a safe condition and to protect against hazards to the safety of surrounding areas and uses. Major repairs, defined as repairs exceeding fifty (50) percent or more of the value of the nonconforming structure, are subject to *Section A.5-4.5 Major Repair, Damage or Destruction*.

5-4.5. MAJOR REPAIR, DAMAGE OR DESTRUCTION

- A. **Reconstruction.** Reconstruction of a nonconforming structure that is in need of more than a minor repair as defined in *Section A.5-4.4 Minor Repairs and Maintenance*, or is destroyed, is subject to the following standards:
1. **Damage of 50% or More of Value.** Except for single family dwellings, if the nonconforming structure is damaged or destroyed to an extent which constitutes

fifty (50) percent or more of its assessed value, the structure may be repaired or rebuilt, and the use re-established, only in conformity with the regulations of this UDO. Any related new construction, including off-street parking, landscaping, signage and other similar features shall be in accordance with this UDO.

2. **Damage of Less Than 50% of Value.** If the nonconforming structure is damaged to an extent which constitutes less than fifty (50) percent of the assessed value, the structure may be repaired or rebuilt to its previous form, and the previous use re-established, if a building permit is obtained. The building permit must be obtained, and repairs must begin within one (1) year of the damage. Repairs should be active and diligently pursued to completion, with a maximum two (2) years to complete.
3. **Single Family Dwellings.** A nonconforming single-family dwelling which is damaged or destroyed to an extent of fifty (50) percent of assessed value or more may be rebuilt to its previously permitted form.

5-4.6. REQUIRED IMPROVEMENTS FOR CERTAIN NONCONFORMING STRUCTURES AND IMPROVEMENTS

If the structures and improvements devoted to the following uses are or become nonconforming with respect to one or more development standards by virtue of adoption of this Ordinance or subsequent amendment, the nonconforming structure and improvements shall meet the development standards and time periods for compliance contained in the sections of this Ordinance specified below:

- A. *Section B.2-5.4(A)(25) Landfill, Land Clearing And Inert Debris.*
- B. *Section B.2-5.4(A)(30) Manufactured Housing Developments.*
- C. *Section B.2-5.4(A)(34) Motor Vehicle Dismantling and Wrecking Yard.*
- D. *Section B.2-5.4(A)(36) Motor Vehicle Storage Yards.*
- E. *Section B.2-5.4(A)(52) Storage and Salvage Yard.*

5-5. NONCONFORMING DEVELOPMENT FEATURES

5-5.1. DEFINITION

A nonconforming development feature is any aspect of a development, other than a nonconforming lot or a nonconforming use, that was lawfully established, in accordance with regulations in effect at the time of its establishment but that no longer complies with

one or more standards of this ordinance. Common examples of nonconforming development features are buildings that do not comply with current setback or height standards, off-street parking or loading areas that contain fewer spaces than required by current standards, signs that do not comply with location or size standards, or sites that do not comply with current landscaping or buffer yard standards.

5-5.2. CONTINUATION

- A. Nonconforming site features may be continued subject to the following limitations:
1. For development existing (or for which a vested right had been established) before the effective date of this Ordinance, nonconforming site features created by a change in regulations may continue to exist, and structures comprising such nonconforming site features may be reconstructed if demolished or destroyed.
 2. For all other nonconforming site features, no action shall be taken that increases the degree or extent of the nonconforming site feature, and no nonconforming site feature shall be extended, expanded, enlarged, or otherwise altered, unless the site feature thereafter conforms to all current requirements of this Ordinance.
 3. If a structure or other element of development composing a nonconforming development feature is damaged to the extent of 50 percent or more of its assessed taxable value or current appraised value, it may not be restored, reconstructed, or replaced unless the nonconforming development feature is eliminated or made conforming.

5-6. SPECIAL USES ARE CONFORMING

Notwithstanding any exceptions noted herein, any use for which an approved Special Use Permit was issued before the effective date of the current Zoning Ordinance is considered conforming.

A.6

6. UDO VIOLATIONS AND ENFORCEMENT

6-1. VIOLATIONS, ENFORCEMENTS, AND PENALTIES

The following procedures may be undertaken by the Planning Director and other Town Officials to enforce the provisions of this Ordinance.

6-1.1. VIOLATIONS OF UDO REGULATIONS

- A. Whenever any act is required or prohibited by this Ordinance, including special use permits, or whenever any regulation or limitation is imposed on the use of any land or water, or on the erection of a structure, a failure to comply with the applicable provisions of this Ordinance shall constitute a violation of the Unified Development Ordinance (UDO). Examples of violations may include, but are not limited to: development without a permit or use in violation of zoning regulations

6. UDO Violations and Enforcement..	107
6-1. Violations, Enforcements, and Penalties	107
6-1.1. Violations of UDO Regulations	107
6-1.2. Notice Procedures	108
6-1.3 Enforcement, Penalties, and Remedies	108
6-1.4 Authorization	109
6-1.5 Removal of Temporary Signs	109

- B. The property owner, occupant or tenant of any land or structure or part thereof and any architect, developer, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the requirements of the UDO shall be held responsible for the violation and be subject to the penalties and remedies provided in this section.

6-1.2. NOTICE PROCEDURES

- A. Upon the determination any provision of the UDO may be in violation, the Planning Director or designee shall send a written notice of violation by US Postal Service first class mail to the property owner of record, occupant and any other responsible persons. Additional means of notice may include electronic mail or hand delivery. Also, the notice of violation may be posted on the property. The notice shall include the following information:
1. The land, building, sign, structure, or use that is in violation of this Ordinance;
 2. The nature of the violation and reference to the section of the Ordinance violated; and
 3. The measures necessary to remedy the violation.
- B. The following shall comprise the actions taken by the Planning Director or designed when issuing a notice of violation as notes above.
1. Notice shall allow the responsible party fifteen (15) days to cease or correct the violation.
 2. If the violation is not corrected within these fifteen (15) days, a second notice of violation will be issued allowing an additional fifteen (15) days to correct the violation.
 3. If a violation continues after thirty (30) days, the Planning Director may refer the matter to other Town officials, related agencies, and or the Town Attorney.

6-1.3 ENFORCEMENT, PENALTIES, AND REMEDIES

- A. After thirty (30) days of having received a notice of violation, the responsible person or persons shall be subject to a civil penalty equaling \$100, which shall be imposed daily for any violation of this Ordinance.
- B. Such civil penalties shall be cumulative.
- C. The Planning Director, other Town officials, related agencies and/or the Town Attorney, in addition to other remedies, may institute any action authorized by law to:

1. Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use;
2. Restrain, correct or abate the violation;
3. Prevent occupancy of the building, structure or land; or
4. Prevent any illegal act, conduct, business, or use in or about the premises.

6-1.4 AUTHORIZATION

The Town Attorney is authorized to initiate a civil action in the name of the Town of Lewisville. These actions include, but are not limited to injunction, mandamus, abatement or any other remedy authorized by law.

6-1.5 REMOVAL OF TEMPORARY SIGNS

The Planning Director, designees and other Town Officials may remove nonconforming temporary signs within the town limits of Lewisville, according to the provisions of *Section B.3-1.8(D) Removal of Nonconforming Temporary Signs*.

7. FEES

7-1. GENERAL

As required by law, fees shall be charged to applicants for certain legislative and evidentiary procedures. These fees cover the costs of public notice, legal advertising and technical services. Fee amounts are determined by the Lewisville Town Council, made available in the Planning Department offices and published on the Town website as part of the Schedule of Fees.

7-2. READVERTISING, CONTINUANCES, OR PETITIONS REMANDED TO THE PLANNING BOARD BY THE TOWN COUNCIL

When a request for a legislative action authorized by the Town Council is requested for continuance by the petitioner; or must be continued due to deficient information filed with the petition; or must be continued due to the petition being remanded to the Planning Board by the Town Council at the applicant's request;

7. Fees.....	110
7-1. General.....	110
7-2. Readvertising, Continuances, or Petitions Remanded to the Planning Board By the Town Council	110
7-3. Refund of Fees.....	111
7-4. Penalties For Violations.....	111

and does not require readvertising and a new public hearing held, the fee shall be one-half the original zoning fee. If a case is continued or remanded to allow the applicant to file for a different zone change or permit and must be readvertised and a new public hearing held by the Planning Board, the case will be considered a new petition and be subject to the fees set forth in this Section.

7-3. REFUND OF FEES

Fees for legislative and evidentiary procedure applications are generally not refundable. However, if an application is withdrawn by the applicant after it has been submitted and before mailed or published notice has been scheduled or occurred, the Planning Director may authorize a refund of the original application fee.

7-4. PENALTIES FOR VIOLATIONS

Penalties for violations of the provisions of this Ordinance are specified in *Section A.6 Enforcement*.