

**ACTION REQUEST FORM**

**DATE:** September 23, 2009  
**TO:** The Honorable Mayor and City Council  
**FROM:** A. Paul Norby, FAICP, Director of Planning

**COUNCIL ACTION REQUEST:**

Request for Public Hearing on zoning text amendment proposed by Planning and Inspections staff

**SUMMARY OF INFORMATION:**

Zoning text amendment proposed by Planning and Inspections staff to amend various sections of the *Unified Development Ordinances* to consolidate certain uses in the Permitted Use Table for the purpose of simplifying the Change of Use process (UDO-205).

**PLANNING BOARD ACTION:**

**MOTION ON PETITION:** APPROVAL  
**FOR:** UNANIMOUS  
**AGAINST:** NONE  
**SITE PLAN ACTION:** NOT REQUIRED

## STAFF REPORT

**DOCKET #** UDO-205  
**STAFF:** [Aaron King](#)

### **REQUEST**

Zoning text amendment proposed by Planning and Inspections staff to amend various sections of the UDO to consolidate certain uses in the Permitted Use Table for the purpose of simplifying the Change of Use process

### **BACKGROUND**

For purposes of enforcement of the Unified Development Ordinances (UDO) and the mandated state building regulations in the NC State Building Code, a Change of Use (COU) occurs whenever existing land or an existing building is used in a manner that is different than its prior established use. For example, if an office building is vacated and a retail merchandise store moves into the building, a COU has occurred.

Whenever a COU occurs, a property owner might have to make improvements to the building/property in order to meet UDO and State Building Code requirements. While COU-related requirements have long been part of the City's development ordinance, the current economic downturn has allowed City staff to examine some of the complexities involved in this process. Members of the REALTORS® formed a Change of Use Task Force, which included staff members from the Inspections Division and Development Office, to examine ways to improve the COU process. The COU Task Force produced a report that included several recommendations for improving the COU process. One specific recommendation from this Task Force was to:

“Consider amendments to the UDO to allow various permitted uses to be grouped or to reduce the number of permitted uses to reduce projects affected by a COU.”

In response to this recommendation, an examination of the Permitted Use Table was conducted by Planning and Inspections staff to identify possibilities for use consolidation. The intent of this review was to select uses that could be easily grouped together based on similar characteristics, thus reducing the number of uses affected by a COU.

### **ANALYSIS**

Staff believes the proposed text amendment will play a role in improving the COU process, which helps to encourage the reuse of existing commercial buildings within the community. The amendment will serve to address COU issues as they pertain to UDO requirements; however, it is important to note the State Building Code requirements must still be met.

Staff also believes the proposed request helps to reduce the stratification of uses currently contained in the UDO. The existing Permitted Use Table contains 170 different use classifications. Staff supports the idea of grouping uses together where practical and feasible

in order to reduce the complexity in the UDO. The subject request contains only the items viewed by staff as being non-controversial and relatively easy to consolidate. These changes affect many of the changes of use that businesses frequently deal with. Depending on the impact of this text amendment, staff can envision future amendments of the same nature that further reduce the number of permitted uses within the UDO.

Current Use(s)	Consolidated Use(s)	Rationale
Boarding House Rooming House	Boarding and Rooming House	The only difference in two existing definitions is that Boarding House includes an “owner occupied” reference. Otherwise, they are allowed in the same zoning districts and subject to the same use conditions.
Cemetery, Licensed Cemetery, Unlicensed	Cemetery	The only difference between the two existing uses is whether or not the cemetery is licensed by the State.
Congregate Care Facility	NA	Staff proposes to delete this use. After reviewing permit records, nearly all of these facilities fall under the umbrella of Nursing Care Institution or Life Care Community.
General Merchandise Store Hardware Store Retail Store, Specialty or Misc. Motorcycle Dealer	Retail Store	The four existing uses have been consolidated into the new use: Retail Store. Outdoor display of products is addressed in the “Use Conditions” section of the UDO.
Golf Driving Range	Staff proposes deleting this as a stand alone use and listing it as a sub-category under the existing use of Recreation Services, Outdoor	Staff believes that a Golf Driving Range is an appropriate fit under Recreation Services, Outdoor.
Medical or Dental Laboratory Medical and Surgical Office Offices, Misc. Professional Office	Offices	These four existing office uses are allowed in generally the same zoning districts and are alike in their impacts and intensity.
Residential Building, Urban	NA	Staff proposes to delete this use. After reviewing permits records, there are few buildings built under this use classification. Those buildings built under Residential Building, Urban could now be classified under another existing residential use.

**RECOMMENDATION**

**APPROVAL**

Aaron King presented the staff report.

**PUBLIC HEARING**

FOR:

Jack Steelman, 147 S. Marshall Street, Suite 100, Winston-Salem, NC 27101

- You're with the government. You're here to help and we appreciate your help.

AGAINST: None

**WORK SESSION**

MOTION: Clarence Lambe moved approval of the zoning text amendment.

SECOND: Wesley Curtis

VOTE:

FOR: Wesley Curtis, Carol Eickmeyer, Arnold King, Arthur King, Clarence Lambe,  
Darryl Little, Lynne Mitchell, Paul Mullican, Brenda Smith

AGAINST: None

EXCUSED: None

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A. Paul Norby, FAICP  
Director of Planning

**UDO-205**  
**AN ORDINANCE AMENDING**  
**VARIOUS CHAPTERS OF THE *UDO* RELATING**  
**TO USE CONSOLIDATION**

Be it ordained by the City Council of the City of Winston-Salem, North Carolina, that the *Unified Development Ordinances* is hereby amended as follows:

**Section 1.** Chapter B, Article III of the *UDO* is amended as follows:

## **Chapter A - Definitions Ordinance**

### **Article II – Definitions**

**BOARDING OR ROOMING HOUSE.** ~~An owner-occupied residential building, or part thereof, in which lodging is provided to not more than eight (8) residents, in addition to any owners, occupying separate living units on a weekly or longer basis. (See also the definition of Rooming House)~~

**CEMETERY.** ~~Land and facilities used for burial of the dead either meeting the requirements of a perpetual care cemetery under State law including any burial ground, mausoleum, or columbarium operated by a cemetery company and meeting licensing requirements of the State; or land and facilities including 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.~~

**CEMETERY, LICENSED.** ~~Land and facilities used for burial of the dead meeting the requirements of a perpetual care cemetery under State law. Such a facility includes any burial ground, mausoleum, or columbarium operated by a cemetery company and meeting licensing requirements of the State.~~

**CEMETERY, UNLICENSED.** ~~Land and facilities used for the burial of the dead, including 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.~~

**CONGREGATE CARE FACILITY.** ~~A type of elderly housing, as defined by this Ordinance, which consists of one or more structures used to provide housing; part-time medical care, house-keeping, and personal care; and shared food preparation, dining, recreational, and social facilities. Congregate care facilities do not include nursing care institutions or similar institutions devoted primarily to the care of chronically ill or incurable.~~

57— Furniture and Homefurnishings Stores

~~**GENERAL MERCHANDISE STORE.** An establishment primarily engaged in selling a number of lines of merchandise. This definition includes all uses in the following SIC groups:~~

- ~~523 — Paint, Glass, and Wallpaper Stores~~
- ~~53 — General Merchandise Stores~~
- ~~553 — Auto and Home Supply Stores~~
- ~~56 — Apparel and Accessory Stores~~
- ~~572 — Household Appliance Stores~~
- ~~573 — Radio, Television, and Computer Stores~~

~~**GOLF DRIVING RANGE.** An open air golf practice facility.~~

~~**HARDWARE STORE.** An establishment primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builders' hardware, paint, glass, housewares, household appliances, and cutlery. This definition includes all uses in the following SIC group:~~

- ~~525 — Hardware Stores~~

~~**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. This definition includes all uses in the following SIC group:~~

- ~~807 — Medical and Dental Laboratories~~

~~**MEDICAL AND SURGICAL OFFICES.** An establishment primarily engaged in furnishing medical and surgical services to individuals and licensed for such practice by the State. This definition includes all uses in the following SIC groups:~~

- ~~801 — Offices and Clinics of Medical Doctors~~
- ~~802 — Offices and Clinics of Dentists~~
- ~~803 — Offices of Osteopathic Physicians~~
- ~~804 — Offices of Other Health Practitioners~~

~~**MOTORCYCLE DEALER.** An establishment primarily engaged in the retail sale of new and used motorcycles, motor scooters, mopeds, all-terrain vehicles, snowmobiles, go-carts, utility trailers, and similar items. This definition includes all uses in the following SIC groups:~~

- ~~557 — Motorcycle Dealers~~
- ~~559 — Automotive Dealers, Nec.~~

**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; the services of bank holding companies; medical or dental laboratory services; medical and surgical offices; and any other office use not specifically listed and defined elsewhere in this Ordinance as a principal use. This use includes the uses formerly classified as “Professional Office,” “Offices, Miscellaneous,” “Medical or Dental Laboratory,” and “Medical and Surgical Offices.”

**~~OFFICES, MISCELLANEOUS.~~** Office uses not specifically listed and defined elsewhere in this Ordinance as a principal use.

**~~OFFICES, PROFESSIONAL.~~** See Professional Offices.

**~~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. This definition includes all uses in the following SIC groups:~~

- ~~4724 — Travel Agencies~~
- ~~62 — Security and Commodity Brokers~~
- ~~63 — Insurance Carriers~~
- ~~64 — Insurance Agents, Brokers and Carriers~~
- ~~65 — Real Estate~~
- ~~67 — Holding and Other Investment Offices~~
- ~~731 — Advertising (Except Outdoor Advertising, SIC Group 7312)~~
- ~~732 — Credit Reporting and Collection Agencies~~
- ~~736 — Personnel Supply Services~~
- ~~7371 — Computer Programming Services~~
- ~~7372 — Prepackaged Software~~
- ~~7373 — Computer System Design~~
- ~~811 — Legal Services~~
- ~~871 — Engineering and Architectural Services~~
- ~~872 — Accounting, Auditing, and Bookkeeping~~
- ~~874 — Management and Public Relations~~

**RECREATION SERVICES, OUTDOOR.** Establishments engaged in providing outdoor amusement or entertainment services. This definition includes all uses in the following SIC groups:

- 0000 Athletic Fields, Private
- 7948 Racing, Including Track Operation
- 7996 Amusement Parks
- 7999 Batting Cages
- 7999 Go-Cart Raceway
- 7999 Golf Course, Miniature
- 7999 Golf Driving Ranges

~~**RESIDENTIAL BUILDING, URBAN. (W)** A residential building which contains one or more dwelling units and is located within GMA 1 or 2 or in a Metro Activity Center (MAC) as identified in *Legacy*. All land within the project site shall be in single, multiple, or joint ownership, and if dwelling units are for sale, all land in common open space shall be owned by a nonprofit corporation in which all owners of property within the development have automatic membership rights and assessment obligations for the maintenance of these areas.~~

~~**RETAIL STORE, SPECIALTY OR MISCELLANEOUS.** An establishment primarily engaged in selling merchandise for personal or household consumption not classified elsewhere. This definition includes all uses in the following SIC groups:~~

- ~~593 Used Merchandise Stores~~
- ~~594 Miscellaneous Shopping Goods Stores~~
- ~~599 Retail Stores, NEC except for the uses Auction Rooms (General Merchandise)– Retail; Fireworks– Retail; Monuments, Finished to Custom Order– Retail; and Sales Barns– Retail listed in 5999.~~

**RETAIL STORE** An establishment primarily engaged in general retail sales, where the majority of display and/or storage of merchandise being sold occurs within an enclosed structure. This definition includes, but is not limited to, all uses in the following SIC groups:

- 523 Paint, Glass, and Wallpaper Stores
- 525 Hardware Stores
- 53 General Merchandise Stores
- 553 Auto and Home Supply Stores
- 557 Motorcycle Dealers
- 559 Automotive Dealers, NEC
- 56 Apparel and Accessory Stores
- 572 Household Appliance Stores
- 573 Radio, Television, and Computer Stores
- 593 Used Merchandise Stores



594 Miscellaneous Shopping Goods Stores  
599 Retail Stores, NEC

This use includes the uses formerly classified as “General Merchandise Store”; “Hardware Store”; “Motorcycle Dealer”; and “Retail Store, Specialty or Miscellaneous”.

~~**ROOMING HOUSE.** A residential building, or part thereof, in which lodging is provided to not more than eight (8) residents occupying separate living units on a weekly or longer basis. (See also definition of Boarding House.)~~

Section 2. Chapter B, Article II of the *UDO* is amended as follows:

## **Chapter B - Zoning Ordinance**

### **Article II – Zoning Districts, Official Zoning Maps and Uses**

#### **2-1 ZONING DISTRICTS**

##### **2-1.3(B) LO Limited Office District**

- (5) A maximum of five percent (5%) of the gross floor area of development within the LO zoning district may be used for the following uses:

Food or Drug Store  
~~General Merchandise Store~~ Retail Store  
Services, Business A  
Services, Personal  
Restaurant, (without drive-through service)  
~~Retail Store, Specialty or Miscellaneous~~

##### **2-1.3(E) NB Neighborhood Business District**

**2-1.3(E)(3)(b)** Floor Area Limitation. The following uses are limited to a maximum gross floor area of two thousand five hundred (2,500) square feet:

- (i) Banking/Financial Services;  
(ii) Convenience Store;  
(iii) Drug Store;  
(iv) Food Store;

- (v) Government Office;
- (vi) ~~Medical and Surgical Office; Offices; and,~~
- (vii) Neighborhood Organization Office; ~~and, ,~~
- ~~(viii) Professional Offices.~~

## 2-4 PERMITTED USES

### 2-4.1 TABLE B.2.6

Table B.2.6 displays the principal uses allowed in each zoning district and references use conditions. Table B.2.6 should be read in conjunction with the definitions of principal uses and other terms in Section A.2. Land, buildings, and structures shall only be used in accordance with the districts shown on the *Official Zoning Maps*, and subject to all requirements and conditions specified in this Ordinance.

Table B.2.6 is amended in accordance with the following revisions:

Delete the use and entire row for the existing use of ~~Residential Building, Urban.~~

Change the existing use of Boarding House to Boarding or Rooming House.

Delete the use and entire row for the existing use of ~~Congregate Care Facility.~~

Delete the use and entire row for the existing use of ~~Rooming House.~~

Delete the use and entire row for the existing use of ~~General Merchandise Store.~~

Delete the use and entire row for the existing use of ~~Hardware Store.~~

Delete the use and entire row for the existing use of ~~Motorcycle Dealer.~~

Delete the use and entire row for the existing use of ~~Retail Store, Specialty or Miscellaneous.~~

Add the new use of Retail Store and place a “Z” in the following columns: NB, PB, LB, NSB, HB, GB, CB, MRB-S, CI, and MU-S. Further, add the #66 in the use condition column.

Delete the use and entire row for the existing use of ~~Medical or Dental Laboratory.~~

Delete the use and entire row for the existing use of ~~Medical and Surgical Offices.~~

Delete the use and entire row for the existing use of ~~Offices, Miscellaneous.~~

Delete the use and entire row for the existing use of ~~Professional Office.~~

Add the new use of Offices and place a “Z” in the following columns: NO, LO, CPO, GO, NB, PB, LB, NSB, HB, GB, CB, MRB-S, LI, GI, CI, and MU-S.

Delete the use and entire row for the existing use of ~~Golf Driving Range.~~

Change the existing use of Cemetery, Licensed to Cemetery.

Delete the use and entire row for the existing use of ~~Cemetery, Unlicensed.~~

Add a “Z” in the YR and C columns for the existing use of Police or Fire Station.

Add a “Z<sup>5</sup>” in the CB district for the use Residential Building, Single Family.

Add the following note at the end of the Permitted Use Table: “<sup>5</sup>See Section B.2-5.65”

## 2-5 USE CONDITIONS

### 2-5.10 BOARDING OR ROOMING HOUSE

(A) **Minimum Lot Size in RM Districts (F)**

In RM Districts, the minimum lot area shall be determined based on the minimum lot area required for a two-unit dwelling in the district, as shown in Table B.3.3.

~~**Minimum Lot Size in RM Districts (W)**~~

~~In RM Districts, the minimum lot area shall be determined based on the minimum lot area required for a two-unit dwelling in the district.~~

### 2-5.13 CEMETERY, ~~LICENSED~~

(A) **Prohibited Districts**

Except as otherwise permitted herein, ~~Licensed~~ cemeteries shall not be permitted as a principal or accessory use in RS Districts in GMAs 1, 2 and 3.

(B) **Requirements**

Licensed cemeteries shall meet all licensing requirements of State law.

(C) **Building Setbacks (F)**

Any building, except a gate house, shall be set back not less than one hundred (100) feet from any exterior property line.

**(D) Grave or Burial Plot Setbacks (F)**

Any grave or burial plot shall be set back not less than fifty (50) feet from any exterior property line, except that any grave or burial plot shall be set back not less than three (3) feet from any property line of an adjacent licensed or unlicensed cemetery.

**(E) Setbacks (W)**

Buildings and burial plots shall meet the setbacks of the district except:

(1) Any building except a gate house shall be set back a minimum of fifty (50) feet from any public street right-of-way and a minimum of one hundred (100) feet from the property line of any adjacent residentially zoned property.

(2) Any burial plot or mausoleum shall be set back a minimum of fifty (50) feet from any public street right-of-way and from any residentially zoned property, except that any grave or burial plot shall be set back not less than three (3) feet from any property line of an adjacent licensed or unlicensed cemetery.

**(F) Required Yards**

All required yards shall be landscaped with a type I bufferyard and adequately maintained.

**(G) Access**

Licensed cemeteries shall have direct access to a major or minor thoroughfare. Municipal and animal cemeteries containing more than five (5) acres shall have direct access to a major or minor thoroughfare.

**(H) Subdivision**

~~Licensed C~~cemeteries shall meet the platting and other requirements of the *Subdivision Regulations*. Unlicensed cemeteries existing at the time of adoption of this Ordinance which have not been platted shall be recorded prior to the issuance of any permit for the property, except cemeteries accessory to and located on the main campus of churches.

**2-5.14 CEMETERY, UNLICENSED**

~~(A) Prohibited Districts~~

~~Except as otherwise permitted herein, unlicensed cemeteries shall not be permitted as a principal or accessory use in RS Districts in GMAs 1, 2 and 3.~~

**~~(B)~~ — Building Setbacks (F)**

~~Any building, except a gate house, shall be set back not less than one hundred (100) feet from any exterior property line.~~

**~~(C)~~ — Grave or Burial Plot Setbacks (F)**

~~Any grave or burial plot shall be set back not less than fifty (50) feet from any exterior property line, except that any grave or burial plot shall be set back not less than three (3) feet from any property line of an adjacent licensed or unlicensed cemetery.~~

**~~(D)~~ — Setbacks (W)**

~~Buildings and burial plots shall meet the setbacks of the district except:~~

~~(1) — Any building except a gate house shall be set back a minimum of fifty (50) feet from any public street right-of-way and a minimum of one hundred (100) feet from the property line of any adjacent residentially zoned property.~~

~~(2) — Any burial plot or mausoleum shall be set back a minimum of fifty (50) feet from any public street right-of-way and from any residentially zoned property, except that any grave or burial plot shall be set back not less than three (3) feet from any property line of an adjacent licensed or unlicensed cemetery.~~

**~~(F)~~ — Required Yards**

~~All required yards shall be landscaped with a type I bufferyard and adequately maintained.~~

**~~(G)~~ — Access**

~~Municipal and animal cemeteries containing more than five (5) acres shall have direct access to a major or minor thoroughfare.~~

**~~(H)~~ — Subdivision**

~~Unlicensed cemeteries shall meet the platting and other requirements of the *Subdivision Regulations*. Unlicensed cemeteries existing at the time of adoption of this Ordinance which have not been platted shall be recorded prior to the issuance of any permit for the property, except cemeteries accessory to and located on the main campus of churches.~~

**~~(I)~~ — Entrance and Internal Roads**

~~The entrance to and access within the unlicensed cemetery shall be maintained by the property owner.~~

**(J) — Religious Institutions**

~~Unlicensed cemeteries are permitted as an accessory use to religious institutions in all districts where religious institutions are permitted.~~

**(K) — Prohibitions**

~~Unlicensed cemeteries are not permitted as accessory uses to residential uses, or on lots less than one acre in size.~~

RESERVED

**2-5.25 CONGREGATE CARE FACILITY**

**(A) — Conditions**

~~The use conditions for Section B.2-5.64 shall apply to Congregate Care Facilities.~~

**(B) — Density**

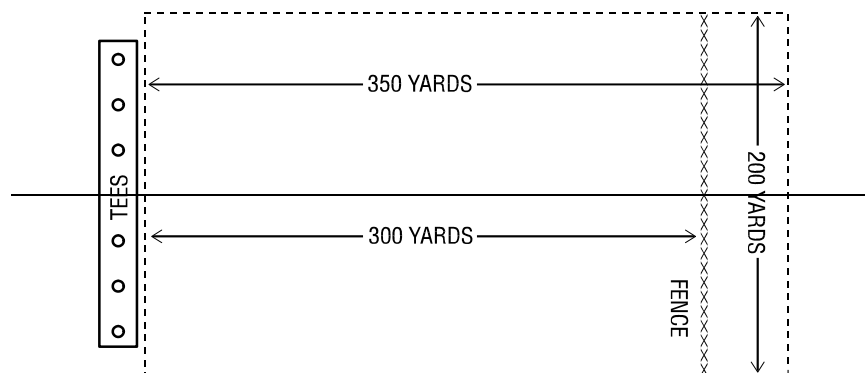
~~Density shall conform to the limitations of the applicable zoning district.~~

RESERVED

**2-5.33 GOLF DRIVING RANGE**

**(A) — Dimensions**

~~The depth of a driving range along the driving axis shall be not less than three hundred fifty (350) yards measured from the location of the tees and the breadth not less than two hundred (200) yards at a distance of three hundred fifty (350) yards from the tees. The depth of the driving range may be reduced to three hundred (300) yards if a fence designed to stop rolling balls is installed at the far end of the driving axis.~~



**(B) — Lighting**

~~Any lighting shall be oriented away from adjacent residential properties.~~

**~~2-5.51 MEDICAL OR SURGICAL OFFICES~~ RESERVED.**

**~~(A) — C District~~**

~~Medical or Surgical Offices are only permitted in the Campus District if adjacent to a “Hospital or Health Center” in a Campus District.~~

**2-5.63 RECREATION SERVICES, INDOOR OR RECREATION SERVICES, OUTDOOR**

The following conditions shall be met in the IP District:

**~~(A) — Operation by a Public or Not-For-Profit Organization~~**

~~The recreation services facility must be operated by a public or not for profit organization.~~

**~~(B) — Minimum Site Size~~**

~~The minimum site size shall be two (2) acres.~~

**~~(C) — Access~~**

~~The site shall have direct access to a collector street, a minor thoroughfare, or a major thoroughfare.~~

**~~(D) — Setbacks~~**

~~No structure, parking area, or outdoor recreation area shall be located less than forty (40) feet from any property line adjacent to residentially zoned property.~~

**~~(E) — Public Address System~~**

~~Public address systems shall not be permitted except within a building.~~

**(A) The following conditions shall be met in the IP District:**

**(1) Operation by a Public or Not-For-Profit Organization.** The recreation services facility must be operated by a public or not-for-profit organization.

**(2) Minimum Site Size.** The minimum site size shall be two (2) acres.

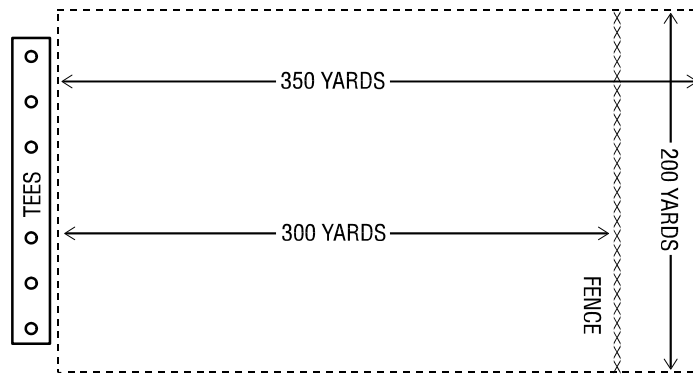
**(3) Access.** The site shall have direct access to a collector street, a minor thoroughfare, or a major thoroughfare.

**(4) Setbacks.** No structure, parking area, or outdoor recreation area shall be located less than forty (40) feet from any property line adjacent to residentially zoned property.

**(5) Public Address System.** Public address systems shall not be permitted except within a building.

**(B) Golf Driving Ranges shall meet the following conditions:**

- (1) Dimensions.** The depth of a driving range along the driving axis shall be not less than three hundred fifty (350) yards measured from the location of the tees and the breadth not less than two hundred (200) yards at a distance of three hundred fifty (350) yards from the tees. The depth of the driving range may be reduced to three hundred (300) yards if a fence designed to stop rolling balls is installed at the far end of the driving axis.



- (2) Lighting.** Any lighting shall be oriented away from adjacent residential properties.

**2-5.65 RESIDENTIAL BUILDING, SINGLE FAMILY (W)**

- (A) CB Districts.** Within the CB District, Single Unit Residential shall be allowed for adaptive reuse of existing structures only.
- (B)** No double key or other locking mechanism which has the purpose of preventing access while the room is uninhabited shall be installed on any interior bedroom door within the dwelling unit, except for a single bedroom if used as lodging for a resident guest under home occupation provisions.

**2-5.66 ~~RESIDENTIAL BUILDINGS, URBAN (W)~~ RETAIL STORE**

**~~(A) Distance from Property Line~~**

- ~~(1) CB Districts.~~** ~~Within the CB District Single Unit Residential shall be allowed for adaptive reuse of existing structures only.~~



~~(2) — **RM and RSQ Districts.** In all RM and the RSQ Districts at densities less than twenty (20) units per acre, no building shall be nearer a property line which abuts another parcel than ten (10) feet unless fifteen (15) feet is required for bufferyard screening. However, buildings may be placed within ten (10) feet of any public street right-of-way.~~

~~(B) — **Permitted GMA Areas**~~

~~Residential Buildings, Urban are permitted in GMA 1 and 2 or in a Metro Activity Center (MAC) as identified in *Legacy*.~~

~~(C) — **Street Trees**~~

~~A street tree meeting the requirements of Section B.3-13(C)(3)(d) shall be installed within the front yard of each urban building fronting public right-of-way except in the CB zoning district.~~

~~(D) — **Access**~~

~~A structure classified as Residential Building, Urban shall have direct pedestrian access to a public street. Within the CB District, any vehicular access to a street must come from the rear of the building which faces a public street.~~

~~(E) — **Land Ownership**~~

~~All land not deeded to individuals shall be held in common ownership.~~

~~(F) — **Common Area and Facilities**~~

~~Where the developer proposes to create commonly held land and/or facilities, a copy of drafted bylaws shall be provided, including but not limited to: designation of common areas and facilities; assessment of common expenses; ratio of undivided interest in common areas; prohibition of partition of common areas; intended use of said areas; access for repairs and improvements; provision for damages or injunctive relief for the collection of fees and dues related to common area expenses; liens for unpaid common area expenses; and any other and all other bylaws desired to insure the maintenance of common areas and facilities. The bylaws shall be recorded with the plat.~~

~~(G) — **Platting Requirements**~~

~~Prior to the issuance of a zoning permit for an urban residential building, a plat showing exterior property lines, private drives, common areas and location of individual units shall be recorded in the office of the Register of Deeds.~~

~~(H) — **Building Spacing Requirements.**~~

~~All multifamily residential buildings shall meet the building spacing requirements of Section B.3-1.2(K).~~

**(A) Outdoor Display of Merchandise.**

- (1) **Location.** Outdoor display areas may not be located in parking areas, required landscape areas or on sidewalks. All outdoor display areas must be shown on the approved site plan.
- (2) **Size.** Outdoor display areas may not exceed ten (10) percent of the gross square footage of the building/tenant space or 7,500 square feet, whichever is less.
- (3) **Setbacks.** Outdoor display areas must meet the required setbacks for the underlying zoning district.
- (4) **Screening.** For any outdoor display area located between the front wall of the building, extended to the side property lines, a ten (10) foot wide streetyard must be installed between the street and outdoor display area.
- (5) **Parking.** Parking for the outdoor display area is calculated using the parking standard for the Retail Store use.

**2-6 ACCESSORY USES**

**2-6.3 ACCESSORY USES SUBJECT TO OTHER REQUIRMENTS**

**A) Requirements of Other Sections**

The following uses are permitted as accessory to other principal uses, subject to other requirements of other sections, as indicated.

Table B.2.9  
Accessory Uses Subject to Other Requirements

Accessory Use	Other Requirements
1. Adult Day Care Center	Section B.2-5.3
2. Airport, Private	Section B.2-5.6
3. Cemetery, <del>Licensed</del>	Section B.2-5.13
4. <del>Cemetery, Unlicensed</del> <u>RESERVED.</u>	<del>Section B.2-5.14</del> <u>RESERVED.</u>
5. Child - Care, Drop In - Care, Sick Children - Day Care Center - Day Care, Large Home - Day Care, Small Home	Section B.2-5.14 Section B.2-5.17 Section B.2-5.18 Section B.2-5.19 Section B.2-5.20
6. Combined Use	Section B.2-5.24

NOTE: Items to be deleted are indicated with a ~~strikeout~~; items to be added are indicated with an underscore.  
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7. Habilitation Facility - A - B,C	Section B.2-5.35 Section B.2-5.36
8. Motor Vehicle Storage Yard	Section B.2-5.55
9. Riding Stable	Section B.2-5.67
10. Signs	Section B.3-2
11. Solid Waste Transfer Station	Section B.2-5.74
12. Swimming Pool, Private	Section B.2-5.77

~~(B) — Medical or Dental Laboratory~~

~~Medical or dental laboratories are permitted in the LO, LB and GO Districts as an accessory use only, provided the following conditions are met:~~

- ~~(1) — Location. The laboratory is located in a building which is used predominantly for the offices of physicians, surgeons, dentists, and practitioners in similar professions;~~
- ~~(2) — Clientele. The laboratory serves only the medical practitioners located in the same building;~~
- ~~(3) — Area. The area devoted to the laboratory does not exceed twenty five percent (25%) of the gross floor area of the building.~~

**2-6.4 USES WHICH MAY ONLY BE ACCESSORY TO PRINCIPAL USES**

**2-6.4(D) Home Occupation**

**2-6.4(D)(2) Permits.** The Director of Inspections, in the issuance of a zoning permit for a home occupation, shall determine that all prescribed conditions are met. Such permit shall be revoked upon a finding that any home occupation established under this Ordinance fails at any time to meet the requirements prescribed herein.

- (a) Zoning Permits. Zoning permits may be issued by the Director of Inspections for the following service occupations:
  - (i) The office or studio of an accountant, planner, architect, surveyor, artist, attorney, author, ceramist, clergyman, engineer, interior designer, landscape architect, musician, photographer, dentist, physician or other licensed medical practitioner, teacher of not more than three (3) pupils on the premises at any time, or practitioners in similar fields of service.

- (ii) Other services such as dressmaking, home handicrafts, tailoring, millinery, nameplate making, home cooking, baking or preserving, and telephone or mail services.
- (iii) Boarding or Rooming House. Lodging, or boarding and lodging, of not more than three (3) residents, where the owner is an occupant of the property. All lodging or boarding of residents under the home occupation provisions must be registered with the Director of Inspections when established.

**Section 3.** Chapter B, Article III of the *UDO* is amended as follows:

## **Chapter B - Zoning Ordinance**

### **Article III – Other Development Standards**

#### **3-1 DIMENSIONAL REQUIREMENTS**

##### **3-1.1 GENERAL REQUIREMENTS**

**(K) Building Spacing Requirements for Multifamily, Townhouse, ~~Urban~~ or Twin Home Residential Buildings**

If a zoning lot is developed for multifamily, townhouse, ~~urban~~ or twin home residential buildings, the following method shall be used to determine the minimum spacing of buildings. The spacing of buildings shall be shown on a site plan prepared according to the provisions of Section B.7.

- (1) Calculation of Triangle.** For yards exclusive of those on the project perimeter, each wall of every dwelling shall have a minimum yard space in the shape of an imaginary isosceles triangle. The base of said triangle shall be a line connecting the extreme ends of the wall of the building and whose altitude shall be the length of the base line multiplied by a factor related to the height of the dwelling as provided in Table B.3.5 and illustrated in the accompanying figure. There shall be a minimum distance of fifteen (15) feet between any walls of one-story buildings and twenty (20) feet between two-story buildings. Any wall over ten (10) feet long shall be treated as a separate wall.

TABLE B.3.5  
Altitude Factors Used to Determine Building Height

Number of Stories	Factors to multiply base of triangle to obtain altitude
1	0.5
2	0.6
3	0.7
4	0.8
5	0.9
6	1.0
Each additional story shall increase factor one-tenth (0.1)	

- (2) **Overlapping Triangles Prohibited.** The yard spaces thus established by the isosceles triangles shall not overlap the yard space for any other wall of the same or any other dwelling.
- (3) **Other Spacing Requirements.** Building spacing for twin home and three (3) and four (4) unit townhouse, ~~and urban residential~~ buildings may be reduced to a minimum of twenty (20) feet.

## 3-2 SIGN REGULATIONS

### 3-2.1 SIGN REGULATIONS (W)

- (E) **On-Premises Signs – Ground Signs, Projecting Signs**
- (9) **On-Premises Ground and Projecting Signs in the YR, AG, MH, and RS Districts**
  - (a) Permitted Districts and Uses. On-premises ground and projecting signs are allowed with the following uses in the YR, AG, and MH Districts, and in any RS District:
    - (i) Agriculture production
    - (ii) Cemetery, ~~licensed or unlicensed~~
    - (iii) Church or Religious Institution, Neighborhood or Community
    - (iv) Child day care center accessory to a church or school
    - (v) Fish hatchery
    - (vi) Golf course

- (vii) Manufactured housing development
- (viii) Park and shuttle lot
- (ix) Planned residential development and subdivision
- (x) Riding stable
- (xi) Shooting range, outdoor
- (xii) Utilities

### **3-2.1 SIGN REGULATIONS (F)**

#### **(E) On-Premises Signs – Ground Signs, Projecting Signs**

#### **(9) On-Premises Ground and Projecting Signs in the YR, AG, MH, and RS Districts**

- (a) Permitted Districts and Uses. On-premises ground and projecting signs are allowed with the following uses in the YR, AG, and MH Districts, and in any RS District:
  - (i) Agriculture production
  - (ii) Cemetery, ~~licensed or unlicensed~~
  - (iii) Church or Religious Institution, Neighborhood or Community
  - (iv) Child day care center accessory to a church or school
  - (v) Fish hatchery
  - (vi) Golf course
  - (vii) Manufactured housing development
  - (viii) Park and shuttle lot
  - (ix) Planned residential development and subdivision
  - (x) Riding stable
  - (xi) Shooting range, outdoor
  - (xii) Utilities

### 3-3 PARKING, STACKING, AND LOADING AREAS

Table B.3.8 is amended as follows. The remainder of Table B.3.8 shall remain unchanged.

**Table B.3.8  
PARKING REQUIREMENTS**

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
<b>RESIDENTIAL USES</b>		
Residential Building, Urban	1.5 spaces per dwelling unit	
Congregate Care Facility	0.5 spaces per dwelling unit	
<b>RETAIL AND WHOLESALE TRADE</b>		
ABC Store (liquor)	1 space per 300 SF GFA*	
General Merchandise Store	1 space per 225 SF GFA*, except consumer electronics @ 1 space per 300 SF GFA* and household appliance @ 1 space per 575 SF GFA*	
Hardware Store	1 space per 225 SF GFA*	
Motorcycle Dealer	1 space per 575 SF GFA*	
Retail Store, Specialty or Miscellaneous	1 space per 575 SF GFA*, except auto supply store @ 1 space per 350 SF GFA*	
<u>Retail Store</u>	1 space per 300 SF GFA	
<b>BUSINESS AND PERSONAL SERVICES</b>		
Medical or Dental Laboratory	1 space per 225 SF GFA* for building containing 10,000 SF or less; 1 space per 300 SF GFA* for building containing more than 10,000 SF	
Medical and Surgical Offices	1 space per 225 SF GFA* for building containing 10,000 SF or less; 1 space per 300 SF GFA* for building containing more than 10,000 SF	
Offices, Miscellaneous	1 space per 450 SF GFA*	
Professional Offices	1 space per 350 SF GFA*	

NOTE: Items to be deleted are indicated with a ~~strikeout~~; items to be added are indicated with an underscore.  
UDO-205 September 2009

**Table B.3.8  
PARKING REQUIREMENTS**

PRINCIPAL USES	MINIMUM REQUIREMENTS	NOTES
<u>Offices</u>	<u>1 space per 300 SF GFA</u>	
Golf Driving Range	1 space per tee plus 1 space per 225 SF GFA* for retail uses	
<del>Kennel</del>	<del>1 space per 350 SF GFA* plus 2 spaces</del>	
<u>Kennel, Indoor</u>	<u>1 space per 400 SF GFA*</u>	
<u>Kennel, Outdoor (F)</u>	<u>1 space per 400 SF GFA*</u>	
Recreation Services, Outdoor Amusement Parks	1 space per 225 SF of activity area	
Commercial Sports	1 space per 3 seats	
<u>Golf Driving Range</u>	<u>1 space per tee plus 1 space per 225 SF GFA* for retail uses</u>	
<b>INSTITUTIONAL AND PUBLIC USES</b>		
<del>Cemetery, Licensed</del>	<del>1 space per full time employee plus 1 space per 300 SF of sales area (if applicable)</del>	
<del>Cemetery, Unlicensed</del>	<del>1 space per full time employee</del>	

\* SF GFA equals Square Feet of Gross Floor Area – see Section B.3-3.2(B)(5)

\*\* Off-street parking for other accessory uses meeting the requirements of Section B.2-6 shall be provided at the rate for the principal uses specified in this table.

**Section 4.** Chapter D, of the *UDO* Subdivision Regulations is amended as follows:

## **Chapter D - Subdivision Regulations**

### **1. GENERAL PROVISIONS AND ADMINISTRATION**

### **4. MAJOR SUBDIVISIONS**

#### **(H) Recording Final Plats**

- (i) ~~Platting Urban Residential Buildings. Urban residential buildings with all units retained in common ownership may be platted without individual units defined.~~ RESERVED



**Section 5.** Appendix - Exhibits of the *UDO* is amended as follows:

Exhibit #4 - Use Consolidation Chart		
Old Use Classification	New Use Classification	Notes
Boarding House Rooming House	Boarding or Rooming House	
Cemetery, Licensed Cemetery, Unlicensed	Cemetery	
General Merchandise Store; Hardware Store; Motorcycle Dealer; and Retail Store, Specialty or Miscellaneous	Retail Store	
Medical or Dental Laboratory Medical or Dental Office Professional Office Offices, Miscellaneous	Offices	

**Section 6.** This ordinance shall be effective upon adoption.