TOWN OF WARSAW
North Carolina

UNIFIED DEVELOPMENT ORDINANCE

ADOPTED [INSERT ADOPTION DATE]

EFFECTIVE [INSERT EFFECTIVE DATE]

Table of Contents

ARTICLE 1: PURPOSE, AUTHORITY & APPLICABILITY 1
Section 1.1: Title 1
Section 1.2: Authority 1
Nuisance enforcement provisions enacted herein are under the authority of G.S. 160A-174, G.S. 160A-175, G.S. 160A-193, and G.S. 14-4 1
Section 1.3: Purpose 1
Section 1.4: Severability 2
Section 1.5: Relationship with Other Law 2
Section 1.6: UDO Administrator 2
Section 1.7: Compliance and Certificate of Occupancy or Approval Required 2
Section 1.8: Town of Warsaw Official Zoning Map 2
Section 1.9: Town of Warsaw Extraterritorial Jurisdiction 2
Section 1.10: Split Jurisdiction 3
Section 1.11: Parcel Split 3
Section 1.12: Authority to Enforce Zoning 3
Section 1.13: Relationship to the Comprehensive Land Use Plan 3
Section 1.14: Fees 3
Section 1.15: Approval of Development 4
Section 1.16: Conflicts of Interest 4
Section 1.17: Bona Fide Farms 5
Section 1.18: Official Declaration of the Elimination of Conditional Use Permits and Conditional Use District Zoning 6
Section 1.19: Repeal of Subdivision Regulations and Zoning Ordinance 6
Section 1.20: Effective Date 6
ARTICLE 2: DEFINITIONS 7
Section 2.1: Word Interpretation 7
Section 2.2: Definitions of Basic Terms 7
ARTICLE 3: APPLICATIONS AND REVIEW 49
Section 3.1: Permit Required 49
Section 3.2: Permit Not Required 49
Section 3.3: Exempt from Zoning Permit Requirements 49
Section 3.4: Application Required 49
Section 3.5: Applications that Require Mailed Notice 49

Section 3.6: Applications 49
Section 3.7: Application Requirements 50
Section 3.8: Pre-Application Meeting 52
Section 3.9: Conditional Rezoning Approval and Special Use Approval 52
Section 3.10: Concurrent Plan Review 52
Section 3.11: Submission 53
Section 3.12: Review 54
Section 3.13: Technical Review Committee 54
Section 3.14: Review and Revision 54
Section 3.15: Approval 55
Section 3.16: Authorization to Commence Construction or Development 55
Section 3.17: Site Plan Deviation 55
Section 3.18: Authorization for Occupancy and Commencement of Use 55
Section 3.19: No Withholding Permits or Plats 56
Section 3.20: Permit Expiration 56
Section 3.21: Revocation 56
Section 3.22: Effect of Permit on Successors and Assigns 57
Section 3.23: Maintenance & Compliance 57
Section 3.24: Certificates of Appropriateness 57
Section 3.25: Standards for Decisions and Review 59
ARTICLE 4: ADMINISTRATION 61
Section 4.1: Purpose 61
Section 4.2: Unified Development Ordinance Administrator 61
Section 4.3: Alternative Administration Arrangements 64
ARTICLE 5: BOARD CONSTRUCTION & RESPONSIBILITIES 65
Section 5.1: Purpose 65
Section 5.2: General Regulations 65
Section 5.3: Planning Board 65
Section 5.4: Board of Adjustment 68
Section 5.5: Historic Preservation Commission 69
Section 5.6: Board of Commissioners 72
ARTICLE 6: MAP AND TEXT AMENDMENTS 74
Section 6.1: Purpose 74
Section 6.2: Ordinance Required 74
Section 6.3: Records of Amendments 74

Section 6.4: Down Zoning 74
Section 6.5: Voting Requirements 74
Section 6.6: Public Hearing (Rezoning, Conditional Rezoning, Text Amendment) 75
Section 6.7: Rezoning (General or Conventional) 76
Section 6.8: Conditional Rezoning 77
Section 6.9: Rezoning and Conditional Rezoning-Amendment to the Land Use Map 79
Section 6.10: Text Amendment 79
Section 6.11: Appeals of Legislative Decisions 80
ARTICLE 7: QUASI-JUDICIAL PROCEDURE & DECISIONS 82
Section 7.1: Purpose 82
Section 7.2: Appeals of Quasi-Judicial Decisions, Subject to Judicial Review 82
Section 7.3: Ex-Parte Communication Forbidden 82
Section 7.4: Hearsay Prohibited 82
Section 7.5: Presentation of Evidence 82
Section 7.6: Burden of Evidence and Duties 83
Section 7.7: Public Hearing (Special Use, Variance, Appeals of Administrative Decisions) 83
Section 7.8: Continuation of Hearing 84
Section 7.9: Special Use Permits 84
Section 7.10: Variance 85
Section 7.11: Appeals of Administrative Decisions 87
ARTICLE 8: VESTED RIGHTS, PERMIT CHOICE, SITE SPECIFIC VESTING PLANS 90
Section 8.1: Purpose 90
Section 8.2: Definition Applicability 90
Section 8.3: Vested Right 90
Section 8.4: Permit Choice 92
Section 8.5: Multiple Permits for Development Project 92
Section 8.6: Site Specific Vesting Plan 93
ARTICLE 9: DEVELOPMENT AGREEMENTS & PERFORMANCE GUARANTEES 94
Section 9.1: Authorization for Development Agreements 94
Section 9.2: Applicability of Development Agreements used in Concurrence 94
Section 9.3: Parcel Size and Time Restrictions 94
Section 9.4: Contents of Agreement 94
Section 9.5: Vesting for Development Agreements 96
Section 9.6: Breach and Cure 96
Section 9.7: Amendment & Termination and Change of Jurisdiction 96

Section 9.8: Recordation 97
Section 9.9: Applicability of Procedures to Approve Debt 97
Section 9.10: Performance Guarantees 97
ARTICLE 10: NONCONFORMING SITUATIONS 100
Section 10.1: General 100
Section 10.2: Cost of Improvement and Tax Value 100
Section 10.3: Nonconforming Lots 100
Section 10.4: Nonconforming Use of Land 101
Section 10.5: Nonconforming Structures 102
Section 10.6: Miscellaneous Nonconforming Situations 103
Section 10.7: Nonconforming Projects 103
Section 10.8: Nonconforming Signs 104
Section 10.9: Existing Legally Established Nonresidential Development 105
ARTICLE 11: VIOLATIONS AND ENFORCEMENT 107
Section 11.1: Purpose 107
Section 11.2: Violations 107
Section 11.3: Records of Violations and Inspections 107
Section 11.4: Enforcement Procedures 108
Section 11.5: Citizen Complaints 108
Section 11.6: Right to Inspection 108
Section 11.7: Informal Notice 109
Section 11.8: Formal Notice of Violation 109
Section 11.9: Contents of Notice of Violation 109
Section 11.10: Stop Work Order 110
Section 11.11: Timeline for Compliance 110
Section 11.12: Right to Appeal 110
Section 11.13: Failure to Comply 110
Section 11.14: Remedies 111
Section 11.15: Enforcement 111
Section 11.16: Illegal Subdivision 112
ARTICLE 12: NUISANCE PROPERTIES & JUNK VEHICLES 113
Section 12.1: Purpose 113
Section 12.2: Conditions Considered to be a Violation 113
Section 12.3: Abandoned Structure Violation 114
Section 12.4: Conditions of an Abandoned Structure 114

Section 12.5: Abandoned & Junked Motor Vehicles 115
Section 12.6: Method of Vehicle Removal 116
Section 12.7: Vehicle Recovery 117
Section 12.8: Protections against Civil and Criminal Liability 118
Section 12.9: Open Burning 118
Section 12.10: Violations and Enforcement 118
ARTICLE 13: SUBSTANDARD DWELLINGS & ABANDONED STRUCTURES 119
Section 13.1: Purpose 119
Section 13.2: Discretion 119
Section 13.3: Authorization 119
Section 13.4: General Standards 119
Section 13.5: Structural Standards 119
Section 13.6: Equipment And Facilities Standards 120
Section 13.7: Heat Source Requirements 120
Section 13.8: Solid Waste & Infestations Standards 120
Section 13.9: Mold 121
Section 13.10: Alternative Compliance: Abandoned and Unoccupied Structures 121
Section 13.11: Investigation, Complaint, Hearing 121
Section 13.12: Methods Of Service 122
Section 13.13: Orders 122
Section 13.14: Appeals Of Orders 122
Section 13.15: Failure To Comply 123
Section 13.16: Ordinance For Repair Or Closing (Initial Ordinance) 123
Section 13.17: Ordinance For Demolition (Initial Ordinance) 123
Section 13.18: Abandonment Of Intent To Repair (Final Ordinance) 123
Section 13.19: Failure To Vacate 124
Section 13.20: Liens 124
Section 13.21: Additional Notice to Affordable Housing Organizations 125
ARTICLE 14: ZONING DISTRICTS, GENERAL ZONING PROVISIONS, PLANNED UNIT DEVELOPMENTS 127
Section 14.1: General 127
Section 14.2: Required Yard Area 127
Section 14.3: Open Space 127
Section 14.4: Natural Preservation 127
Section 14.5: Required Landscaping, Buffers, & Parking 127

Section 14.6: Maintenance 128
Section 14.7: Multiple Uses 128
Section 14.8: Principal Structure Required 128
Section 14.9: Lot Access Required 128
Section 14.10: Public Health and Safety 128
Section 14.11: NC Building Code 129
Section 14.12: Uses Permitted by Right, Special Use, or Specific Requirements 129
Section 14.13: Prevention of Use and Permit 129
Section 14.14: Zoning Districts 129
Section 14.15: Table of Permitted Uses 132
Section 14.16: Zoning District Dimensional Table 136
Section 14.17: Planned Unit Development Conditional Zoning District 137
Section 14.18: PUD Districts and Designations 138
Section 14.19: PUD Design and Land Transfer 139
Section 14.20: PUD Submission 139
Section 14.21: Pre-Application Meeting 139
Section 14.22: Minimum PUD Requirements 139
Section 14.23: Minimum PUD Design Standards 140
Section 14.24: Open Space Example 142
Section 14.25: Pocket Neighborhood Example 142
Section 14.26: PUD Parking Requirements 143
Section 14.27: PUD Landscaping & Buffer Requirements 143
Section 14.28: Areas of Common Ownership 143
Section 14.29: Storm Drainage 143
ARTICLE 15: GENERAL DISTRICT STANDARDS AND USE SPECIFIC STANDARDS 145
Section 15.1: General 145
Section 15.2: Additional Requirements 145
Section 15.3: Maintenance and Continued Compliance 145
Section 15.4: Traffic Impact Analysis (TIA) 145
Section 15.5: Use Standards (General & Special) 146
ARTICLE 16: PARKING 173
Section 16.1: Purpose 173
Section 16.2: Maintenance 173
Section 16.3: Shared Parking Areas 173
Section 16.4: Shopping/Commercial Center Parking 174

Section 16.5: Pavement Exemption 174
Section 16.6: Off-Street Parking Lot Requirements 174
Section 16.7: Off-Street Loading Requirements 174
Section 16.8: Prohibited Off-Street Parking Lot Activities 174
Section 16.9: Alternative Materials 175
Section 16.10: Parking Lot Location 175
Section 16.11: Parking Lot Lighting 175
Section 16.12: Parking Lot Design Standards 175
Section 16.13: Central Business District Parking Requirements 176
Section 16.14: Tractor Trailer Parking 176
Section 16.15: Minimum Parking Requirements 176
ARTICLE 17: LANDSCAPING AND BUFFERING 179
Section 17.1: Purpose 179
Section 17.2: Requirements 179
Section 17.3: Existing Vegetation Incorporation 180
Section 17.4: Adjacent Property Wooded/Undeveloped 180
Section 17.5: Tree Preservation and Protection 180
Section 17.6: Street Trees 180
Section 17.7: Parking Lot Trees 181
Section 17.8: Open Space Trees 181
Section 17.9: Subdivision Trees 181
Section 17.10: Street Yard Landscaping 181
Section 17.11: Vehicular Surface Area Buffer 181
Section 17.12: Landscaped Parking Island 182
Section 17.13: Structural Landscaping 182
Section 17.14: Buffers Required 182
Section 17.15: Adjacent Buffer and Reduction of Required Buffer 183
Section 17.16: Utilization of Existing Vegetation 183
Section 17.17: Fencing as Buffer 183
Section 17.18: Type A Buffer 183
Section 17.19: Type B Buffer 183
Section 17.20: Type C Buffer 184
Section 17.21: Minimum Buffer Requirements 184
Section 17.22: Screening 184
ARTICLE 18: SIGNS AND LIGHTING 187

Section 18.1: General 187
Section 18.2: Maintenance 187
Section 18.3: Tethering Prohibited 187
Section 18.4: Electronic Signs 187
Section 18.5: Sign Area Computation 187
Section 18.6: Multi-Use Parcel Signs 188
Section 18.7: Exempt Signs 188
Section 18.8: Temporary Signs 189
Section 18.9: Temporary Signs Permit Required 191
Section 18.10: Prohibited Signs 191
Section 18.11: Types of Signs 192
Section 18.12: Signs Permitted Per Zoning District 193
Section 18.13: Lighting 193
Section 18.14: Areas Requiring Illumination 194
Section 18.15: Lighting Plan 194
Section 18.16: Minimum Light Level 194
Section 18.17: Maximum Light Level 195
Section 18.18: Installation 195
Section 18.19: Lighting Nuisance 196
ARTICLE 19: STORMWATER 197
Section 19.1: Authority 197
Section 19.2: Precedence and Conflict 197
Section 19.3: Stormwater Design Manual 197
Section 19.4: General Applicability 197
Section 19.5: Exemptions 197
Section 19.6: Permit Required 198
Section 19.7: Stormwater Management Permit 198
Section 19.8: Application Requirements 198
Section 19.9: Application Procedure 199
Section 19.10: Stormwater Management Plan Requirements 199
Section 19.11: Permit Review and Approval Procedure 200
Section 19.12: As-Built Plans and Final Approval 201
Section 19.13: Permit Duration 202
Section 19.14: Permit Amendments 202
Section 19.15: Standards 202

Section 19.16: Nitrogen Loading Rate Targets 202
Section 19.17: Peak Runoff Control Requirements 202
Section 19.18: Impervious Surface Averaging 203
Section 19.19: Stormwater Control Measures 204
Section 19.20: Inspection and Maintenance of Stormwater Control Measures 205
Section 19.21: Qualified Professional Status 207
Section 19.22: As-Built Plan Required 208
Section 19.23: Issuance of Building Permits 208
Section 19.24: Maintenance Easement Required 209
Section 19.25: Financial Sureties Required 209
ARTICLE 20: SUBDIVISION & INFRASTRUCTURE DESIGN STANDARDS 211
Section 20.1: Purpose 211
Section 20.2: Application 211
Section 20.3: Authority to Approve 211
Section 20.4: Effect of Plat Approval on Dedications 211
Section 20.5: Lot Transfer in Unapproved Subdivisions 211
Section 20.6: Sidewalks Required (Residential & Non-Residential) 212
Section 20.7: Open Space Requirement, Dedication, & Preservation 213
Section 20.8: Multi-Use Paths Required 213
Section 20.9: Cluster Box Mail Unit Required 213
Section 20.10: Through Lots Prohibited 213
Section 20.11: Transportation Plans 213
Section 20.12: Multi-Phase Development and Public Street Maintenance 214
Section 20.13: New Developments and Subdivision, Water and Sewer Connection Requirements and Exemptions 214
Section 20.14: Subdivision Types 215
Section 20.15: Subdivision Review 216
Section 20.16: UDO Administrator Review 217
Section 20.17: Pre-Requisite for By-passing Sketch Plan 217
Section 20.18: Sketch Plan Review & Required Elements 217
Section 20.19: Preliminary Plan Review & Required Elements 218
Section 20.20: Final Plat Review & Required Elements 220
Section 20.21: Required Certificates 221
Section 20.22: Design Standards for Subdivision and Other Development 225
Section 20.23: Street Documentation 227

Section 20.24: Street Names & Signs....227
Section 20.25: Lots....228
Section 20.26: Easements....228
Section 20.27: Buffer Strips....228
ARTICLE 21: FLOOD DAMAGE PREVENTION ORDINANCE....229
Section 21.1: Statutory Authorization, Findings of Fact, Purpose, and Objectives....229
Section 21.2: Definitions....230
Section 21.3: General Provisions....241
Section 21.4: Administration....242
Section 21.5: Provisions for Flood Hazard Reduction....252
Section 21.6: Legal Status Provisions....261

ARTICLE 1: PURPOSE, AUTHORITY & APPLICABILITY

Section 1.1: Title

This Ordinance shall be known as the Town of Warsaw Unified Development Ordinance and may also be cited or referred to as the "Warsaw UDO" or "UDO" when not being cited as the Town of Warsaw Unified Development Ordinance.

Section 1.2: Authority

The regulations and standards that are included within this UDO have been set forth by Chapter 160D of the North Carolina General Statutes which is the statutory language for Local Planning and Development Regulations.

Zoning provisions enacted herein are under the authority of G.S. 160D, Article 7 Zoning, which extends to cities the authority to enact regulations which promote the health, safety, morals, or the general welfare of the community. It authorizes cities to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures, or land. This section further authorizes the establishment of overlay districts in which additional regulations may be imposed upon properties that lie within the boundary of the district.

Subdivision provisions enacted herein are under the authority of G.S. 160D, Article 8 Subdivision Regulations, which provide for the coordination of streets within proposed subdivisions with existing or planned street and with other public facilities, the dedication or reservation of recreation areas serving residents of the immediate neighborhood within the subdivision, or alternatively, for the provision of funds to be used to acquire recreation areas serving residents of more than one neighborhood in the immediate area, and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding.

Minimum Housing Code provisions enacted herein are under the authority of G.S. 160D, Article 12 Minimum Housing Codes, which provides cities with the authority to exercise its police powers to repair, close, or demolish dwellings or abandoned structures.

Abandoned and Junked Motor Vehicles provisions enacted herein are under the authority of G.S. 160A-303.2.

Nuisance enforcement provisions enacted herein are under the authority of G.S. 160A-174, G.S. 160A-175, G.S. 160A-193, and G.S. 14-4

Section 1.3: Purpose

The purpose of the Warsaw Unified Development Ordinance is to set forth regulations for the efficient, equitable, and sustainable use of land within its jurisdiction for the purpose of ensuring the public health, safety, and welfare of its citizens. The regulations established in this UDO are designed to provide for subdivision of land, use regulation, design standards, infrastructure standards, administration, authority, and procedures for enforcement within the planning jurisdiction of the Town of Warsaw. Pursuant to G.S. 160D-103, the Town of Warsaw combines all standards for regulating development within its planning jurisdiction into a Unified Development Ordinance.

Section 1.4: Severability

Should any article, section, subsection, or part thereof of this UDO be held void or invalid by a court of law for any reason, it shall not have the effect of invalidating the entire UDO, it shall affect only said portion to be found void or invalid.

Section 1.5: Relationship with Other Law

Wherever the provisions of the UDO are either more restrictive or less restrictive than comparable provisions of any other law, ordinance, or regulation, the most restrictive provisions shall apply. It is not intended that this UDO interfere with or annul any easements, covenants, deed restrictions, or other private agreements between parties. The North Carolina General Statutes shall always take precedence over the contents of this UDO when applicable. Where the provisions of this UDO may be different from the contents of the *Handbook of Procedures and Design Guidelines for the Town of Warsaw Historic Preservation Commission,* the provisions of this UDO shall take precedence.

Section 1.6: UDO Administrator

The UDO Administrator shall be the Warsaw Town Manager or his designee. The UDO Administrator shall have the sole authority to enact the provisions and requirements of this UDO or delegate the power to the appropriate person who is employed by the Town of Warsaw either through direct or contract employment.

Section 1.7: Compliance and Certificate of Occupancy or Approval Required

No building, premises, or structure shall be constructed, erected, modified, converted, occupied, placed, maintained, or moved, and no land use shall be commenced or modified except as authorized by this UDO. None of the abovementioned shall occur without the Town of Warsaw granting an official certificate of occupancy or zoning permit approval for such activity. Certain permits may be required to be issued by the Board of Commissioners as determined by this UDO.

Section 1.8: Town of Warsaw Official Zoning Map

Per G.S. 160D-105, the official zoning map of the Town of Warsaw shall be kept in the office of the Town Manager and be reasonably maintained for public inspection. The map shall be maintained in both a digital and paper format. Copies of the zoning map may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the Warsaw Town Clerk in accordance with G.S. 160A-79, they shall be admissible into evidence and shall have the same force and effect as would the original map. The official zoning map is incorporated as a part of this UDO.

Section 1.9: Town of Warsaw Extraterritorial Jurisdiction

Per G.S. 160D-202, the Town of Warsaw has established and maintains an extraterritorial jurisdiction (ETJ) of one-mile beyond its primary municipal limits. The Town of Warsaw shall not exercise any powers within the ETJ that it does not exercise within its municipal limits. Where Warsaw may not exercise certain types of development regulations within its municipal limits, Duplin County may elect to exercise those within the ETJ. The areas within the Town of Warsaw ETJ are required to comply with the development standards set forth by this UDO unless it is explicitly written to not apply to areas within the ETJ. Properties within the ETJ may elect to petition for annexation to be included and

recognized as a member of the municipal limits of the Town of Warsaw. The agreement shall not affect taxation and other nonregulatory matters and the agreement shall be formally adopted by both the Town of Warsaw and Duplin County governing boards. The agreement is to be recorded with the Duplin County Register of Deeds within 14 days of the adoption of the resolution from the second governing board to complete the action. Any additions to or areas removed from the ETJ shall be done in accordance with the provisions of G.S. 160D-202.

Section 1.10: Split Jurisdiction

Per G.S. 160D-203, for parcels that are partially within the jurisdiction of the Town of Warsaw as well as Duplin County, the Town and County shall by mutual agreement and with written consent of the property owner determine how planning and development regulations are to be applied to the parcel. This effort shall be conducted in a manner that is consistent with the requirements of Article 20 of Chapter 160A of the North Carolina General Statutes.

Section 1.11: Parcel Split

For parcels that are entirely located within the jurisdiction of the Town of Warsaw but may be located in more than one zoning district or future land use category designation, the parcel shall be considered a member of whichever district or category occupies the majority of the land area of the parcel as determined by the UDO Administrator. The decision of the UDO Administrator is subject to appeal under the provisions of administrative appeals established by this UDO.

Section 1.12: Authority to Enforce Zoning

Per G.S. 160D-501 as a condition of applying zoning regulations, the Town of Warsaw has adopted the Town of Warsaw Comprehensive Land Use Plan (2023) as required by the North Carolina General Statutes and is within its rights to legally enforce zoning upon areas within its planning jurisdiction. The Town of Warsaw will reasonably maintain the Comprehensive Land Use Plan to remain in compliance.

Section 1.13: Relationship to the Comprehensive Land Use Plan

This UDO has been designed to implement the planning and land use policies that were established by the Town of Warsaw Comprehensive Land Use Plan, which was adopted by the Warsaw Board of Commissioners on November 13, 2023. In reviewing proposed text or zoning map amendments to this UDO, statements identifying the plans consistency or inconsistency with the Comprehensive Plan are required per G.S. 160D-604 & 605; these statements shall be made by the Planning Board and Board of Commissioners. Whereas the Town of Warsaw Comprehensive Land Use Plan is an advisory document, this UDO is regulatory, and the requirements set forth herein must be complied with.

Section 1.14: Fees

(A) Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for zoning permits, sign permits, special use permits, zoning amendments (map and text), variances and other administrative relief. The amount of the fees charged shall be set forth in the Town of Warsaw's budget or as established by resolution of the Board of Commissioners and filed in the offices of the Town

Manager. Fees established in accordance with this subsection shall be paid upon submission of a signed application or notice of appeal. Per G.S. 160D-402(b) & (d).

(B) If it is discovered that the Town of Warsaw has illegally imposed a tax, fee, or monetary contribution for development or a development approval not specifically authorized by law, the Town shall return the tax, fee, or monetary contribution plus an interest of 6% per annum to the person who made the payment or as directed by a court if the person whom made the payment is deceased.

Section 1.15: Approval of Development

Per G.S. 160D-104, approval for development must remain with the land that the development was approved upon, and property owners or applicants shall not transfer development approvals from one parcel of land to a separate parcel of land.

Section 1.16: Conflicts of Interest

Per G.S. 160D-109, the Town of Warsaw shall handle and address conflicts of interest in the following manner.

1.16.1 Board of Commissioners Member

Elected Board of Commissioners shall not vote on any legislative decision (Rezoning, Text Amendment, Conditional Rezoning) where the potential outcome is considered reasonably likely to have a direct, substantial, and readily identifiable impact on the member. Members shall not vote on legislative decisions if the applicant for such decision is a person who has a close familial, business, or other associational relationship with the Board of Commissioners Member.

1.16.2 Planning Board Member

Appointed members of the Planning Board shall not make any final administrative decision (subdivisions and other delegated decisions required by this UDO) delegated to them nor make any recommendations upon legislative decisions (Rezoning, Text Amendment, Conditional Rezoning) where the potential outcome is considered reasonably likely to have a direct, substantial, and readily identifiable impact on the member. Members shall not vote and make recommendations on legislative decisions if the applicant for such decision is a person who has a close familial, business, or other associational relationship with the Planning Board Member.

1.16.3 Town of Warsaw Staff

(A) Staff members shall not make administrative decisions if the outcome of such decision would have a direct, substantial, and readily identifiable impact on the staff member or if the applicant is someone who has a close familial, business, or other associational relationship. When staff conflicts of interest arise, the staff member shall delegate the responsibility of making the decision to their supervisor, in the event that the conflict of interest exists with the Town of Warsaw Town Manager, the decision shall be delegated to the employee who possess' the highest qualifications to make such decision or to a 3rd party contractor employed by the Town of Warsaw.

(B) No staff member shall be financially interested or employed by a business that is financially interested in a development that is subject to the provisions of the UDO, unless the staff member is the owner of the land or building involved.

(C) No staff member or member of a third party contracted to perform work for the Town of Warsaw to provide staff support shall engage in any work that is inconsistent with his duties or the general interest of the Town of Warsaw.

1.16.4 Board of Adjustment

The Board of Adjustment or any other appointed or elected board that is required to act in the capacity of the Board of Adjustment per this UDO shall not participate in or vote upon any quasi-judicial matter (Special Use or Variance) that would affect their ability to be an impartial decision maker. Violations include but are not limited to a member having a fixed opinion prior to hearing the matter that is unsusceptible to change, undisclosed ex parte communication, or a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

1.16.5 Formal Objections

If the issue of a member's participation is made either at or prior to the hearing or vote on the matter, and that member does not formally recuse himself, the remaining members of the board shall vote to determine whether the member may be allowed to participate in the vote.

1.16.6 Familial Relationship

For the purpose of this UDO, familial relationship means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term is inclusive of step, half, and in-law relationships.

Section 1.17: Bona Fide Farms

For property located within the ETJ and that are used for bona fide farm purposes, they shall be exempt from zoning regulations enforced by the UDO. For the purposes of this section, property means a single tact of property or an identifiable portion of a single tract. Property located in the ETJ that ceases to be used for bona fide farm purposes becomes subject to the regulations of the UDO. Bona fide farm purposes include uses that produce or have activities related to the incidental production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture, as defined in G.S. 106-581.1. In order to verify that the property is being used for a bona fide farm purpose, one of the following must be provided to the Town of Warsaw:

(A) A farm sales tax exemption certificate issued by the Department of Revenue.
(B) A copy of the property tax listing showing that the property is eligible for participation in the present-use value program pursuant to G.S. 105-277.3.
(C) A copy of the owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return.
(D) A forest management plan.

Section 1.18: Official Declaration of the Elimination of Conditional Use Permits and Conditional Use District Zoning

Per G.S. 160D, any legally existing "Conditional Use Permits" that have been issued by the Town of Warsaw Board of Adjustment shall be converted to and known as Special Use Permits. Any legally existing "Conditional Use Zoning District" that has been approved by the Warsaw Board of Commissioners shall be converted to and known as a Conditional Zoning District. Any illegal existence of the aforementioned types is not granted this conversion.

Section 1.19: Repeal of Subdivision Regulations and Zoning Ordinance

The adoption of the Town of Warsaw Unified Development Ordinance repeals and replaces the Warsaw Subdivision Regulations adopted in November of 1970 and the Zoning Ordinance adopted April 1990. Where there may be some language that has been reenacted in this UDO, the former regulatory documents for the Town of Warsaw shall no longer have any legal effect upon land use within the Town upon the adoption and effective date of the Town of Warsaw Unified Development Ordinance.

Section 1.20: Effective Date

The Town of Warsaw Unified Development Ordinance shall take full force and effect on September 12, 2026, as adopted by the Town of Warsaw Board of Commissioners.

ARTICLE 2: DEFINITIONS

Section 2.1: Word Interpretation

For the purposes of this UDO, certain words shall be interpreted as follows. Except as defined herein, all other words used in this UDO shall have their customary dictionary definition.

(A) As used in this UDO, words importing the masculine gender include the feminine and neuter.

(B) Words used in the singular in this UDO include the plural and words used in the plural include the singular.

(C) Words used in the present tense include future tense.

(D) The word "person" includes a firm, association, organization, corporation, company, trust, and partnership as well as an individual.

(E) The words "may" and "should" are permissive.

(F) The words "shall" and "will" are always mandatory and not merely directive.

(G) The word "used for" shall include the meaning "designed for."

(H) The words "used" or "occupied" shall mean "intended, designed, and arranged to be used or occupied."

(I) The word "lot" shall include the words "plot," "parcel," "site," and "premises."

(J) The word "structure" shall include the word "building."

(K) The word "includes" shall not limit the term to specified examples but is intended to extend its meaning to all other instances or circumstances of like kind or character.

(L) The word "UDO Administrator" shall mean the Town Manager or his designee.

(M) The word "Town" shall mean the "Town of Warsaw" a municipal corporation of the State of North Carolina.

(N) The words "map," "zoning map," and "Warsaw Zoning Map" shall mean the "Official Zoning Map for the Town of Warsaw, North Carolina."

(O) The words "Board of Adjustment" shall mean the "Town of Warsaw Board of Adjustment."

Section 2.2: Definitions of Basic Terms

Unless otherwise specifically provided or further described in greater concentration and detail within an Article, or unless clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this UDO. The UDO Administrator shall not deviate from how specific terms and objects are defined within this Article unless it is explicitly described in a different manner and context for a specific purpose within a separate Article of this UDO.

Abandoned Vehicle
A motor vehicle that:

(A) Has been left upon a street or highway in violation of a law or ordinance prohibiting parking; or

(B) Is left on property owned or operated by the Town for longer than 24 hours; or

(C) Is left on private property without the consent of the owner, occupant, or lessee thereof longer than two hours; or

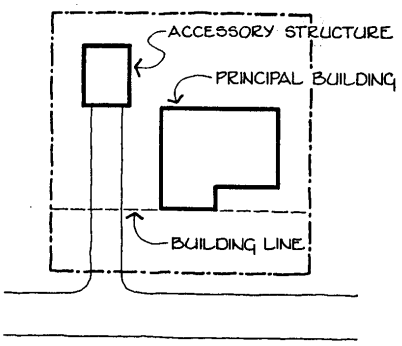
(D) Is left on any public street or highway for longer than seven days.

Abutting
Having property or district lines in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street, alley, or other right-of-way.

Active Open Space
Open space that has been designated and consists of amenities and other structures that are designed and contribute towards recreation and sport. Active open space includes but is not limited to amenities such as jungle gyms, walking paths, basketball courts, structured athletic fields, etc.

Accessory Dwelling Unit
A building, structure, or use incidental to, and on the same lot as, a principal use that is designed to be used as a residence on either a temporary or full-time basis.

Accessory Building, Structure, or Use
A building, structure, or use incidental to, and on the same lot as, a principal use.



Active Recreation Area
A recreation area with physical improvements to provide for outdoor recreation activities which may include, but not be limited to, swimming pools, ball fields, playgrounds, and tennis or pickleball courts.

Addition (to an existing building)
An extension or increase in the floor area or height of a building or structure.

Administrative Decision
Decisions made in the implementation, administration, or enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in G.S. Chapter 160D or town development regulations. Also referred to as ministerial decisions or administrative determinations. The authority held by the UDO Administrator or other designated Board to make Administrative Decisions.

Administrative Hearing
A proceeding to gather facts needed to make an administrative decision.

Administrator (UDO Administrator)
The UDO Administrator for the Town of Warsaw.

Adult Business
Any place defined as an "Adult Establishment" as defined by North Carolina General Statute 14-202.10 as such statute may be amended from time to time, including Adult Cabarets, and except the definition of "Massage Business" shall not include any establishment or business where massage is practiced that is a health club, exercise studio, hospital, physical therapy business or other similar health-related business. Adult Business specifically includes, however, any Massage Business where "massages" are rendered by any person exhibiting "Specified Anatomical Areas" and/or where "massages" are performed on any client's "Specified Anatomical Areas." "Specified Anatomical Areas" are those defined by North Carolina General Statute 14-202.10 as such statute may be amended from time to time.

Adult Day Care
The provision of group care and supervision in a place other than their usual place of abode on a less than 24-hour basis to adults who may be physically or mentally disabled. The following are exempt from this definition: (1) those that care for three people or less; (2) those that care for two or more persons, all of whom are related by blood or marriage to the operator of the facility; and (3) those that are required by other statutes to be licensed by the Department of Health and Human Services.

Agriculture
(1) The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers, and ornamental plants. (2) The planting and production of trees and timber. (3) Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing. (4) Aquaculture as defined in G.S. 106-758. (5) The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation. (6) When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on a farm, and similar activities incident to the operation of a farm. (7) A public or private grain warehouse or warehouse operation where grain is held 10 days or longer and includes, but is not limited to, all buildings, elevators, equipment, and warehouses consisting of one or more warehouse sections and considered a single delivery point with the capability to receive, load out, weigh, dry, and store grain.

Alley
A minor right-of-way privately or publicly owned, primarily for service access to the back or side of properties.

Alterations
The word "alteration" shall include any of the following:

(A) Any addition to the height or depth of a building or structure;

(B) Any change in the location of any of the exterior walls of a building or structure;

(C) Any increase in the interior accommodations of a building or structure.

Animal Processing
A building or structure where livestock is slaughtered, processed, and prepared for distribution to retail stores that engage in the sale of such byproducts of slaughtered animals for consumption such as meat markets or grocery stores.

Antenna
Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications service.

Apartment
A room or suite of one or more rooms, each of which has kitchen facilities and is designed or intended to be used, as an independent unit, on a rental basis.

Appeal
A request for a review by the Board of Adjustment of the UDO administrator's interpretation of any provision of this UDO.

Applicant
Any person or entity that requests any administrative action or approval as allowed under this UDO. Also referred to as 'petitioner'.

Applicable Codes
The North Carolina State Building Code and any other uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization together with State or local amendments to those codes enacted solely to address imminent threats of destruction of property or injury to persons.

Approved Accounting Tool
The most recent version of the accounting tool for calculating nutrient loading and reduction approved by the *Division* for the relevant geography and development type under review.

Approval Authority
The Board of Commissioners of the Town of Warsaw, the Board of Adjustment or other board or official designated by this UDO as authorized to grant the specific zoning or land use permit or approval that constitutes a site-specific development plan.

Arterial Street
Roads utilized as the main routes for traffic to provide the highest level of mobility and the fastest speeds. Typically having limited and controlled vehicle access.

As-Built Plan
Plans reflecting actual field conditions which may include the construction plans with any changes identified and shown on the plan.

Assembly
A joining together of completely fabricated parts to create a finished product.

Athletic Field & Facilities
Outdoor sites, often requiring equipment, are designed for formal athletic competitions in field sports (e.g., softball, soccer, football). Athletic fields may include such common accessory structures as press boxes, concession stands, field houses/locker rooms, bleachers, batting cages, bullpens, and dugouts.

Automated Teller Machine (ATM)
An automated device that performs banking or financial functions at a financial institution or at a location remote from the controlling financial institution as accessory to primary use.

Automobile Off-Street Parking (Commercial Lot)
Any building or premises, except a building or premises described as a private garage, used for the storage of motor vehicles for the public or private businesses. Permitted under Outdoor Storage Areas.

Automobile Repair Shop
A building or other structure where the following uses and activities are permitted: major mechanics, body work, straightening of body parts, along with all uses and activities of an automotive service center.

Automobile Service Center
Any building or land used for the dispensing, sale, or offering for sale and service, services such as oil changes and other minor vehicle service work along with accessories such as lubricants or tires.

Automobile Wash (Car Wash)
A business solely operated by machines, humans, or a combination thereof for the purpose of cleaning, washing and detailing automobiles and marine craft. May include auto detail businesses with no vehicle storage.

Bars, Night Clubs, Taverns (Drinking Establishments).
Establishments primarily engaged in the retail sale of alcohol drinks, such as beer, ale, wine, and liquor, for consumption on the premises.

Bed and Breakfast Inn
A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the inn shall live within the premises.

Block
A piece of land bounded on one or more sides by streets or roads.

Board of Adjustment
A quasi-judicial body, appointed by the Board of Commissioners, that is given certain powers under this UDO.

Board of Commissioners
Refers to the Town of Warsaw Board of Commissioners.

Boarding House
A dwelling or part thereof, in which lodging is provided by the owner or operator to more than three boarders.

Bona Fide Farm
Agricultural activities as set forth in G.S. 160D-903. Sufficient evidence that the property is being used for bona fide farm purposes includes the following: (1) a farm sales tax exemption certificate issued by the Department of Revenue; (2) a copy of the property tax listing showing that the property is eligible for participation in the present-use-value property program pursuant to G.S. 105-277.3; (3) a copy of the farm owner's or operator's Schedule F from the owner's or operator's most recent federal income tax return; or (4) a forestry management plan.

Brewery (Microbrewery)
A business engaged in the production or manufacture of beer in limited quantities which may also provide tasting rooms, bar areas, and tap rooms. Does not include commercial kitchens and food production.

Buffer
A strip of land which is established to separate one type of land use from another type of land use deemed incompatible, and which contains natural or planted vegetation, berms, walks, or fences in accordance with the provisions of this UDO.

Buildable Area
The portion of a lot remaining after required yards have been made, based upon the required area for setback.

Building
Any structure built for support, shelter, or enclosure for any occupancy or storage.

Building, Accessory
See accessory structure.

Building, Commercial
Any building used for business purposes.

Building, Detached
A building having no party or common wall with another building except an accessory building or structure.

Building Height
The vertical distance from grade to the highest finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch. The height of a building in stories does not include basements, except as specifically provided for in this UDO.

Building Line
The line, established by this UDO, beyond which the building shall not extend, except as specifically provided by this UDO. Also, may be referred to as the setback line, the area in which no structure excluding fences and driveways, shall be built.

Building Maintenance Services, No Outside Storage
Establishments primarily engaged in furnishing building cleaning and maintenance services, not elsewhere classified, such as window cleaning, janitorial service, floor waxing, and office cleaning. General operations involved in building and facilities maintenance through contracting and control operation.

Building or Use Separation
The minimum required horizontal distance between buildings or uses.

Building Supply Sales (Hardware Stores)
A business engaged in the sale of common tools and implements needed in contract or construction work. Does not include lumberyards.

Built-upon area (BUA)
That portion of a *development project* that is covered by impervious or partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. Built-upon area (BUA). Has the same meaning as in G.S. 143-214.7.(b2).

Caretaker Dwelling (Temporary Healthcare Structure)
See G.S. 160D-915.

Carnivals and Fairs
Temporary events for festivals, entertainment, and seasonal celebrations or seasonal events that are encouraged to occur at existing fairgrounds or permitted facilities designed for such activity.

Canopy Marquee or Awning
Any roof-like structure extended over a sidewalk or walkway.

Canopy Tree
A species of tree which normally grows to a mature height of forty feet or more with a minimum mature crown width of thirty feet.

Certificate of Occupancy
Official certification that a premises conforms to provisions of this UDO and NC State Building Code and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use. Structures shall not be used or occupied without a valid Certificate of Occupancy.

Certificate of Zoning Compliance
A statement, signed by the UDO Administrator, setting forth either that a building or structure complies with the provisions of this UDO, or that building, structure, or parcel of land may lawfully be employed for specified uses, or both.

Clubs and Lodges (Civic, Social, Fraternal) (Private Clubs)
An incorporated or unincorporated association for civic, social, cultural, fraternal, literary, political, recreational or like activities, operated on a non-profit basis for the benefit of its members.

Cluster Development
The grouping of buildings to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. This term includes nonresidential development as well as single-family residential and multi-family developments. For the purpose of this UDO, planned residential developments and mixed-use development are considered as cluster development.

Collector Road
A road whose principal function is to carry traffic between cul-de-sac, local, and sub-collector roads, and roads of higher classification, but which may also provide direct access to abutting properties. Also known as distributor roads. Contains higher levels of traffic than local roads.

Collocation
The siting of two or more wireless telecommunication antennae on the same wireless telecommunication support structure.

Common Area(s)
All areas, including private roads, conveyed to an owners' association within a development, or owned on a proportional undivided basis in a condominium development.

Common Plan of Development
Has the same meaning as in 15A NCAC 02H .1002(8).

Commission
The North Carolina Environmental Management Commission, in the *Department*.

Comprehensive Plan (Land Use Plan)
A comprehensive plan that has been officially adopted by the Town of Warsaw Board of Commissioners pursuant to G.S. 160D-501. Also called a Land Use Plan.

Contractors, General Building
General contractors or builders engaged in the construction of buildings, including but not limited to residences or commercial structures.

Contractors, Heavy Construction
Construction contractors engaged in activities such as, but not limited to, paving, highway construction, and utility construction.

Contractors, Special Trade
A business engaged in any of the construction trades.

Conditional Zoning District
A zoning district that permits a particular use or uses established only in accordance with specified standards and conditions tailored to each individual development project. Conditional zoning districts are established in accordance with the requirements of Article 14.

Convenience Store
A retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a supermarket). It is designed to attract and depends upon a large volume of stop and go traffic. Includes stores such as "Dollar General" "Family Dollar". Does not include gasoline, kerosene, or diesel sale.

Corner Lot
A lot abutting two or more roads at their intersection.

Cul-de-sac Road
A short local road having one end open to traffic and the other end permanently terminated by a vehicular turnaround.

Day
Any reference to days shall mean calendar days unless otherwise specified. A duration of days shall include the first and last days on which an activity is conducted, and all days in between, unless otherwise specified by state law.

Day Care Center (Child)
A child day care facility as defined in G.S. 110-86(3).

Dance School, Music Instruction
A place of education engaged in instruction of performance arts including dance, music, theater, and other similar types of professional and amateur recognized performing arts. Does not include any component of a Sexually Oriented Business.

Decision Making Board
The Town of Warsaw Board of Adjustment, charged with making quasi-judicial decisions of this UDO.

Dedication
A gift, by the owner, of the right to use or possess land for a specified purpose or purposes. This transfer of property rights requires a written document stating dedication and is completed with an acceptance.

Determination
A written, final, and binding order, requirement, or determination regarding an administrative decision.

Department (Stormwater)
The North Carolina Department of Environment and Natural Resources.

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 of that property.

Development
Includes any of the following:

(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-802.

(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 G.S. 160D-102 that is written and that is required prior to the commencement of development or undertaking of a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to the North Carolina General Statutes, including plan approvals, permits issued, development agreements entered, and building permits issued.

Development Regulation
The Town of Warsaw Unified Development Ordinance, or any other regulation adopted by the Town of Warsaw Board of Commissioners in accordance with the provisions set forth in G.S. 160D that regulate land use or development.

Development, Density Of
The density of development shall be determined using a gross acreage system. The total area of the tract, including areas to be used for new roads, rights-of-way, drives, parking, structures, recreation areas, dedicated areas, and required setbacks, shall be used for density calculations.

Design Manual
The State Stormwater Design Manual approved by the Department for the proper implementation of the State Minimum Design Criteria for engineered stormwater controls. All references herein to the *Design Manual* are to the latest published edition or revision.

Detention Facility
A facility, constructed for the purpose of detaining stormwater runoff from a developed site to control the peak discharge rates. A detention facility does not provide water quality treatment the way a Stormwater Control Measure (SCM) does.

District
See Zoning District may include overlay districts.

Ditch
An open channel constructed to transfer stormwater from one area to another. This does not include any open channel that is classified as a perennial or intermittent stream or a swale.

Doctor's Office
An establishment where human patients, who are not treated for more than a 1.5 hours (if necessary, before being sent to a Hospital), or lodged for any extended or overnight period, or those who are admitted for examination and treatment for any type of rehabilitation by a sole physician or group of physicians, dentists, or other licensed health care professionals

Domestic Wastewater Discharge
The discharge of sewage, non-processed industrial wastewater, other domestic wastewater, or any combination of these items. Unless specifically excepted by the NCDEM, domestic wastewater includes liquid waste generated by domestic water-using fixtures and appliances, from any residence, place of business, or place of public assembly even if it contains no sewage. Examples of domestic wastewater include once-through non-contact cooling water; seafood packing facility discharges; and wastewater from restaurants.

Double, Reverse Frontage, Through Lot
A continuous (through) lot of the same depth as the width of a block and which is accessible from both streets upon which it fronts.

Drainage Easement
An easement granted for the installation and maintenance of the stormwater drainage system and/or along a natural stream or watercourse for preserving the channel and providing access for maintenance and operation.

Driveway
A private travel way which provides access from a public or private road, road, or easement.

Duplex
See 'Two-Family Dwelling'.

Dwelling
Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article12 of G.S. 160D, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

Dwelling Unit
A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling Unit, Attached
Any dwelling unit that shares one or more common walls with other similar units.

Dwelling Unit, Detached
Any dwelling unit that is freestanding and shares no common walls with any other dwelling unit.

Dwelling, Multi-Family
See 'Multi-Family Dwelling'.

Easement
A grant of one or more of the property rights, by the property owner, to, or for use by, the public, a corporation, or other entities.

Electrical Goods
A business involved in the wholesale of wires, casing units, electrical components, electrical equipment, and operable electrical goods.

Electrical Components
A general term for all components of the electric circuit which includes but is not limited to wires, switches, resistors, capacitors, light bulbs, inductors, diodes, and transistors.

Electrical Equipment
A general term, including fittings, devices, appliances, luminaires, apparatus, machinery, and the like used as a part of, or in connection with, an electrical installation.

Electronic Gaming Operation
A business enterprise, whether principal or accessory, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of odds or chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Electronic gaming operations do not include any lottery approved by the state.

Energy Generating Facility
A facility that uses a variety of sources and/or products to produce power for sale as a primary use. Types of energy facilities may include but are not limited to: petroleum; methane; ethanol; thermal; wind; solar; hydro-electric; and other energy generation facilities.

Engineer
Any engineer licensed and registered by the State of North Carolina.

Engineered Stormwater Control

A physical device designed to trap, settle out, filter, or otherwise remove pollutants from stormwater runoff; to alter or reduce stormwater runoff velocity, amount, timing, or other characteristics; to approximate the pre-development hydrology on a developed site; or to achieve any combination of these goals. Engineered stormwater control includes physical practices such as constructed wetlands, vegetative practices, vegetated conveyances, filter strips, grassed swales, and other methods installed or created on real property. "Stormwater control measure" is synonymous with "stormwater control measure", "structural practice," "Primary SCM", "stormwater control facility," "stormwater control practice," "stormwater treatment practice," "stormwater management practice," "stormwater control measures," "structural stormwater treatment systems," and similar terms used in this UDO. It is a broad term that may include practices that do not require design by a professionally licensed engineer.

Equipment Repair, Heavy
A business engaged in the repair of heavy equipment repair. Equipment includes, but is not limited to forestry machinery, land development machinery, agricultural equipment or large engines.

Evidentiary Hearing
A legally required meeting at which the Board of Adjustment accepts testimony from sworn witnesses in accordance with specific rules of evidence and makes a quasi-judicial decision. Evidentiary hearings are used to make decisions concerning variances, special use permits, and appeals of the UDO Administrator's decisions. The purpose of an evidentiary hearing is to gather facts, not to solicit citizen opinion. A hearing in which competent, material, and substantial evidence is gathered to make a quasi-judicial decision required by this UDO.

Existing Development
Those projects that are built or those projects that at a minimum have established a vested right under North Carolina zoning law as of the effective date of these Regulations based on at least one of the following criteria:

(A) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or

(B) Having an outstanding valid building permit as authorized by, 160D-108.1 or

(C) Having an approved site specific or phased development plan as authorized by G.S. 160D-108.1

Existing Lot (Lot of Record)
See Lot of Record.

Extraterritorial Jurisdiction (ETJ)
That portion of the Town of Warsaw planning jurisdiction lies outside of the corporate limits of Warsaw within which Warsaw land use regulations, being the UDO apply.

Exposure of Prohibited Substances
Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission or other discharge of any substance other than stormwater upon the land in such proximity

to the stormwater drainage system, such that the substance is likely to reach the stormwater drainage system.

Fall Radius
A physical radius prescribed by the total effective height of any tower, including an area which theoretically could be penetrated by the collapse of that tower.

Family
One or more people occupy a dwelling unit and live as a single household.

Family Care Home
A home meeting the North Carolina Residential Building Code with support and supervisory personnel that provides room and board, personal care, and habilitation services in a family environment for six or less resident handicapped persons, pursuant to G.S. 168-21.

Federal Communications Commission (FCC)
The Federal Agency responsible for regulating telecommunications in the United States.

Fence or Wall
A physical barrier or enclosure consisting of wood, stone, brick, block, wire, metal or similar material, used as a boundary or means or protection or confinement, but not including a hedge or other vegetation.

Financial Guarantee (Performance Guarantee)
Any form of security, including a cash deposit, collateral, property, or instrument of credit, in an amount and form approved by the Town of Warsaw for use in place of actual construction of required improvements. Also referred to as 'surety.' See Article 9.

Firearm
A weapon, including pistols, rifles, and shotguns, capable of firing a projectile using an explosive charge as a propellant.

Flood Hazard Area
Areas located within the Special Flood Hazard Area, the regulated floodplain. Enforced by Duplin County.

Floor
The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Floor Area Ratio
The numerical value obtained by dividing the gross floor area of the building(s) by the net lot area on which the building(s) is/are located.

Frontage

The side(s) of a lot abutting a legally accessible public or private road right-of-way. An alley does not satisfy frontage requirements.

Front Yard Setback
A setback from the front lot line.

General Use or Conventional Zoning District
A zoning district that permits all the general uses allowed in that district as well as special uses allowed in that district, provided that all of the specified conditions are met and that a special use permit has been legally obtained.

Grade, Finished
The final elevation of the ground surface after development.

Grade, Natural
The elevation of the ground surface in its natural state before man-made alterations.

Gross Floor Area
The sum of the gross horizontal areas of one or several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet.

Group Care Facility
A facility licensed by the State of North Carolina as defined by these Regulations, with no more than 3 support and supervisory personnel that provides room and board, personal care or habilitation services in a family environment for not more than twelve people.

Governing Board
The Town of Warsaw Board of Commissioners.

Group Development (Commercial Development)
A development in which, in lieu of division of a tract of land into separate lots of record for separate principal buildings, a tract of land is divided into two or more principal building sites for the purpose of building development (whether immediate or future), and occupancy by firms, businesses, or other enterprises.

Habitable Floor
Any floor useable for living purposes which includes working, sleeping, eating, cooking or recreation or a combination thereof. A floor used only for storage purposes is not a habitable floor. NC Building Code and the Duplin County Building Inspector or Town of Warsaw UDO Administrator may also define what a habitable floor may be.

Halfway Home
A home for not more than nine persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in G.S. 35-17(30)), or antisocial or criminal conduct, together with

not more than two persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

Handicapped Person
A person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11) b.

Hazardous Material
Any substance listed as such in SARA section 302, Extremely Hazardous Substances, or Section 311 of CWA (oil and hazardous substances).

Home Occupation
An activity that is conducted by a person within a residence or accessory structure on the same zone lot where such person resides and is not so insubstantial or incidental or is not so commonly associated with the residential use as to be considered an accessory use, but that can be conducted without any significant adverse impact on the surrounding neighborhood. See Article 15.

Homeowners' (or Property Owners') Association
A private, nonprofit corporation of homeowners formally constituted for the purpose of owning, operating, and maintaining common properties.

Hotel (Motel)
A structure operated as a business in which lodging is provided and offered to the public for compensation, and which is open to transient guests. Motel access is from the exterior doors. Excluding any Sexually Oriented Business.

Illicit Connection
Any unlawful connection that allows the discharge of prohibited non-stormwater to the stormwater drainage system in violation of this UDO.

Illicit Discharge
Any unlawful disposal, placement, emptying, dumping, spillage, leakage, pumping, pouring, emission or other discharge of any substance other than stormwater, unless associated with permitted activity, into the stormwater drainage system.

Incompatible Use
A use or service which is unsuitable for direct association and/or contiguity with certain other uses because it is contradictory, incongruous, discordant, or not identified or supported in the land use plan.

Industrial Development
Any non-residential development that requires an NPDES permit for an industrial discharge and/or requires the use or storage of any material for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity.

Industrial Discharge
The discharge of industrial process treated wastewater or wastewater other than sewage and includes:

(A) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;

(B) Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants;

(C) Stormwater will not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater; or

(D) Wastewater discharged from a municipal wastewater treatment plant requiring a pretreatment program.

Industrial Park
A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries providing them with all necessary facilities and services in attractive surroundings among compatible neighbors. Industrial parks may be promoted or sponsored by private developers, community organizations, or government organizations.

Interior Setback (Side or Rear)
A setback from any property line not alongside a road (side and rear setbacks).

Internal Circulation Travelway
Any vehicular travelway within the development that is not a public or private street and is not within a parking lot.

Junk
Old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled or wrecked automobiles or marine craft, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material or other refuse, to include household furniture, appliances or materials that are in poor and depleted condition to not operate as originally manufactured.

Junk/Salvage Yard
Any land or area used, in whole or in part, for the storage, keeping, or accumulation of material, including scrap metals, waste paper, rags, or other scrap materials, or used building materials, for the dismantling, demolition or abandonment of automobiles or marine craft or other vehicles or machinery or parts thereof, regardless of whether or not materials or any other object or junk is visible from a public right-of-way or area.

Junked Motor Vehicle
A motor vehicle that does not display a current license plate and is one or more of the following: (1) is partially dismantled or wrecked; or (2) cannot be self-propelled or moved in the manner in which it originally was intended to move; or (3) more than five years old and appears to be worth less than one hundred dollars.

Jurisdictional Stream
A stream that has been determined to be either perennial or intermittent by the North Carolina Department of Environmental Quality (NCDEQ) or the United States Army Corps of Engineers (USACE).

Kennel
A commercial operation that provides food, shelter, and care of dogs or cats for purposes not primarily related to medical care or engages in the breeding of dogs or cats for sale. Care may be overnight or on a daily basis.

Land Disturbing Activity
Any use of the land that results in a change in the natural cover or topography that may cause or contribute to sedimentation.

Landfill
A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the NC General Statutes.

Landfill, Sanitary/Solid Waste
A legally permitted site for solid waste disposal from residential, industrial, or commercial activities. These sites are not permitted within the municipal limits or ETJ of Warsaw.

Landowner or Property Owner
The holder of the title in fee simple. Absent evidence to the contrary, the Town of Warsaw may rely on county tax records to determine who is the owner. 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.

Lattice-Type Structure
A self-supporting, three- or four-sided open steel frame structure used to support telecommunications equipment.

Legislative Decision
The adoption, amendment, or repeal of a regulation under the Town of Warsaw UDO. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S. Chapter 160D.

Legislative Hearing
A hearing to solicit public comment on a proposed legislative decision.

Like-New Condition
Used to describe a compliant Stormwater Control Measure at the warranty inspection. The SCM shall have no visible erosion or accumulation of sediment, proper established vegetation per the design, and be functioning as designed.

Live/Work Unit (Second Floor Residential Apartment)
A type of structure which includes living space and space for nonresidential activities. Typically, newly constructed live/work units are part of mixed-use townhouse developments and planned unit developments. Live/work units may also be located in existing commercial buildings that are converted to include living spaces.

Local Government
Town of Warsaw Government.

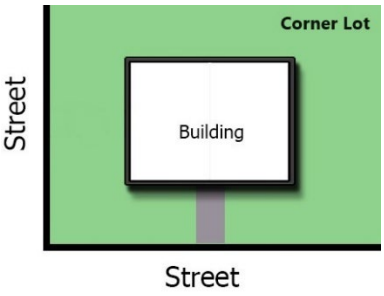
Local Road
A road whose primary function is to provide access to abutting properties. Typically, roads with lowest speed limits that provide greatest access to property.

Lot
A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. The word 'lot' includes parcel or tract. Newly created lots must be recorded on a plat prior to being transferred in a deed of record or sale.

Lot Area
The total area circumscribed by boundaries of a lot except that when the legal instrument creating a lot shows the boundary of the lot extending into a public road or private right-of-way, then the lot boundary for purposes of computing the lot area shall be the road right-of-way line, or if the right-of-way line cannot be determined, a line running parallel to and 30 feet from the center of the traveled portion of the road.

Lot Boundary Line
A line that divides one lot from another or from a right-of-way. The line that occupied the entire area of the lot.

Lot Coverage
The portion of a lot covered by building(s) and/or structure(s).



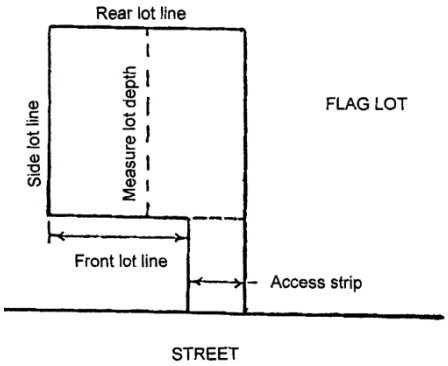
Lot, Corner
A lot abutting on and at the intersection of two or more roads. Corner lots shall not have multiple points of access.

Lot Depth
The distance measured along the perpendicular bisector of the smallest possible rectangle enclosing the lot.

Lot, Double Frontage
See 'Lot, Through'.

Lot, Flag

A lot that has less than the required amount of frontage on a road and relies on a panhandle-shaped corridor for access to the bulk of the lot. Flag lots are prohibited in the Town of Warsaw.



Lot, Through

A lot that has a pair of opposite lot lines along two substantially parallel roads, and which is not a corner lot. Also known as a 'double frontage lot.'

Lot, Zone

See 'Zone Lot'.

Lot, Line

Any boundary or boundary line which provides the legally defined limits of a lot, parcel, tract, or plot.

Lot Line, Front

The boundary line of a lot running along a road right-of-way. If a lot has two property lines which are also road right-of-way lines abutting different roads, then the shorter of those two lines shall constitute the front lot line; if both lines are equal, the front lot line shall be determined by the property owner if the front property line has not been designated on a final plat (minimum building lines are construed to designate the front lot line). Structures shall be designed so that they are parallel to the front lot line, with the front door or the main entry door of the structure facing the front lot line.

Lot Line, Rear

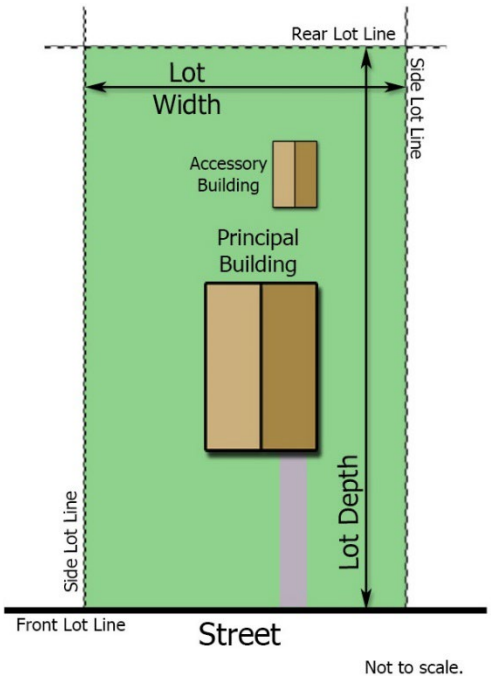
A lot line which is opposite and most distant from, the front lot line; except that in the absence of a rear lot line as is the case of the triangular shaped lot, the rear lot line may be considered as a line within the lot, parallel to and at a maximum distance from the front lot line, having a length of not less than ten (10) feet.

Lot of Record (Existing Lot of Record)

A lot that was recorded prior to the adoption of these Regulations.

Lot, Single Tier

A lot which backs upon a limited access highway, a railroad, a physical barrier, or a nonresidential use and to which vehicular access from the rear is usually prohibited.



Lot Width
The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line, front setback line.

Major Thoroughfare Road
Major thoroughfares consist of interstate, other freeways, expressway, or parkway links, and major roads that provide for the expeditious movement of high volumes of traffic within and through urban areas. See Arterial Road.

Major Variance (Stormwater)
Any variance of this UDO that is not a “minor variance” as that term is defined in this section. For provisions in this UDO that are more stringent than the minimum applicable Cape Fear River Basin rules, a variance to this UDO is not considered a major variance as long as the result of the variance is not less stringent than those rules.

Manufactured Home
A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of HUD and complies with the standards established under the Act. For manufactured homes built before June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semi-permanent foundation having a measurement of over 32 feet in length and over eight feet in width. The term “manufactured home” does not include a “recreational vehicle”.

Manufactured Home Park
Any site, consisting of contiguous or adjoining real property in single ownership, on which more than one mobile home is located.

Manufactured Home Space
Any area of ground within a manufactured home park that has been planned, designed, and approved for the exclusive use of one manufactured home. Manufactured home spaces may not be subdivided into individual pieces of real property unless they meet all requirements for subdivision of Article 20.

Marquee
Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Minor Thoroughfare Road
Minor thoroughfares collect traffic from collectors, sub collectors, and local roads and carry it to the major thoroughfare system. Minor thoroughfares may be used to supplement the major thoroughfare system by facilitating movement of moderate volumes of traffic within and through urban areas and may also serve abutting property. See Collector Road/Street.

Minor Variance (Stormwater)
A variance from the minimum applicable Cape Fear River Basin rules that results in the relaxation of up to 10 percent of any density, or minimum lot size requirement applicable to low density development, or the relaxation of up to five percent of any density, or minimum lot size requirement applicable to high density development.

Minimum Design Criteria (MDC)
The requirements stated in 15A NCAC 02H .1050 through .1062.

Modular Home
A dwelling unit constructed in accordance with the standards set forth in the NC State Building Code applicable to site-built homes and composed of components substantially assembled in a manufacturing plant and transported to the building site for final assembly on a permanent foundation. Among other possibilities, a modular home may consist of two or more sections transported to the site in a manner similar to a manufactured home, or a series of panels or room sections transported on a truck and erected or joined together on the site.

Monopole Towers
A slender, open telescoping, self-supporting tower used to support telecommunications equipment.

Motor Vehicle
Any machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle.

Multi-Family Dwelling
Three or more single living units under the same roof structure and connected by one or more common walls. This includes but is not limited to apartments, duplexes, condominiums, triplexes, quadruplexes, or other similar buildings, which are for sale or rent and intended for human habitation.

Multi-Tenant Building
A building that is used for two or more occupancies, provided each occupancy is separated by construction having fire-resistive ratings in compliance with the NC Building Code.

NEPA
The National Environmental Policy Act of 1969.

Nonconforming
A lot, structure, sign, or use of land, which is now prohibited under the terms of this UDO but was lawful at the date of the former Town of Warsaw Subdivision and Zoning Ordinance enactment, or any amendment or revision thereto.

Nonconforming Lot(s)
A lot of record that does not conform to the dimensional requirements of the zoning district in which it is located. The nonconformity may result from adoption of this UDO or any subsequent amendment.

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

Nonconforming Situation
A situation that occurs when, on the effective date of this UDO, any existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with this UDO, because signs do not meet the requirements of Article 18, or because land or buildings are used for purposes made unlawful by this UDO.

Nonconforming Structure(s)
A structure that does not conform to the requirements of this UDO. The nonconformity may result from adoption of this UDO or any subsequent amendment.

Nonconforming Use
A use which once was a permitted use on a parcel of land or within a structure, but which is not now a permitted use. The nonconformity may result from the adoption of this UDO or any subsequent amendment.

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

Non-Participating Property Owner
A land or property owner not under an agreement with the Applicant, Facility Owner, or operator.

Nonresidential Development
All development other than residential development or bona-fide agricultural use.

Nonresidential Zoning District
Zoning Districts that do not permit single-family and multi-family dwellings.

Nursing Home
An establishment which provides full-time convalescent or chronic care, or both, to persons who are not related by blood or marriage to the operator, or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Official Maps or Plans
Any maps, plans, charts, or text officially adopted by the Town Board of Commissioners for the development of Warsaw. The Land Use Plan is an example of an official map or plan.

Off-site
Any area not contained within the boundaries of the site being developed or the site currently being used or current use, whether or not the developer, operator or party of interest owns such land.

One-Year 24-Hour Storm Event
The maximum amount of rainfall during a 24 consecutive hour period expected, per the stated interval, as determined by the National Oceanic and Atmospheric Administration (NOAA) Precipitation Frequency Data Server (PFDS).

Open Space
An area of land and/or water that is reserved for recreation, resource protection, amenity, or buffer purposes.

Outside Bulk Storage (Outdoor Storage General)
Storage for aggregates, sand, soil and other similar materials, such as mulch as well as areas designated for the organized storage of goods or materials.

Outfall
A point at which stormwater (1) enters surface water or (2) exits the property of a particular *owner*.

Overlay Zoning District
A special zoning district that covers a specified area and has unique requirements that supplement or supersede any requirements of the underlying, general purpose zoning districts.

Owner
A holder of any legal or equitable estate in the premises, whether alone or jointly with others, and whether in possession or not.

Parcel
A continuous area of land in the possession of or owned by, or recorded as the property of, the same person or persons, and which is uniquely identified by the Duplin County Tax Office.

Parking Lot
Part of a development that is designed and designated as a place to park motor vehicles.

Parking Space
A specific site within a parking area designed to accommodate a single motor vehicle.

Passive Open Space
Land that is designated for use other than recreation or development. Passive open space may include walking trails within it that are of minimum disturbance upon the existing natural landscape. These open space areas include but are not limited to conservation, protection of natural environments, and forested areas.

Passive Recreation Area
Land that consists of undisturbed, unique, or sensitive natural features when available, that may include streams, floodplains, and wetlands. These natural spaces are generally undisturbed and contain natural vegetative cover for wildlife habitat. Passive recreation areas may also include features constructed with minimal disturbance to existing vegetation, including but not be limited to, walking paths, piers, picnic areas, and kayak launches.

Patio Home Dwelling (Townhome w/ ownership in unit and minor land either in front of or behind townhome)
A one-family detached or semi-detached dwelling unit, on an individual lot with a zero or reduced building setback along one side lot line. Each patio home dwelling unit is built on a small lot owned in fee simple by the owner of the dwelling unit. The individual patio home lots are typically within a development containing open space that is owned in common by the patio homeowners.

Pedestrian Way
A right-of-way or easement dedicated to public use to facilitate pedestrian access to adjacent roads and properties.

Permit-Issuing Board/Authority
The person or board authorized by this UDO to issue a permit in accordance with the requirements of this UDO.

Periphery
The outer limits of the lot lines of a development, not including the boundary adjacent to a public or private right-of-way.

Person
Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, or public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

Petitioner
Any person or entity that requests any administrative action or approval as allowed under this UDO. Also referred to as the 'applicant'.

Photography, Commercial Art Studio
A business or studio used for the act of processing, developing or creating photographs, art, pictures, or film photography. Does not include any Sexual Oriented Business or Adult Film Industry use.

Plan, Drainage
The portion of a construction plan that illustrates the proposed system designed to provide adequate surface and subsurface drainage for a proposed development.

Plan, Erosion and Sedimentation Control
A plan that outlines the procedure designed to control accelerated erosion and sedimentation resulting from certain land disturbing activities.

Plan, Plot
The map and accompanying text that displays the proposed location and features of single-family or two-family dwelling.

Planned Unit Development (PUD)
An area of land under unified ownership or control to be developed and improved as a single entity under a Unified Development Plan which may occur in multiple phases as a Multi-Phase Development in accordance with and subject to the requirements of this UDO. Development that provides flexibility in building location, mixtures of building types and land uses, recreational areas and open spaces, and preservation of significant natural features as allowed for by this UDO.

Planning Board
The Town of Warsaw Planning Board established pursuant to G.S. 160D-301.

Planning and Development Regulation Jurisdiction
All incorporated areas of the Town of Warsaw and its extraterritorial jurisdiction areas. The Town of Warsaw UDO applies to all these areas.

Planning Director
See UDO Administrator.

Plat
A surveyed map or plan of a parcel of land that is to be or has been subdivided and recorded.

Plat, Preliminary
A map of the proposed land subdivision showing the character and proposed layout of the tract in sufficient detail to indicate the suitability of the proposed subdivision of land.

Plat, Final
A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications, and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets and alleys, public areas, and other dimensions of land required by this ordinance.

Primary SCM (Stormwater Control Measure)
"Primary SCM" means a wet pond, stormwater wetland, infiltration system, sand filter, bioretention cell, permeable pavement, green roof, rainwater harvesting, or an approved new stormwater technology that is designed, constructed and maintained in accordance with the MDC.

Principal Building/Structure.
A building or structure in which is conducted the principal use of the lot on which it is located or, in a group development, of the building site on which it is located.

Principal Dwelling
Any principal building or structure which is used and designed for human habitation including living, sleeping, cooking, and eating activities excluding dormitories, hotels, motels, shelters for the homeless or other structures designed for transient residents.

Private Drive
A vehicular travel way not dedicated or offered for dedication as a public road, providing access to parking lot(s) for two or more principal buildings in a group housing or group nonresidential development.

Private Road
A vehicular travel way not dedicated or offered for dedication as a public road but resembling a cul-de-sac or a local road by carrying traffic from a series of driveways to the public road system and constructed to meet the requirements of this UDO.

Property
All real property subject to land-use regulation. The term includes any improvements or structures customarily regarded as part of real property.

Project
"Project" means the proposed development activity for which an applicant is seeking a stormwater permit from the state or other entity in accordance with this Section. "Project" shall exclude any land adjacent to the area disturbed by the project that has been counted as pervious by any other development regulated under a federal, State, or local stormwater regulation. Owners and developers of large developments consisting of many linked projects may consider developing a master plan that illustrates how each project fits into the design of the large development.

Public Hearing
A legally required, advertised meeting at which an appointed or elected board accepts public comment, evidence and opinion about matters relating to this UDO.

Public Meeting
An informal gathering for the purpose of presenting planning proposals for discussion, review, and comment.

Public Road
A road right-of-way dedicated for public use and maintained or intended to be maintained by the North Carolina Department of Transportation or the Town of Warsaw.

Public Safety Communications Tower
A telecommunications tower utilized by the federal government, state government, local government, or a non-governmental entity engaged in public safety activities. Public safety activities include, but are not limited to, homeland security, law enforcement, emergency management, fire protection, and emergency medical services.

Public Sewer System
A system that provides for the collection and treatment of sanitary sewage from more than one property and is owned and operated by a government organization or sanitary district.

Public Water Supply System
A water supply system intended for the provision of potable water to the public as approved by the NC State Board of Health and/or the Duplin County Health Director.

Qualified Professional
As determined by the Stormwater (UDO) Administrator an individual who both: has received a baccalaureate or postgraduate degree in the natural sciences or engineering; and is trained and experienced in stormwater treatment techniques and related fields as may be demonstrated by state registration, professional certification, or completion of coursework that enable the individual to make sound, professional judgments regarding stormwater control/treatment and drainage planning and subject to the requirements of this UDO.

Quasi-Judicial Decision
A decision involving the finding of facts regarding a specific application of a development regulation that requires the exercise of discretion when applying the standards of the regulation. The term includes but is not limited to, decisions involving variances, special use permits, and appeals of administrative decisions.

Rear Yard Setback
A setback from an interior property line lying on the opposite side of the lot from the front road setback. For a through lot (double frontage), there are front and side setbacks but no rear setback.

Recreational Vehicle
A vehicle which is built on a single chassis with a body width not exceeding eight feet, designed to be self-propelled or permanently towable by a light-duty vehicle, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Tiny homes and park models that do not meet these requirements are considered to be a single-family dwelling and are required to comply with NC Building Code. Recreational Vehicles are not permitted in the Town of Warsaw unless allowed as a Temporary Health Care Structure or Temporary Home for Hardship.

Redevelopment
Any land-disturbing activity that does not result in a net increase in built-upon area and that provides greater or equal stormwater control to that of the previous development.

Registered Professional
An individual who is registered in the State of North Carolina as a professional engineer.

Reservation
An obligation shown on a plat or site plan to keep property free from development and available for public acquisition for a stated period of time. It is not a dedication nor a conveyance. There shall be no reservation strips for the sole purpose of preventing access to adjacent properties.

Residential Development
Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc. and customary home occupations.

Residential District or Residential Zoning District
Zoning districts that permit single-family, multi-family, manufactured, two-family developments and other similar residential uses.

Right-of-way
A strip of land occupied, or intended to be occupied, by a road; crosswalk; railroad; road; utility transmission line or pipeline; water main; storm or public or community sewage system main; or other similar improvement.

Riparian Buffer
The 50-foot wide area directly adjacent to surface waters in the Cape Fear River Basins (intermittent streams, perennial streams, lakes, ponds and estuaries), excluding wetlands. For the purpose of this definition, a surface water shall be present if the feature is approximately shown on either the most recent version of the soil survey map by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS).

Road Right-of-Way
A strip of land occupied or intended to be occupied by a travel way for vehicles and also available, with the consent of the appropriate governmental agency, for installation and maintenance of sidewalks, traffic control devices, traffic signs, road name signs, historical marker signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.

Road Setback
Any setback from a street, road, or lane.

Roof Line
The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.

Runoff Volume Match
"Runoff volume match" means that the annual runoff volume after development shall not be more than ten percent higher than the annual runoff volume before development, except in areas subject to SA waters requirements per Rule .1019 of the NC Administrative Code where runoff volume match means that the annual runoff volume after development shall not be more than five percent higher than the annual runoff volume before development.

Seating Capacity
The actual seating capacity of an area based upon the number of seats, or one seat per eighteen inches of bench or pew length. For other areas where seats are not fixed, the seating capacity shall be determined as indicated by the NC Building Code.

Setback
The required minimum horizontal distance that must be reserved between the nearest vertical surface of a building and the applicable road right-of-way line, boundary line, or other structure in which no other structure may be erected. Also referred to as the ‘minimum building line.’

Sexually Oriented Business (Adult Businesses)
Any business activity, club or other establishment, within which the exhibition, showing, rental, or sale of materials distinguished or characterized by a preponderance of material depicting, describing, or exhibiting specified anatomical areas or relating to specified sexual activities is

permitted. Sexually oriented businesses shall include, but are not limited to, adult arcades, adult bookstores, adult motion picture theaters, adult mini-motion picture theaters, adult theaters, massage parlors, and/or adult video rental/sale stores as defined by this UDO. Sexually oriented businesses shall include an adult arcade, adult bookstore or adult video store, adult cabaret, adult massage parlor, adult theater, escort agency, nude model studio, lingerie studio, sexual encounter studio, or any combination of the foregoing. As used in this UDO, the following definitions shall apply:

(A) *Adult Arcade*. An establishment where, for any form of consideration, one (1) or more motion picture projectors, slide projectors or similar machines for viewing are used to show films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas (as defined hereinafter).

(B) *Adult Bookstore or Adult Video Store*. A commercial establishment which as one of its principal business purposes offers for sale or rental, for any form of consideration, any one or more of the following:

(1) Which receives a majority of its gross income during any calendar month from the sale or rental of publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section; or

(2) Having as a preponderance (either in terms of the weight and importance of the material or in terms of greater volume of materials) of its publications (including books, magazines, other periodicals, videotapes, compact discs, other photographic, electronic, magnetic, digital, or other imaging medium) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

(C) *Adult Live Entertainment*. Any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas.

(D) *Adult Cabaret (Adult Live Entertainment Business)*. A nightclub, bar restaurant, or other commercial establishment that regularly features, exhibits, or displays as one of its principal business purposes:

(1) Persons who appear nude or semi-nude; or

(2) Live performances which are characterized by the exposure of specified anatomical areas and/or by specified sexual activities; or

(3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which depict or describe specified sexual activities and/or specified anatomical areas.

(E) *Adult Massage Parlor.* A commercial establishment where, for any form of consideration, massage, alcohol rub, fomentation, electrical or magnetic treatment, or similar treatment or manipulation of the human body is administered, unless such treatment or manipulation is administered by a medical practitioner, chiropractor, acupuncturist, physical therapist, or similar professional person licensed by the State of North Carolina. This definition does not include an athletic club, physical fitness center, school, gymnasium, reducing salon, or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

(F) *Adult Motion Picture Theater.* An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein. "Adult motion picture theatre" does not include any adult mini motion picture theatre.

(G) *Adult Mini Motion Picture Theater.* An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas, for observations by patrons but not limited.

(H) *Escort.* A person who, for tips or any other form of consideration, agrees or offers to act as a date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(I) *Escort Agency.* A person or business that furnishes, offers to furnish, or advertises to furnish escorts as one of its principal business purposes, for a fee, tip, or any other form of consideration.

(J) *Nude Model/Lingerie Studio.* Any place where a person who appears nude or semi-nude, or who displays specified anatomical areas, is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any other form of consideration. ‘Nude model studio’ shall not include a proprietary school licensed by the State of North Carolina or a college, junior college, or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or in a structure:

(1) That has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and

(2) Where in order to participate in a class a student must enroll at least three (3) days in advance of the class; and

(3) Where no more than one nude or semi-nude model is on the premises at any one time.

(K) *Nude or a State of Nudity.* The appearance of a human anus, male genitals, or female genitals; or a state of dress which fails to opaquely cover a human anus, male genitals, or female genitals.

(L) *Semi-nude.* A state of dress in which clothing covers no more than the genitals, pubic region, or areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(M) *Specified Anatomical Areas.* Less than completely and opaquely covered human genitals, pubic region, buttock, or female breast below a point immediately above the top of the areola; or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(N) *Specified Sexual Activities.* Includes any of the following:

(1) Human genitals in a state of sexual stimulation, arousal, or tumescence; or

(2) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; or

(3) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; or

(4) Masturbation, actual or simulated; or

(5) Masochism, erotic or sexually-oriented torture, beating or the infliction of pain; or

(6) Erotic or lewd touching, fondling, or other contact with an animal by a human being; or

(7) Human excretion, urination, menstruation, vaginal or anal irrigation.

Side Yard Setback
Any interior property line setback other than a rear setback.

Sight Distance Easement
An easement that grants to the entity responsible for road maintenance the right to maintain unobstructed view across property located at a road intersection.

Sign
See Article 18 for sign-related descriptions.

Significant Tree
Any hardwood tree or coniferous tree with a diameter at breast height (DBH) equal to or greater than 24 inches, or any dogwood, American holly, or other flowering tree with a DBH equal to or greater than 8 inches.

Sign Permit
A zoning permit issued by the UDO Administrator authorizes the placement of a sign.

Single Ownership
Ownership by an individual, partnership, corporation, limited liability company, trust, holding company or other business entity, or subdivision thereof.

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 site specific details such as building areas, building height and floor area, setbacks from lot lines, 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. Site plans may be approved administratively, legislatively, or through the quasi-judicial process as required by this UDO.

Site Specific Vesting Plan
A site-specific vesting plan consists of a plan submitted to the Town of Warsaw in which the applicant requests vesting pursuant to the G.S., describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan may be in the form of, but not be limited to, any of the following plans or approvals: a planned unit development plan, a subdivision plat, a preliminary or general development plan, a special use permit, a conditional district zoning plan, or any other land-use approval designation as may be utilized by the Town of Warsaw and described in this UDO.

Sketch Plan
A rough sketch of a proposed subdivision or site, showing roads, lots, and any other information of sufficient accuracy to be used for discussion of the road system and the proposed development pattern.

Solar Collector (Accessory)
Any solar device that absorbs and accumulates solar radiation for use as a source of energy. The device may be roof-mounted only.

Solar Energy
Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Special Promotion
An advertising activity or circumstance of a business which is not part of its daily activities or normal routine, and in which the display or sale of merchandise, wares, or other tangible items is the sole purpose for the promotion. Special promotions include grand openings or closeout sales, but do not include reoccurring sales advertisements or other similar publicity. Special promotions are limited to no more than 30 days in a calendar year whether that be continuous or noncontinuous.

Special Use Permit
A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgement and discretion be exercised as well as compliance with specific standards.

Stabilizing Vegetation
Any vegetation that protects the soil against erosion.

Stealth
Any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles, and trees. The term stealth does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.

Storm Drainage Facilities
The system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.

Stormwater
"Stormwater" means the flow of water which results from precipitation, and which occurs immediately following rainfall or a snowmelt.

Stormwater Administrator
The person responsible for all decisions concerning application of the stormwater management and control ordinance, programs, and policies and any matters related to the program. The UDO Administrator is the Stormwater Administrator.

Stormwater Control Measures (SCMs)
"Stormwater Control Measure" or "SCM," also known as "Best Management Practice" or "BMP," means a permanent structural device that is designed, constructed, and maintained to remove pollutants from stormwater runoff by promoting settling or filtration; or to mimic the natural hydrologic cycle by promoting infiltration, evapo-transpiration, post-filtration discharge, reuse of stormwater, or a combination thereof

Stormwater Drainage System
Natural and structural channels, swales, ditches, swamps, rivers, streams, creeks, branches, reservoirs, ponds, drainage ways, inlets, catch basins, pipes, head walls, storm sewers, lakes, wetlands, other waters of the state, and other physical works, properties, and improvements which transfer, control, convey or otherwise influence the movement of stormwater runoff.

Stormwater Management Program
Program designed to protect water quality by controlling the level of pollutants in, and the quantity and flow of, stormwater.

Stormwater Runoff
The direct runoff of water resulting from precipitation in any form.

Structure
Anything constructed or erected whether that be on site or off-site, including a building; a manufactured or mobile home; a storage tank for gases or liquids; or any other permanent, man-made facilities, including swimming pools, walls, and signs. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building.

Subdivider
Any person who subdivides land.

Subdivision
The division of land for the purpose of sale or development as specified in G.S. 160D-802. A subdivision shall include all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development, whether immediate or future, and shall include all division of land involving the dedication of a new road or change in existing roads.

Subdivision Regulations
A subdivision regulation authorized by G.S. 160D Article 8.

Substantial Progress
For the purposes of determining whether sufficient progress has been made on a development approval for any construction activity toward the completion of a *site plan* or *subdivision* plan shall occur: obtaining a grading permit and conducting grading activity on a continuous basis and not discontinued for more than thirty (30) days; or installation and approval of on-site infrastructure; or obtaining a building permit for the construction and approval of a building foundation. “Substantial progress” for purposes of determining whether an approved plan is null and void is not necessarily the same as “substantial expenditures” used for determining vested rights pursuant to applicable law.

Surface Drainage System
A drainage system, consisting of culverts, open ditches, or other appropriate devices, is designed to facilitate the proper removal or retention of surface water from parcels or lots.

Swale
A natural or constructed waterway, usually broad and shallow, covered with erosion-resistant grasses, used to conduct surface water from a field, diversion or other site feature.

Swimming Pool
A water-filled enclosure, permanently constructed or portable, having a depth of more than eighteen inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty inches designed, used, and maintained for swimming and bathing.

Telecommunications Act of 1996
A broad-scoped federal act which regulates the placement of wireless communications antennae and their facilities, and which provides certain mandates on local authorities while preserving considerable local zoning authority.

Telecommunications Facilities
Any cables, wires, lines, wave guides, antennas, and any other equipment or facilities associated with the transmission or reception of communications which a person seeks to locate or has installed upon or near a tower or antenna support structure. However, telecommunications facilities shall not include:

(A) Any satellite earth station antenna two meters in diameter or less which is located in an area zoned industrial or commercial; or

(B) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.

Temporary Building
Any building of impermanent nature, or one that is designed for use for a limited time, including any tent or canopy.

Temporary Event
An activity sponsored by a governmental, charitable, civic, educational, religious, business, or trade organization that is infrequent in occurrence and limited in duration. Examples include arts and crafts shows, athletic events, community festivals, carnivals, fairs, circuses, concerts, conventions, exhibitions, trade shows, horse shows, outdoor religious events and other similar activities.

Temporary Retail Mobile Vendor (Food Trucks)
A temporary use engaged in the retail sale of merchandise or food and beverage products from a portable, mobile structure.

Tenant
Any person who alone, or jointly, or severally with others occupies a building under a lease or holds a legal tenancy.

Thoroughfare Plan
A plan adopted by the Town of Warsaw Board of Commissioners for the development of existing and proposed major roads that will adequately serve the future travel needs of an area in an efficient and cost-effective manner.

Tower
A self-supporting lattice, guyed, or monopole structure constructed from grade that supports telecommunications facilities. The term tower shall not include amateur radio operator's equipment, as licensed by the FCC.

Townhouse Dwelling
A building consisting of single-family residences attached to one another in which each unit is located on an individually owned parcel, generally within a development containing drives, walks and open space in common area. Ownership can be of the unit itself or the unit and the land immediately in front of and behind the unit.

Townhouse Lot
A parcel of land intended as a unit for transfer of ownership, and lying underneath, or underneath and around, a townhouse, patio home, or unit in a nonresidential group development.

Tract
All continuous land and bodies of water in one ownership, or contiguous land and bodies of water in diverse ownership, being developed as a unit, although not necessarily all at one time.

Traditional Neighborhood Development
Traditional Neighborhood Development (TND) is a land development technique that encourages mixed-use, pedestrian-oriented communities and promotes the diversification and integration of land uses. A TND is a human scale, walkable community composed of a variety of housing types and densities and a mixed-use core of shopping, offices, public, and civic uses. Shall be developed as a Special Use through the PUD process.

Travel Trailer, Camper, 5th Wheel, etc
See 'Recreational Vehicle'.

Two-Family Dwelling
A building on one lot arranged and designed to be occupied by two families living independently of each other, designed as units for rent and not as individual pieces of real property. Also referred to as a 'duplex'. These are not built to the same building code as a townhome and shall not be conveyed as individual pieces of real property.

Understory Tree
A species of tree that normally grows to a mature height of fifteen to thirty-five feet.

Usable Open Space (Active & Passive Open Space)
An area that: (1) is not encumbered with any substantial structure (passive); (2) is not devoted to use as a roadway, parking area (paved or peripheral), or sidewalk (active & passive); (3) is left in its natural or undisturbed state, if such a state is compatible with use of the area or property planted and landscaped (facilities for the pursuit of passive types of recreation, such as picnic tables, are permissible, passive open space); (4) is capable of being used and enjoyed for purposes of informal and unstructured recreation and relaxation (active open space); and (5) is legally and practicably accessible to the residents of the development out of which the required open space is taken, or to the public if dedication of the open space is required (active & passive).

Use
The purpose or activity for which land or structures is designed, arranged or intended, or for which land or structures are occupied or maintained.

Use(s), Accessory
A structure or use that: (1) is clearly incidental to and customarily found in connection with a principal building or principal use; (2) is subordinate to and serves a principal building or principal use; (3) is subordinate in area, extent, or purpose to the principal building or principal use served; (4) contributes to the comfort, convenience, or necessity of occupants, business, or industry, in the principal building or principal use served; and (5) is located on the same lot as the principal building or principal use served.

Use, Mixed
Occupancy of a building or land by more than one use.

Use, Permitted
Any use, as designated in this UDO, that is by right allowed to occur within a specific zoning district.

Use(s), Principal
The primary purpose or function that a lot or structure serves or is proposed to serve.

Utility Easement
An easement which grants to the Town of Warsaw or other utility providers the right to install and thereafter maintain any and all utilities including, but not limited to, water lines, sewer lines, septic tank drain fields, storm sewer lines, electrical power lines, telephone lines, natural gas lines and community antenna television systems.

Variance
A grant of relief by the Board of Adjustment to a person from the requirements of this UDO where unusual or unique circumstances peculiar to the property exist, literal enforcement would result in unnecessary and undue hardship, and such relaxation of the regulations would not be contrary to the public interest objectives of this UDO. See G.S. 160D-705 and Article 7. Variances must be granted in accordance with G.S. and the requirements of this UDO.

Vested Rights
See G.S. 160D-108 & 108.1, Article 8 of these Regulations.

Video Gaming Arcade
An establishment engaged in the operation of a video gaming machine or machines, either as a principal use, combination use, or as an accessory use. Does not include Adult Arcades or electronic sweepstakes or other gaming/gambling entities.

Video Gaming Machine
A slot machine as defined in G.S. 14-306(a) and other forms of electrical, mechanical, or computer games such as by way of illustration:

(A) A video poker game or any other kind of video playing card game.

(B) A video bingo game.

(C) A video craps game.

(D) A video keno game.

(E) A video lotto game.

(F) Eight liner.

(G) Pot-of-gold.

A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player. For purposes of this UDO, a video gaming machine is a video machine which requires deposit of any coin, token, or use of any credit card, debit card, or any other method that requires payment to activate play of any of the games listed above, but not limited to such types of skill games.

Violation
Failure on the part of any person to comply with the provisions of this UDO.

Watercourse
Any stream, river, brook, swamp, bay, creek, run, branch, or lake.

Watershed
The entire land area contributing surface drainage to a specific point (e.g. the water supply intake).

Water Supply Intake
The recognized point whereby surface water is removed in order to supply water for drinking and culinary purposes.

Waters of the State

Has the same meaning as in G.S. 143-212(6).

Wet Detention Pond
A pond that has a permanent pool and which also collects stormwater runoff, filters the water, and releases it slowly over a period of days.

Wetlands
Transitional lands between terrestrial and aquatic systems where the land supports predominantly hydrophytes; where the substrate is predominantly undrained hydric soil; and where the substrate is non-soil and is saturated with water or covered by shallow water for a specified period of time during the growing season of each year.

Wireless Telecommunications Support Structure (WTSS)
All freestanding monopole, self-supported, guyed, or similar structures whose primary design is to provide for support and placement of wireless telecommunications antennae.

Wireless Telecommunications Attachments (WTA)
Devices mounted onto a support structure, principally intended to radiate or receive a source of non-ionizing electromagnetic radiation (NIER), and accessory equipment related to broadcast services,

including but not limited to private radio services, cellular or digital telephone services, pagers, beepers, wireless data repeaters and common carriers (as regulated by the FCC), including AM, FM, two-way radio, fixed point microwave dishes, commercial satellite, HDTV, cellular and PCS communication systems. The term WTA does not include electrical or telephone transmission lines or supporting distribution structures, antennae of amateur radio (ham) operators, and amateur club services licensed by the FCC.

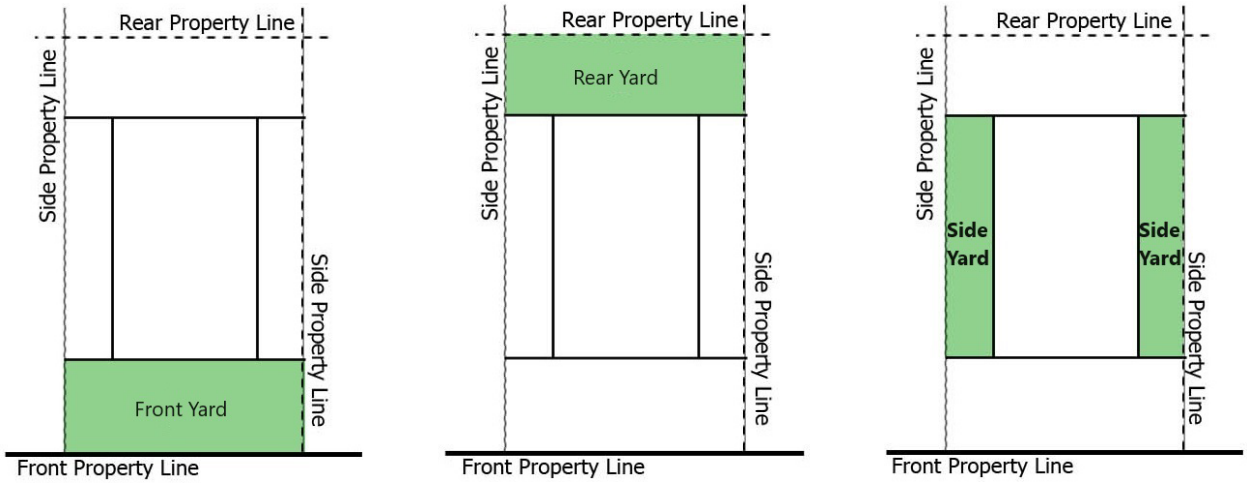
Working Days
Days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken.

Yard
A space on the same lot with a principal building that is open, unoccupied, and unobstructed by buildings or structures from the ground to the sky except where encroachments and accessory buildings are expressly permitted.

Yard, Front
An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the road right-of-way line and the front line of the building, projecting to the side lines of the lot. Corner lots are required to have only one front yard; the front yard shall be located adjoining the road to which the property address is assigned.

Yard, Rear
An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building, projected to the side lines of the lot.

Yard, Side
An open, unoccupied space on the same lot with a principal building, situated between the building and the side lot line and extending from the rear line of the front yard to the front line of rear yard.



Yard Waste
Solid waste resulting from landscaping and yard maintenance such as brush, grass, tree limbs, shrubbery, leaves, and similar vegetative material.

Zero Side Setback
An alternate form of dimensional requirements that allows a dwelling unit to have one side setback of zero distance from a side property line. This definition does not apply to townhouses, townhouses are permitted the zero-side setback only for party walls.

Zoning
The designation of a particular property or portion thereof using one of the zoning designations contained in this UDO.

Zoning District
An area defined by this UDO and delineated on the Official Zoning Map, in which the requirements for the use of land and in which building and development standards are prescribed. Also referred to as 'zone'.

Zoning Map Amendment
An amendment to the Town of Warsaw UDO, for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of Warsaw that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by the Town of Warsaw, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

Zoning Regulation
Zoning regulations within this UDO authorized by G.S. 160D Article 7.

Zoning Permit
A permit issued by the UDO Administrator authorizes the recipient to make use of property in accordance with the requirements of this UDO.

(This page intentionally left blank.)

ARTICLE 3: APPLICATIONS AND REVIEW

Section 3.1: Permit Required

A permit shall be required for all development that is allowed by this UDO unless otherwise stated in this UDO. In order to obtain a permit, an application must be submitted to the UDO Administrator.

Section 3.2: Permit Not Required

In certain scenarios such as the remodeling of the interior of a residential home or the attachment of a roof mounted solar panel, a permit may not be required dependent upon the review conducted by the UDO Administrator. All development proposals and land use proposals shall be reviewed by the UDO Administrator to definitively determine if a permit is not required.

Section 3.3: Exempt from Zoning Permit Requirements

Bona Fide Farms per G.S. 160D-903, not exempt from NC Building Code requirements.

Section 3.4: Application Required

Prior to the commencement of use or development of land, or structures located upon land, within the Town of Warsaw, an application for development must be submitted to the UDO Administrator. The submission of the application does not authorize the applicant to commence the use. The UDO Administrator shall determine, based on the nature of the application, who the responsible party for granting development approval shall be and will take the necessary steps to begin the application review process.

Section 3.5: Applications that Require Mailed Notice

For all applications which include an advertised public hearing for the application to be approved, the applicant is required to submit legal sized stamped envelopes for all adjacent properties that require a notice to be mailed. The UDO Administrator will provide the number of envelopes that are required to the applicant prior to submittal so that the applicant is able to prepare the envelopes. These types of applications include (Special Use, Variance, Rezoning [General and Conditional], Certificate of Appropriateness).

Section 3.6: Applications

The UDO Administrator shall maintain and update the applications for development on a regular basis. This effort will ensure that they are consistent with the requirements of this UDO and that they set forth clear expectations of application requirements so that thorough reviews may be performed. Application types include but are not limited to the following:

(A) Zoning Permit Application

(B) Zoning Verification Application

(C) Sign Permit Application

(D) Special Use Permit Application

(E) Subdivision Application

(F) Zoning Map Amendment Application (General Rezoning & Conditional Rezoning)

(G) Variance

(H) Certificate of Appropriateness Application

(I) UDO Amendment Application (Text Amendment)

(J) Appeal Application

(K) Stormwater Application

Section 3.7: Application Requirements

Each individual application shall outline the required documents to be submitted with the application. This UDO also specifies specific application requirements dependent upon the proposed use and type of application. At a minimum each application shall be accompanied by a site plan unless explicitly not required by the UDO Administrator. Required site plans will vary in requirement based on the nature of the application. Site plans submitted with Conditional Rezoning Applications and Special Use Applications, shall meet the requirements of Section 3.7.3, with additional requirements required by the UDO Administrator as needed.

3.7.1 Zoning Permit Application Site Plan Requirements (Residential)

(A) Plans must be legible.

(B) Boundary of property shall be shown with distance in feet for all property lines.

(C) Proposed and existing structures shall be shown including their distance in feet from the closest property line.

(D) Locations of rights-of-way shall be shown.

(E) The zoning district, parcel number, and address shall be noted upon the site plan.

(F) Flood zones shall be shown upon the site plan.

3.7.2 Zoning Permit Application Site Plan Requirements (Non-Residential & Multi-Family Development that does not undergo subdivision review)

(A) Plans must be legible and prepared by an NC Licensed Land Surveyor. Scale shall be at 1” equals no more than 100’.

(B) Boundary of the property shall be shown including the distance in feet of all property lines.

(C) Proposed and existing structures shall be shown including their distance in feet from the closest property line.

(D) Locations, widths, and detail of rights-of-way, cul-de-sacs shall be shown.

(E) Floodplains and wetlands shall be delineated.

(F) Existing and proposed topography of tract.

(G) Acreage of parcel.

(H) Number of buildings/units.

(I) Sidewalk detail.

(J) Locations and dimensions of easements including easement type.

(K) Locations of utilities including sizes and proposed connections.

(L) Fire hydrant locations.

(M) Landscaping detail.

(N) Buffer location and width of buffer, including type and description of proposed buffer.

(O) Lighting detail.

(P) Parking detail, including an inset of a parking space and its dimensions and parking calculations based off of what is required by the UDO and what is proposed.

(Q) Designated loading/unloading areas (deliveries).

(R) Trash collection area.

(S) Open space including its acreage.

(T) Stormwater management areas, calculations, and data.

(U) Stormwater network including swales, culverts, inlet and outlet structures with grades, elevations, dimensions, and hydraulic calculations.

(V) Locations of proposed signage.

(W) Sketch vicinity map

(X) Full engineered drawings and detail

(Y) Other requirements as requested by the UDO Administrator.

*The requirements listed above are applicable in their entirety. Where development is proposed to occupy existing structures, all requirements listed below are not necessary to be shown on the site plan. However, all elements of the proposed site must be shown so that the UDO Administrator may verify that the proposed use is in compliance with this UDO and any subsequent conditions that may have been imposed by a Board. Site plan submission shall include applicable state permits if they have been issued, as they will be required prior to site plan approval.

3.7.3 Zoning Map Amendment (Conditional Rezoning) and Special Use Permit Site Plan Requirements

When the entire parcel is not proposed to be conditionally rezoned, a survey shall be provided that indicates the boundary of the area of the parcel that is proposed to be rezoned. These are the site plan requirements so that the UDO Administrator, Planning Board, and Board of Commissioners can review the concept of the proposed use and determine its general operation and any conditions that may be necessary. A full site plan as described in Zoning Permit Application Site Plan Requirements (Non-Residential & Multi-Family Development that does not undergo subdivision review) will be

required if the Conditional Rezoning application receives approval. All requirements may not be applicable.

(A) Plan must be at a scale of at least 1" equals 100'.

(B) Property owner information (name, phone, email, and address) to be noted on the site plan.

(C) Location of the property lines (boundary of the property or portion of).

(D) Property acreage/square feet.

(E) Tax Parcel Number.

(F) Location of existing and proposed R/W and easements.

(G) Zoning district (existing and proposed).

(H) Adjacent property uses.

(I) Locations of existing and proposed structures including their setback from the property lines.

(J) Proposed hours of operation.

(K) Proposed number of employees.

(L) Parking detail including number of spaces and number of required spaces.

(M) Buffer location and width of buffer, including type and description of proposed buffer.

(N) Landscaping detail including location and type proposed.

(O) Trash collection areas.

(P) Designated loading/unloading areas (deliveries).

(Q) Number of dwelling units.

(R) Floodplains and wetlands.

(S) Other requirements as requested by the UDO Administrator.

Section 3.8: Pre-Application Meeting

Prior to the submission of an application, applicants are encouraged to have a pre-application meeting with the UDO Administrator prior to the formal submission of the application. This pre-application meeting is not required but it may lead to a more efficient review of the proposal.

Section 3.9: Conditional Rezoning Approval and Special Use Approval

Approval by the Board of Adjustment or Board of Commissioners as applicable for Conditional Rezonings and Special Use Permit requests does not exempt approvals from undergoing the Zoning Permit Application process in which full site plan review will be conducted.

Section 3.10: Concurrent Plan Review

To expedite this process, some projects may require that multiple applications receive approval prior to the commencement of development activity. The applicant has the option to submit multiple

applications at once and have projects undergo concurrent review by different approval Boards or the Administrator. In these instances, the applicant is required to sign an affidavit that they acknowledge approval by one Board, or the Administrator does not constitute approval of their entire project or any other outstanding submitted applications that have yet to be approved. Examples where this may be applicable are for Conditional Rezoning Requests or Special Use Permit requests where the proposed use is already known, and the applicant may wish to submit the full site plan to begin review of it while it undergoes the separate review for Board approval. A fee shall be required for both plan submittals.

Section 3.11: Submission

Applications shall follow the procedures for submission outlined below. Failure to submit an application that complies with the requirements of this UDO, or the specific requirements listed on the application itself shall result in the UDO Administrator not accepting the application. Applications may only be submitted by the owner of the property or the authorized agent of such owner to the UDO Administrator. The UDO Administrator may require reasonable proof of agency from any person applying as an agent. An application for any permit under this UDO shall be submitted in such form, number of copies and format as required by this UDO and the specifics outlined on the application itself, together with such fees as required. Applications that require approval from other state agencies such as NCDOT or NCDEQ but not limited to these agencies shall include copies of approval from such agency or documentation that verifies the applicant is actively seeking approval from the respective agency as it applies to their permit application.

3.11.1 Administrative Approval Submission (UDO Administrator or Planning Board Approval)

Applications that require administrative approval may be submitted at any time. If deemed to be a complete application, the UDO Administrator shall have 30 days (45 days when Stormwater review is required) to review the application and associated plans and either approve, deny, or request revisions to the application. The UDO Administrator will make efforts to complete this review as expeditiously as possible. For subdivision applications that require Planning Board approval, they shall be submitted at least 25 days prior to the Planning Board meeting at which they are to be reviewed. Failure to act within this 30-day period or provide notice to the applicant of a status update results in approval of the application. Applications must be deemed as submitted and accepted by the Administrator for this 30-day period to begin. Acceptance of the application submittal may be recorded in a submittal log, email, or notation correspondence between the applicant and the Administrator. When the Administrator receives an incomplete application, he shall not process the application. He shall contact the applicant and inform the applicant of what is required to be a complete application. Types of applications that are administratively approved by the UDO Administrator include Zoning Permit Applications (Residential & Non-Residential or Multi-Family), Zoning Verification Applications, Minor Certificates of Appropriateness, Exempt Subdivisions and Sign Permit Applications. The Planning Board shall approve Minor and Major Subdivisions administratively.

3.11.2 Legislative Approval Submission (Planning Board Review/BOC Approval)

Applications that require legislative approval shall be submitted at least 25 days prior to the Planning Board meeting at which the applicant wishes for the application to be reviewed. The UDO Administrator will place the application on the agenda of the Board of Commissioners at a subsequent meeting that follows the Planning Board meeting at which the application is reviewed.

Types of applications that must receive legislative approval include Zoning Map Amendment Applications and UDO or Land Use Plan Amendment Applications.

3.11.3 Quasi-Judicial Approval Submission (Board of Adjustment/Historic Preservation Commission)

Applications that require quasi-judicial approval shall be submitted at least 30 days prior to the Board of Adjustment or Historic Preservation Commission meeting at which the applicant wishes for the application to be reviewed. Types of applications that must receive quasi-judicial approval include Special Use Permit Applications, Variance Applications, Major Certificate of Appropriateness and Administrative Appeal Applications, (Administrative Appeals of Minor COA decisions will be made to the Historic Preservation Commission but will be submitted in the same manner as all other appeals).

Section 3.12: Review

Once applications have been officially submitted and accepted by the UDO Administrator, he shall prepare them for review in accordance with the requirements of this UDO. The UDO Administrator shall also perform review of all submittals to determine if the proposal complies with the UDO.

Section 3.13: Technical Review Committee

The UDO Administrator shall submit Conditional Rezoning and Special Use applications to the Technical Review Committee (TRC) for review. The UDO Administrator may elect to send other types of applications not specifically required by this UDO to be reviewed on a case-by-case basis based on the nature of the application and proposal. The Town of Warsaw TRC is comprised, but not limited to, the following agencies. The UDO Administrator may elect to include other groups and organizations within the review committee as necessary.

- North Carolina Department of Transportation
- Duplin County Board of Education
- Town of Warsaw Fire & Police Department
- Duplin County Emergency Services
- Town of Warsaw Public Works
- Other agencies deemed necessary by the UDO Administrator.

The UDO Administrator may establish a regular meeting schedule for the TRC or may call meetings as necessary.

Section 3.14: Review and Revision

The review of proposed applications may include multiple rounds of review, depending upon the number of deficiencies that exist within the site plan or proposal. This fact is why a pre-application meeting can be beneficial. Once the TRC or respective Board has had the opportunity to review the application proposal, they may direct the UDO Administrator to provide the applicant with a formal document outlining existing deficiencies and requested changes. This document shall give clear instructions to the applicant that review of the application will commence once all the requested revisions have been addressed and revised plans/documents have been provided back to the UDO Administrator so that he may redistribute them for review.

Section 3.15: Approval

The UDO Administrator shall issue permit approval only when he is able to verify that all requirements of this UDO have been met and that all permits from other organizations such as but not limited to a NCDOT Driveway Permit or a NCDEQ Sediment and Erosion Control Permit have been issued to the applicant for the proposed project. This approval also includes ensuring that any necessary guarantees for incomplete infrastructure, buffering, etc., have been provided to the Town of Warsaw in an acceptable format.

For applications that require approval from the Planning Board, Board of Adjustment, or Board of Commissioners, the UDO Administrator shall have the authority to issue the written development approval and physical permit upon instruction from the respective Board, after they have made the decision in the required manner.

Conditional Approval – Where in the opinion of the respective Board, only minor modifications are needed to the proposed plan to achieve compliance, the Board may grant conditional approval which allows the UDO Administrator to issue approval provided that the applicant delivers revised plans that address the minor requested changes.

Section 3.16: Authorization to Commence Construction or Development

Once applications for permits have been approved and issued as provided within this Article, the applicant may proceed to commence work and development of the site, provided the necessary building permits have been issued by Duplin County Building Inspections. All work performed and completed must be done in accordance with approved site plans and any conditions that were placed upon the approval. Deviation from the approved site plan will require the applicant or developer to provide the UDO Administrator with a revised site plan.

Section 3.17: Site Plan Deviation

In the event that the applicant or developer Is required to provide the UDO Administrator with a revised site plan, the UDO Administrator shall determine the nature of the deviation and if the plan shall be required to undergo full review or if the proposed change is meeting all requirements of this UDO and is not a change that intensifies the nature of the use. The UDO Administrator shall determine if the change can be classified as a minor modification as defined in this UDO.

Section 3.18: Authorization for Occupancy and Commencement of Use

Prior to Duplin County Building Inspections issuing a Certificate of Occupancy, the UDO Administrator shall conduct an inspection to determine that all elements of the approved site plan have been addressed and that the use is being commenced in the original manner intended and as approved by the Board or the UDO Administrator when the proposal was reviewed and approved. The Certificate of Occupancy shall only be issued when the Administrator can verify in either electronic or print format to the Duplin County Building Inspections Department that compliance with the UDO and approved plans has been achieved. Any outstanding issues with other agencies or representatives from the State of North Carolina related to the specific proposed use will result in the Administrator withholding the issuance of a statement of compliance until such issues have been resolved.

Section 3.19: No Withholding Permits or Plats

The UDO Administrator shall not withhold a permit or refuse to sign a plat, when all requirements have been met, based on deficiencies existing upon a separate piece of property owned by or associated with the applicant or developer.

Section 3.20: Permit Expiration

3.20.1 Failure to Act

In the event that the recipient of the permit fails to act upon the permit issued and construct, improve, or commence the permitted use upon the property, the issued permit is subject to expire. This does not apply to permits that are protected by Vested Rights. Permits are valid for a period of one year. Once the use is officially in operation, the permit at that point is valid for the life of the operation of such business with certain time extensions at the time the use ceases as provided elsewhere in this UDO. The terms for expiration include:

(A) The failure to commence by no evidence of substantial construction, erection, alteration, excavation, demolition, or other similar work within a period of one-year that is necessary prior to the commencement of such use.

(B) The discontinuance of substantial construction, erection, alteration, excavation, demolition, or other similar work for a period of one year after the initial commencement.

3.20.2 Expiration Timeline

(A) Zoning Permit & Sign Permit – valid for a period of one-year, the UDO Administrator may grant one 6-month extension of the permit when the permit holder can show good cause with supporting evidence.

(B) Special Use Permit & Variance – permit is valid for a period of 180, failure to begin substantial construction, erection, alteration, excavation, demolition, or other similar work as applicable to the permit shall result in the permit approval being revoked. In instances where Special Use Permits begin operation and cease operation for a period of 180 days, the Special Use Permit shall no longer be valid. The fact that such structures housing the use may still have operable utilities and have continued payment of such utilities does not apply to the use being continued. The use itself must be actively in operation. An example of this is the use goes out of business for more than 180 days but the structure housing the use is maintained and in good condition does not allow the use to re-establish itself without a Special Use Permit being issued.

Section 3.21: Revocation

The permit may be revoked in instances where the UDO Administrator finds that the permit is not being complied with. Revocations shall be issued when it is found that there has been a substantial departure from the approved application, plans, specifications; for refusal or failure to comply with the requirements of these Regulations or any State requirements or laws that have been delegated to the Town of Warsaw for enforcement. The revocation shall state the reasoning for its issuance and include supporting evidence and documentation as applicable. The same review process that is followed for the initial issuance of the development approval shall be followed for the issuance of the

development approval revocation. When evidence is found that false statements or misrepresentations have been made by the applicant to obtain development approval a revocation shall be issued. In the event that it is discovered a development approval has been issued in error by the UDO Administrator, Town of Warsaw, or one of its respective Boards, a revocation may be issued.

Section 3.22: Effect of Permit on Successors and Assigns

Approvals for development, in the form of permits approved and issued authorizing development as required by this UDO shall remain with the land and are non-transferrable. Persons who purchase property with existing valid permits issued upon it are required to comply with the permit requirements and the standards within this UDO in the same manner that the original property owner or permit holder was expected to. The permits are transferrable to new owners of the property, but they shall not be transferred to separate parcels of land. For example, the holder of a Special Use Permit upon one property or an owner permitted to construct a single-family dwelling upon a piece of property shall not construct or conduct such use upon a separate piece of property.

Section 3.23: Maintenance & Compliance

The recipient of any permit, or his successor, shall be responsible for maintaining all common areas, improvements, or facilities as applicable to the permit required by this UDO or any permit issued in accordance with its provisions, except those areas, improvements or facilities with respect to which an offer of dedication to the public has been accepted by the appropriate public authority. Until such acceptance is made by the public and verification is provided to the UDO Administrator, the property owner and permit holder or other responsible party are required to ensure maintenance and compliance. As illustrations, and without limiting the generality of the foregoing, this means that private roads and parking areas, water and sewer lines, and recreational facilities must be properly maintained so that they can be used in the manner intended, and that required vegetation and trees used for screening, landscaping, or shading must be replaced if they die or are destroyed. The recipient and holder of the permit shall actively work to ensure compliance with this UDO is always being achieved.

Section 3.24: Certificates of Appropriateness

For properties that are located within the Town of Warsaw's Historic District, a Certificate of Appropriateness is required prior to any alteration, modification, demolition, construction, or expansion to the exterior of a structure. This requirement also applies to newly constructed structures. This Certificate of Appropriateness is required to be issued by the Town of Warsaw Historic Preservation Commission prior to the application of any other permit for development. Certificates of Appropriateness are also required for masonry walls, fences, light fixtures, steps and pavement or other appurtenant features. Above ground utility structures or outdoor advertising signs should not be erected, altered, restored, moved, or demolished without obtaining a Certificate of Appropriateness. A Certificate of Appropriateness is required regardless of a building permit being required. A Certificate of Appropriateness is not required for any interior modifications. The Historic Preservation Commission shall find applications for a Certificate of Appropriateness to be congruous with the adopted historic principles and standards in order to approve a Certificate of Appropriateness application.

The UDO Administrator shall have the authority to approve "minor works" for Certificate of Appropriateness Applications. The Historic Preservation Commission shall perform quasi-judicial review per G.S. 160D-406 for "major works".

Ordinary maintenance or repair that does not involve a change in design, material, or appearance thereof shall be allowed. There shall be no prevention of construction, reconstruction, alteration, restoration, moving, or demolition of any feature that the building inspector certifies is required for public safety reasons due to unsafe and dangerous conditions. This should be verified by the UDO Administrator and building inspector prior to such activity occurring.

Applications for a Certificate of Appropriateness authorizing the relocation, demolition or destruction of a building, site, or structure determined by the State Historic Preservation Officer as having statewide significance as defined in the Nation Register of Historic Places may be denied except when the Historic Preservation Commission finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return by virtue of the denial.

3.24.1 Site Plans & COA Application Requirements

(A) A legible site plan shall be required showing the boundary of the property including existing and proposed structures.

(B) Setbacks in feet shall be shown from the structure to the property line.

(C) Elevations shall be provided showing graphic depictions of the proposed exterior.

(D) Detailed information and design documents shall be provided that include technical information regarding the proposed materials to be used.

(E) Paint colors should be provided.

(F) Examples of existing structures should be provided so that the Historic Preservation Commission and UDO Administrator can understand what the finished product will resemble.

3.24.2 Minor COA

Minor works that are able to be approved by the UDO Administrator include exterior changes which do not involve substantial alterations, additions, or removals that could impair the integrity of the property and/or districts as a whole. Furthermore, minor works are described as being those in which the visual character of the structure is not changed. Minor works include the following, for items not listed they are considered major works, or the applicant may request that the Historic Preservation Commission review and make a determination as to if the proposal requires a Minor COA or a Major COA.

(A) Installation of storm doors, windows, shutters, or blinds.

(B) Construction of fences 4 feet or less in the rear or side yards.

(C) Installation of mechanical equipment.

(D) Installation of handicap accessibility modifications.

(E) Replacement of the roof or shingles with identical materials and construction, or those that match as closely as possible the original material.

(F) Installation of awnings, exterior light fixtures, historical identification signs.

(G) Minor landscaping changes.

(H) Rear yard decks, porches, paths, walkways, and driveways (all in the rear yard of parcel.

(I) Replacement of exterior stairs, landings, etc.

3.24.3 Major COA

Any proposal that does not qualify as a Minor COA or as routine maintenance and repair.

Section 3.25: Standards for Decisions and Review

The following standards shall be used by the Historic Preservation Commission in conjunction with identified requirements in the Handbook of Procedures and Design Guidelines for the Town of Warsaw Historic Preservation Commission.

(A) Properties and structures may remain in use for their historical purpose or be placed in a new use that requires minimal change to the characteristics of historic nature, style, or architecture that define the structure.

(B) The removal of historic materials or alterations of features and spaces that characterize a property shall be avoided.

(C) Changes that create a false sense of historical development shall be avoided.

(D) Deteriorated historic features are encouraged to be repaired rather than replaced and efforts to repair shall be demonstrated prior to replacement taking place. Where the severity of deterioration requires replacement of a distinctive feature, the new one shall match in all elements where possible.

(E) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The cleaning of surfaces shall be done using gentle means.

(F) Significant resources affected by a project shall be protected and preserved.

(G) New additions, exterior alterations or related new construction shall not destroy historical materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with massing, size, and architectural features to protect the historic integrity of the property and its environment.

(H) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(This page intentionally left blank.)

ARTICLE 4: ADMINISTRATION

Section 4.1: Purpose

This Article establishes the manner in which the provisions of this UDO are to be administered. The duties and processes set forth herein are to be followed to ensure that the integrity and intent of the UDO are always being upheld.

Section 4.2: Unified Development Ordinance Administrator

The Warsaw Unified Development Ordinance Administrator or UDO Administrator shall be the Warsaw Town Manager or his designee. The UDO Administrator shall make interpretations, modifications, and administrative decisions involving the contents and requirements of this UDO. All decisions, interpretations, and modifications granted by the UDO Administrator shall be done with the sole intent of upholding the spirit and intent of the UDO. The UDO Administrator will be the primary Town employee to prepare documents and reports for the Board of Commissioners, Planning Board, and Board of Adjustment as they require and request such reports.

4.2.1 Duties

The UDO Administrator is expected at a minimum to perform the following duties related to the execution of this UDO.

(A) Maintain the Town of Warsaw Comprehensive Land Use Plan and implement the plan when necessary. This task includes continuously ensuring that the town's plan is in compliance with G.S. 160D-501.

(B) Perform an annual evaluation of the Warsaw UDO and applications for development approval to ensure that their contents are considered a best management planning practice and that its regulations are equitable and designed to protect public health, safety, and welfare.

(C) Review applications in accordance with the provisions of Article 3 of this UDO.

(D) Ensure that the notice requirements for public hearings are being met as required by G.S. 160D-406 and G.S. 160D-602 as well as any additional requirements for notice that may be incorporated as part of this UDO or adopted and established by the Warsaw Board of Commissioners as town policy.

(E) Communicate the requirements of this UDO to the public and interested parties.

(F) Enforce the provisions and requirements of this UDO when violations are discovered and confirmed to be valid.

(G) Perform periodic inspections of properties within Warsaw to ensure compliance with the UDO is being met.

(H) Ensure that compliance with this UDO is achieved, and also verify that requirements from the State of North Carolina are being met by requiring documentation.

(I) Maintain a database of all permits and documents relative to activities and development permitted by this UDO.

(J) Provide staff recommendations on applications for UDO text amendments, rezonings, and conditional rezoning requests.

(K) Provide general recommendations on development and future use of land to the Board of Commissioners when requested by the Board.

(L) Actively work to ensure that all members of Warsaw are involved in the planning process when plans are being developed.

(M) Work to ensure equity in development proposals and plan design through recommendations provided to the applicant, owner, or developer.

(N) Provide assistance and guidance to the Planning Board, Board of Commissioners, and Board of Adjustment through staff reports and presentations outlining the contents and nature of applications and development proposals and how they relate to the requirements of this UDO.

(O) Serve as the executive secretary to the Planning Board and Board of Adjustment.

(P) Issue Administrative Modifications when necessary and appropriate as outlined in Section 4.2.6.

(Q) Serve as the Floodplain Administrator and ensure compliance within the SFHA is being achieved.

(R) Perform other necessary tasks that may not be specifically identified for the purpose of upholding the standards of this UDO.

4.2.2 Development Approval

When approving applications where the UDO Administrator has been authorized to issue approval, he shall issue the development approval in writing and provide an electronic copy of the approval to the applicant. The electronic copy shall be protected from further editing, this may commonly be referred to as the permit or permit approval that is issued after all requirements of Article 3 have been met. The approval shall include language that all applicable State and Local laws must be complied with. No person(s) shall commence or proceed with development activity until this required development approval has been issued.

4.2.3 Development Revocation

The UDO Administrator reserves the right to issue revocations of development approvals in accordance with the provisions set forth in Article 3.

4.2.4 Determinations & Decisions

Once the Administrator has made a determination or a final decision on a matter such as a zoning or subdivision decision, he shall give written notice to the owner of the property that the determination is being made upon and to the party who has requested that an Administrative Determination be made if different from the owner. Permits for development approval are also considered to be the decision of the UDO Administrator. Written notices shall be delivered in the form of first-class mail, email, or personal delivery. The notice shall be sent to the tax listed address for the property owner as well as the address that has been listed on the application for development.

4.2.5 Staff Report Preparation & Recommendation

The Administrator shall review and prepare staff reports for all applications for Subdivision, Variances, Special-Use Permits, Rezonings, Conditional Rezonings, and Text Amendments to the Town of Warsaw Land Use Plan and the Town of Warsaw Unified Development Ordinance. The UDO Administrator shall provide the respective Board with a staff report that outlines findings that includes the nature of the proposal, consistency with the Land Use Plan and other applicable plans as well as any specific requirements or conditions required by the UDO for the proposal. Staff reports shall examine existing conditions and infrastructure as well as adjacent land uses. The UDO Administrator shall make a recommendation to the Planning Board and Board of Commissioners for applications for Subdivisions, Rezonings, Conditional Rezonings and Text Amendments.

4.2.6 Administrative Modifications

The UDO Administrator may elect to issue modifications to approved permits, including zoning permits, special use permits, approved preliminary subdivisions, site plans, and conditional rezoning site plans. Modifications must still be in compliance with the UDO. A modification is not in any way a variance from the requirements of the UDO. Modifications include the following, unless expressly written differently in a separate Article of this UDO. The procedure for such modification located in that particular Article shall take precedent over the language below.

(A) Minor design changes that have no substantial impact on neighboring properties. For example, the relocation of a lot (not an increase in lots) or an element of a site plan that does not constitute the alteration of proposed roadways, improved surfaces, or access points.

(B) Any reduction in scale of any element from the original proposal.

(C) An increase that would constitute no more than a 10% addition to any parking area while still not exceeding the parking requirements of the UDO.

(D) The addition of one lot, provided that an additional acre of open space be provided. Cannot exceed one lot addition.

All other requests for changes in approved site plans will be processed as a modification to the original application as described in Article 3.

A property owner or permit holder requesting approval of changes shall submit a written request for such approval to the UDO Administrator. The request shall identify the changes and be accompanied by a site plan that displays the proposed changes. Approval of all changes must be provided to the property owner or permit holder in writing.

The Administrator may waive their ability to issue an Administrative Modification and require the proposed modification to undergo the full process as described in Article 3 for new application submittals. The Administrator may also elect to distribute the proposed changes to the TRC group to ensure compliance is being met.

4.2.7 Inspections

The UDO Administrator shall make periodic inspections of properties within Warsaw at any reasonable hour for the purpose of inspection, determination of UDO compliance and other enforcement action. The Administrator may only enter onto properties for the purpose of inspection for enforcement action when the violation is visible from a public right-of-way or common public

access area or with the authorization of an administrative search warrant. Property owners in the Town's jurisdiction are fully entitled to a reasonable expectation of privacy and the UDO Administrator shall not infringe upon that by conducting illegal observations or inspections.

The UDO Administrator shall also perform site visits to properties that have applied for approval from either the Planning Board, Board of Commissioners, or Board of Adjustment. These site visits are necessary to develop a background and sense of knowledge of the proposal and the existing environment.

The Board of Commissioners or its agent shall also have the power to require written statements, certificates, and certifications or the filing of reports under oath, with respect to pertinent questions relating to complaints or alleged violations of the UDO and inspections conducted by the UDO Administrator.

The UDO Administrator shall not conduct inspections from adjacent properties to discover violations if they are not visible from a public right-of-way. For example, the UDO Administrator may not conduct inspections from adjacent backyards or other areas.

Section 4.3: Alternative Administration Arrangements

The Town of Warsaw may enter into contracts with another town, Duplin County, individual, company, Council of Government, Rural Planning Organization, or other planning organization to work under the supervision of the Town of Warsaw and execute the administrative duties outlined in this Article and the UDO (per G.S. 160D-402).

ARTICLE 5: BOARD CONSTRUCTION & RESPONSIBILITIES

Section 5.1: Purpose

This Article establishes and describes the appointed and elected Boards and Commissions within the Town of Warsaw who are responsible for review and development approval for their respective applications. These Boards are essential to the orderly growth of Warsaw and the enforcement of this UDO as well as the recommendation and encouragement of developers to incorporate identified elements listed within the Town of Warsaw Land Use Plan and Town of Warsaw Comprehensive Transportation Plan, when possible.

Section 5.2: General Regulations

5.2.1 Appointment to Board

Members of the Boards described within this Article shall be appointed by the Warsaw Board of Commissioners in accordance with the adopted rules of procedure for the respective board. All members of the Boards described herein are to be compensated for their membership, compensation will be provided on an attendance basis.

5.2.2 Extraterritorial Representation

The Planning Board, Board of Adjustment, and Historic Preservation Commission shall have at least one member from the Warsaw ETJ. This member shall be considered a full member with equal voting rights and privileges (per G.S. 160D-307).

5.2.3 Oath of Office

All members of Boards described within this Article shall take an oath of office before entering their duties, per G.S. 160D-309.

5.2.4 Rules of Procedures & Minutes of Proceedings

All Boards described within this Article are authorized to adopt rules of procedure that are consistent with the requirements of G.S. 160D-308. Each Board shall keep minutes of its meetings and have their rules maintained and made available by the UDO Administrator. The Board of Commissioners shall also approve the adoption of such rules of procedure.

Section 5.3: Planning Board

The Warsaw Planning Board is established pursuant to G.S. 160D-301, to be known as the Warsaw Planning Board and referred to herein as the Planning Board. As an appointed advisory body, the Planning Board makes recommendations to the Board of Commissioners as generally authorized by G.S. 160D-604.

5.3.1 Duties and Responsibilities

The Warsaw Board of Commissioners has assigned the following duties to the Planning Board:

(A) Prepare, review, maintain, monitor, and periodically update and make recommendations to the Board of Commissioners regarding the Town of Warsaw Land Use Plan, Town of Warsaw Comprehensive Transportation Plan, Town of Warsaw Historic District Guidelines, and other plans including but not limited to Downtown Plans, Small-Area Plans, and Parks & Recreation Plans.

(B) Conduct ongoing research related to data collection, mapping and analysis of Warsaw's existing and projected physical environment.

(C) Develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in an efficient and coordinated manner.

(D) Advise the Board of Commissioners on its implementation of adopted plans such as but not limited to Town of Warsaw Land Use Plan and Town of Warsaw Comprehensive Transportation Plan. As other official plans are adopted, they shall be included for consideration.

(E) Provide review, recommendation, and comment on proposed zoning map and text amendments in accordance with the requirements of G.S. 160D-604, specifically a statement that addresses the proposal's consistency with adopted and applicable plans.

(F) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Commissioners may direct them to perform.

(G) Perform other related duties that the Board of Commissioners may direct.

5.3.2 Recommendation and Statement

After hearing a request for a zoning map amendment, land use plan map amendment, or text amendment, the Planning Board shall prepare a statement which includes its recommendation for the Town of Warsaw Board of Commissioners. The statement and recommendation shall address the Planning Board's findings regarding consistency with the Town of Warsaw Land Use Plan, Town of Warsaw Comprehensive Transportation Plan, and any other officially adopted applicable plan per G.S. 160D-604. The Planning Board must provide this recommendation to the Board of Commissioners within 30 days of the Planning Board meeting at which they reviewed the proposal and made their analysis and recommendation. Failure of the Planning Board to submit its recommendation within the 30-day time period shall constitute a favorable recommendation.

5.3.3 Administrative Review of Subdivisions

The Planning Board shall serve as the administrative review party for Subdivisions within the Town of Warsaw's jurisdiction. The Planning Board shall require the UDO Administrator to facilitate the review of the proposed Minor or Major Subdivision and provide a recommendation. When the Planning Board finds that the proposed Minor or Major Subdivision complies with all requirements of this UDO, it shall approve the plat. The Planning Board should diligently work to encourage the inclusion of elements identified within the Land Use Plan as well as other inclusions that would benefit the overall health, safety, and welfare of the public in proposed subdivisions. This includes but is not limited to

the promotion of open space, interconnectivity, multi-modal travel and the promotion of designated lots to serve for affordable housing.

5.3.4 Membership and Terms

(A) The Town Planning Board shall consist of seven members selected based on appropriate proportional representation of residents living within the corporate limits and the extraterritorial jurisdiction, in accordance with G.S. 160D-301 and G.S. 160D-307. The population estimates for this calculation must be updated following each decennial census. If the Duplin County Board of Commissioners fails to make the required appointments within ninety (90) days after receiving a resolution from the Town Council requesting that they be made, then the Town Council may make them.

(B) At the time of their appointment, members shall hold no other official municipal government position.

(C) The Mayor may appoint two ex officio members to the Board who shall have no vote but who shall act as advisors to the Planning Board.

(D) The citizen members shall be appointed for a term of three years.

(E) All members of the Planning Board shall serve as members without compensation.

(F) Members may, after a public hearing, be removed by the Mayor for inefficiency, neglect of duty, or malfeasance in office.

(G) The Mayor shall file a written statement of reasons for the removal.

(H) Vacancies occurring otherwise than through the expiration of term shall be filled for the unexpired term by the Board of Commissioners.

5.3.5 Meetings, Organization, and Rules

(A) At its first meeting in January each year, the Planning Board shall, by majority vote of its membership (excluding vacant seats), elect one (1) of its members to serve as Chairman and preside over the Board's meetings, and one (1) member to serve as Vice-Chairman. The persons so designated shall serve in these capacities for terms of two (2) years. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the board membership (excluding vacant seats).

(B) The Planning Board shall hold at least one regular meeting in each month which shall be open to the public.

(C) It shall adopt rules for transaction of business and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record.

5.3.6 Voting Procedure

A quorum shall be established for the Planning Board to vote upon any matter that comes before them. A quorum is defined as being a majority of the members of the board excluding vacant seats. All votes shall be counted as approved or denied based on the majority of the votes. All members present are required to vote unless exempted by a provision located within G.S. 160D-109 which prevents them from taking such action.

Section 5.4: Board of Adjustment

Per G.S. 160D-302, the Town of Warsaw shall appoint a 5-member Board of Adjustment with 2 appointed alternate members. The alternate members shall only participate in voting matters when a regular member is absent or is temporarily disqualified from voting. The Board of Adjustment shall be responsible for hearing Special Use Permits, Variances, and Appeals of Administrative Decisions.

5.4.1 Duties and Responsibilities

It is the duty of the Board of Adjustment to serve as the quasi-judicial review board for decisions that are required to undergo the quasi-judicial procedure set forth by G.S. 160D-406.

(A) It is the responsibility of the Board of Adjustment members to remain impartial and unbiased when making decisions and performing quasi-judicial review.

(B) Board of Adjustment members shall not participate in ex-parte communication and shall disclaim all such forms of communication at the public hearing prior to the commencement of the hearing.

(C) Board of Adjustment members are required to make their decisions based on factual evidence and expert opinion alone and to not consider hearsay.

(D) Board of Adjustment members shall never enter into a “closed session”.

(E) Board of Adjustment members are expected to actively improve upon their education and understanding of quasi-judicial procedure and request for the UDO Administrator to provide training annually.

(F) Impose conditions upon request as necessary.

5.4.2 Conditions

The Board of Adjustment is authorized by G.S. 160D-705 to impose conditions upon quasi-judicial decisions when they deem that the conditions are appropriate and reasonable to safeguard the public and their interests, safety, health, and well-being and also when the conditions are a necessary tool to mitigate against potential impacts. Conditions shall not include requirements for which the Town of Warsaw does not have authority under statute to regulate or requirements which courts have held unenforceable if imposed directly by a local government, including without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(B), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307.

5.4.3 Membership and Terms

Members of the Board of Adjustment shall be appointed for 3-year terms. Appointments shall be done in a staggered manner. When filling vacancies, the Board of Commissioners may appoint certain members for periods of time of less than 3 years so that the terms of all members do not expire at the same time. No more than two members may serve on other Boards within the Town of Warsaw.

Regular members of the Board of Adjustment are expected to attend all meetings and are only permitted one unexcused absence per calendar year. All other absences by regular members must be reported to the UDO Administrator and be approved by the Board of Commissioners. Multiple

unapproved absences may result in the Board of Commissioners removing the member from the Board of Adjustment or not compensating the member. Absences that should be approved are ones related to personal or family circumstances involving death or sickness or acts of God beyond the member's control. Alternate members are expected to attend a minimum of 50% of the regular scheduled meetings within a calendar year. In the event that a regular member knows they are going to be unable to attend, they should inform the UDO Administrator so that he may contact an alternate member and request they be in attendance.

Membership shall be terminated when a regular or alternate member no longer resides within the planning jurisdiction of the Town of Warsaw. The Board of Adjustment shall, by majority vote of its membership (excluding vacant seats), elect one of its members to serve as chair and preside over the Board's meetings and one member to serve as vice-chair. The persons so designated shall serve in these capacities for terms of one year. Officer vacancies may be filled for the unexpired terms only by a majority vote of the Board membership (excluding vacant seats). The chair or any member temporarily acting as chair may administer oaths to witnesses coming before the Board. The chairman and vice-chair of the Board of Adjustment may take part in all deliberations and may vote on all issues. The UDO Administrator or his designee shall serve as the recording secretary to the Board of Adjustment.

5.4.4 Rules of Procedure

The Board of Adjustment shall adopt rules of procedure that are consistent with the requirements of G.S. 160D-308. The Board of Adjustment shall keep minutes of its meetings and have their rules maintained and made available by the UDO Administrator. The Board of Adjustment shall request that the Board of Commissioners approve the adoption of such rules of procedure and have the UDO Administrator place the rules of procedure upon their agenda.

5.4.5 Meetings

All Board of Adjustment meetings shall be advertised in accordance with the requirements of G.S. 160D-406 and be open to the public as the purpose of these meetings are to conduct a quasi-judicial public hearing.

Section 5.5: Historic Preservation Commission

The Town of Warsaw Historic District was established in 1996 and is bounded by the former Atlantic Coastline railroad right-of-way, North and South Front Street. Pollock Street, Frisco Street, Plank Street and Railroad Street. Development within this district is governed by the Town of Warsaw Historic Preservation Commission per G.S. 160D-303 which requires the Board of Commissioners to establish a Historic Preservation Commission to review applications for development within the designated historic district.

Specific Description of the District: Beginning at the Y branch of the railroad mainline and the western spur towards Clinton, proceed south along the west (rear) lot lines of the properties on the west side of Railroad Street to College Street, then north along the east (rear) lot lines of the properties on the east side of Front Street to Pollock Street, then east along the north (rear) lot lines on the north side of Hill Street to Frisco Street, then west along the south (rear) lot lines on the south side of Hill Street to Front Street.

5.5.1 Duties and Responsibilities

The Historic Preservation Commission is expected to execute the following duties during their term of appointment:

(A) Undertake an inventory of properties of historical, prehistorical, architectural and/or cultural significance.

(B) Recommend to the Board of Commissioners areas that should be designated as "historic districts" and individual structures, buildings, sites, areas, or objects to be designated by ordinance as a "landmark".

(C) Acquire by any lawful means the fee or lesser included interest, including options to purchase, to properties within established districts or to any such properties designated as landmarks to hold, manage, preserve, restore, and improve such properties, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions that will secure appropriate rights of public access and promote the preservation of the property.

(D) Restore, preserve, and operate historic properties.

(E) Recommend to the Board of Commissioners that designation of any area as a historic district or part thereof, or designation of any building, structure, site, area, or object as a landmark, be revoked or removed for cause.

(F) Conduct an educational program regarding historic properties and districts within its jurisdiction.

(G) Cooperate with State, federal, and local governments in pursuance of the purposes of the historic district. The Board of Commissioners, or Historic Preservation Commission, if authorized by the Board of Commissioners, may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State of Federal law.

(H) Enter solely in performance of its official duties and only at reasonable times, upon private lands for examination of survey thereof. However, no member, employee, or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof.

(I) Prepare and recommend adoption of a preservation element as part of the Town of Warsaw Land Use Plan.

(J) Review and act upon proposals for alterations, demolitions, or new construction within historic districts, or for the alteration or demolition of designated landmarks.

(K) Negotiate at any time with the owner of a building, structure, site, area, or object for its acquisition or its preservation, when such action Is reasonably necessary or appropriate.

5.5.2 Membership and Terms

The Historic Preservation Commission shall be composed of 4 members to serve terms of four years, the terms are to be staggered so that all members terms do not expire at the same time. After serving two consecutive terms, a member shall be ineligible for reappointment until one calendar year has passed. The members must reside within the municipal limits of Warsaw and shall be able to

demonstrate special interest, experience, or an educational background in history, architecture, archaeology, or a related field. The Board of Commissioners shall ensure appointed members display this knowledge and possess these qualities prior to appointing them to serve on the Historic Preservation Commission.

5.5.3 Rules of Procedure

The Historic Preservation Commission shall adopt rules of procedure that are consistent with the requirements of G.S. 160D-308. The Historic Preservation Commission shall keep minutes of its meetings and have their rules maintained and made available by the UDO Administrator. The Historic Preservation Commission shall request that the Board of Commissioners approve the adoption of such rules of procedure and have the UDO Administrator place the rules of procedure upon their agenda.

5.5.4 Meetings

All Historic Preservation Commission meetings shall be advertised in accordance with the requirements of G.S. 160D-406 and be open to the public as the purpose of these meetings is to conduct a quasi-judicial public hearing.

Section 5.6: Board of Commissioners

The Town of Warsaw Board of Commissioners is the elected governing board for Warsaw and responsible for final decisions regarding amendments to this UDO, the Town of Warsaw Land Use Plan, other officially adopted plans, and the official zoning map of Warsaw.

5.6.1 Duties

The following is a description of the Board of Commissioners duties as it relates to the implementation and enforcement of this UDO. The duties listed below are not all encompassing of the many other duties carried out by the Board of Commissioners.

(A) Appoint members to the Planning Board, Board of Adjustment, and Historic Preservation Commission.

(B) Impose conditions on Conditional Rezoning Requests.

(C) Adopt, amend, and reasonably maintain the Town of Warsaw Land Use Plan, Town of Warsaw Comprehensive Transportation Plan, Town of Warsaw Historic District Guidelines, and other plans including but not limited to Downtown Plans, Small-Area Plans and Parks & Recreation Plans., and other in conjunction with the Planning Board.

(D) Adopt, amend, and implement policies related to land use issues.

(E) Adopt, amend, and implement plans, programs, and policies for transportation, open space, and capital improvements.

(F) By ordinance, adopt, amend, and repeal regulations of this UDO related to land use regulated by G.S. 160D, G.S. 160A, and other sections of the G.S. related to municipalities and its legally allowed action.

(G) Establish rules and procedures for the enforcement and administration of this UDO.

(H) Provide statements addressing consistency and reasonableness in accordance with G.S. 160D-605.

(I) Actively pursue execution of the policies contained in the Town of Warsaw Land Use Plan.

5.6.2 Conditional Rezoning Conditions

Conditions imposed by the Board of Commissioners upon rezonings should be done in a manner that is for the protection of the public health, safety, and welfare and that mitigates the potential impacts of the proposed use within the district. The applicant must agree in writing to conditions imposed by the Board of Commissioners. Conditions and site-specific standards should be limited to those that address the conformance of the development and use of the site to the Warsaw UDO, the Town of Warsaw Land Use Plan, or the impacts that are reasonably expected to be generated by the use.

5.6.3 UDO Amendment Required Consistency Statement

Per G.S. 160D-605, the Board of Commissioners shall make a statement that addresses consistency with the Town of Warsaw Land Use Plan as well as a statement that addresses the reasonableness of the amendment. The statement of reasonableness may consider the following as factors:

(A) The size, physical conditions, and other attributes of the area proposed to be rezoned.

(B) The benefits and detriments to the landowners, the neighbors, and the surrounding community.

(C) The relationship between the current and actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment.

(D) Why the action taken is in the public interest.

(E) Any changed conditions warranting the amendment.

ARTICLE 6: MAP AND TEXT AMENDMENTS

Section 6.1: Purpose

The purpose of this Article is to set forth the method for adopting, amending, or repealing the text of the Town of Warsaw UDO, Town of Warsaw Land Use Plan, and the Town of Warsaw Zoning Map, which are legislative decisions. From time to time, amendments to such documents, ordinances, or plans or adoption of new documents, ordinances, or plans may be necessary for the continued growth and development as well as ensuring the benefit of the public of Warsaw. The Board of Commissioners may also find it necessary to repeal documents, plans, or ordinances in their entirety or in part.

Section 6.2: Ordinance Required

The Board of Commissioners are required to adopt an ordinance when there are any amendments made or any new documents, ordinances, or plans are approved per G.S. 160D-601.

Section 6.3: Records of Amendments

Records of amendments shall be kept and incorporated into the text of this UDO for the purpose of establishing effective dates and determining legal nonconforming situations.

Section 6.4: Down Zoning

No amendment to the Official Zoning Map or this UDO that constitutes down-zoning shall be initiated, enacted, or enforced without the written consent of all property owners whose property is the subject of the down-zoning amendment, as required by G.S. 160D-601(d).

For purposes of this section, down-zoning means a zoning ordinance that affects an area of land in one or more of the following ways:

(A) Decreases the development density of the land to be less dense than was allowed under its previous usage; or

(B) Reduces the permitted uses of the land to fewer uses than were allowed under its previous usage; or

(C) Creates any type of nonconformity on land not located in a residential zoning district, including a nonconforming use, nonconforming lot, nonconforming structure, nonconforming improvement, or nonconforming site element.

This section shall be interpreted and applied consistent with G.S. 160D-601(d), as amended.

Section 6.5: Voting Requirements

When voting upon the following types of legislative decisions, members of their respective Board shall not be excused from voting unless the matters being considered are a conflict of interest per G.S. 160D-109 or if the Board members have their own financial interest involved in the decision or matters which prohibit members from voting as defined in G.S. 14-234. In all other cases, a failure to vote by a member who is physically present at the public hearing shall be recorded as an affirmative vote. An affirmative vote, or a vote that grants approval is a vote in which the majority of members have voted in the same manner.

Section 6.6: Public Hearing (Rezoning, Conditional Rezoning, Text Amendment)

Prior to adopting, amending, or repealing the text of the Town of Warsaw UDO, Town of Warsaw Land Use Plan, Town of Warsaw Zoning Map, or the adoption of any new ordinances or plans, the Warsaw Board of Commissioners shall hold a public hearing. The UDO Administrator shall keep detailed records of advertisement for the public hearing so that he may verify that the requirements have been met. The following steps shall be taken prior to the public hearing to satisfy the requirements of G.S. 160D-601.

6.6.1 Newspaper Notice

Notice shall be given once a week for two successive weeks prior to the public hearing in a newspaper having general circulation in the area. The first publication of the notice shall occur no less than 10 days but no more than 25 days prior to the date scheduled for the public hearing. Both notices must be included in the paper prior to the hearing to satisfy this time requirement. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

(A) Language Requirements. The language that is advertised in the paper shall include a brief but comprehensive description of what is being proposed.

(B) Rezoning Example. A public hearing will be held on DATE at TIME in the Board Room of the Warsaw Town Hall, 121 S. Front Street, Warsaw, NC, 28398 (or whichever location the public hearing is scheduled to be held) for the purpose of hearing a Rezoning request submitted by APPLICANT NAME from the Residential 20 District to the Residential 10 District.

(C) Conditional Rezoning Example. A public hearing will be held on DATE at TIME in the Board Room of the Warsaw Town Hall, 121 S. Front Street, Warsaw, NC, 28398 (or whichever location the public hearing is scheduled to be held) for the purpose of hearing a Conditional Rezoning request submitted by APPLICANT NAME from the Residential 20 District to a Conditional Residential 10 District for the purpose of establishing a 14-unit multi-family development.

(D) Text Amendment Example. A public hearing will be held on DATE at TIME in the Board Room of the Warsaw Town Hall, 121 S. Front Street, Warsaw, NC, 28398 (or whichever location the public hearing is scheduled to be held) for the purpose of hearing a Text Amendment submitted by APPLICANT NAME. The proposed text amendment is to include language that would require additional buffering and landscaping standards for multi-family developments.

6.6.2 Mailed Notice

The owners of the affected parcels of land and the owners of all adjacent parcels shall be mailed a notice of the public hearing for the proposed amendment. The notice shall be sent via first-class mail to each property owner at the mailing address that is listed in the Duplin County Tax Office. Properties are considered to be adjacent even if separated by a street, railroad, or other transportation corridor. The mailed notice shall be deposited in the mail no less than 10 days but no more than 25 days prior to the date scheduled for the public hearing. This notice does not apply to text amendments.

(A) Language Requirements. The mailed notice shall include a letter prepared by the UDO Administrator that outlines the nature of the request, informs the property owners of the

dates and location of the Public Hearing held by the Board of Commissioners as well as the date and location at which the Planning Board will review the request. The mailed notice should inform the recipient of the proposal and any specific elements of the proposal as it relates to Conditional Rezonings and Text Amendments. Mailed notices for General Rezonings will just include the existing district and the proposed district.

6.6.3 Posted Notice

The UDO Administrator shall post a notice of the public hearing upon the parcel that is subject to rezoning or conditional rezoning. When it is not physically possible to post the notice upon the parcel or if the notice is not easily visible from the public right-of-way, the notice shall be posted on an adjacent street or public right-of-way as close as possible to the parcel that is proposed to be rezoned. The notice shall be posted no less than 10 days but no more than 25 days prior to the date scheduled for the public hearing. This does not apply to text amendments.

(A) Language Requirements. The posted notice should include language that indicates the date, time, and location of the public hearing and is encouraged to identify the type of hearing that Is being held (General or Conditional Rezoning).

6.6.4 Large-Scale Zoning Map Amendments

The first-class mail notice requirement is not required if the proposed rezoning or conditional rezoning involves 50 or more parcels, owned by at least 50 different parcel owners. The Town of Warsaw may post an advertisement in the newspaper that is at least one-half of a newspaper page in size. This type of advertisement only applies to people who live within the area of the general circulation of the newspaper that is used. Parcel owners whose tax listed address indicates that they live outside of the circulation area must be mailed a notice in accordance with standard newspaper notice requirements.

6.6.5 Optional Meeting

The applicant is encouraged to host a neighborhood meeting prior to the Board of Commissioners conducting a public hearing for any proposal, but it is not required by this UDO to conduct such meeting. The Town of Warsaw will make its facilities available for such an optional meeting, but it will be made explicitly clear that the meeting is not orchestrated or funded by the Town of Warsaw. The applicant is not required to host optional meetings at Town of Warsaw facilities.

6.6.6 Continuation of Hearing

In certain situations, the public hearing may not reach its conclusion at the Board of Commissioners meeting in which it is heard. The Board of Commissioners may leave the public hearing open and continue the meeting to a certain date, time, and location. The Board must specify this in its motion to continue. The Board also has the option to close the public hearing and conduct its deliberation and decision at a separate meeting.

Section 6.7: Rezoning (General or Conventional)

A Rezoning (which may commonly be referred to as a general rezoning or conventional rezoning) is one in which the parcel is changed from an existing zoning district to a new zoning district in which all uses listed within this UDO apply to the property. For example, if a property is rezoned from Highway Business to Residential 20, all uses for Residential 20 would be permitted as noted in

Section 14.15, if rezoned, and the property would be required to comply with all standards of the new district.

6.7.1 Rezoning Review: Planning Board and Board of Commissioners

When reviewing a request for a rezoning, the Planning Board and Board of Commissioners are to review the request and take into consideration all the uses that could potentially occur within the district based on the proposal. Specific uses of the property or proposed uses shall not be considered. In the event the applicant alludes to specific uses for the property, the Board of Commissioners may require that the applicant undergo the Conditional Rezoning process. The UDO Administrator shall prepare the staff report in a fashion that informs the Planning Board and Board of Commissioners of all potential uses that may occur upon the property.

6.7.2 Recommendation and Consistency Statement

The Planning Board and Board of Commissioners shall develop their respective statements and conclusions as described in Article 5 and required by G.S. 160D-604 (Planning Board) and G.S. 160D-605 (Board of Commissioners). The UDO Administrator may assist the Boards in the creation of this statement through the information contained within the staff report.

6.7.3 Rezoning Review: How to Review a Rezoning Proposal

When reviewing proposals for rezoning request, the Planning Board and the Board of Commissioners should be evaluating the requests for the following:

(A) The permitted uses in the proposed zoning district and how they relate to the adjacent zoning districts.

(B) The adjacent zoning districts to the parcel proposed for rezoning.

(C) The adjacent future land use designations.

(D) The overall public interest and its wellbeing.

(E) Infrastructure/utilities and their ability to serve the property.

(F) The Town of Warsaw Land Use Plan, Future Land Use Map designation for the parcel.

(G) The proposal and how it relates to the contents of the Town of Warsaw Land Use Plan.

6.7.4 Denied or Withdrawn Rezoning Request and Reapplication

A landowner, developer, or applicant may refile a rezoning application following the denial or withdrawal of a previous application. No waiting period shall be imposed upon the refiling of a denied or withdrawn rezoning application, consistent with G.S. 160D-601(e).

Any refiled application shall constitute a new application and shall comply with the application, fee, notice, review, and public hearing requirements applicable at the time the new application is submitted.

Section 6.8: Conditional Rezoning

A Conditional Rezoning is one in which the specific proposed use for the parcel is known. All standards for the general zoning district apply to the conditional zoning district with respect to lot

size, setbacks, and other requirements indicated within this UDO. The Planning Board and Board of Commissioners are to consider the specific proposed use of the property. For example, if the proposal is a rezoning from the Highway Business District to a Conditional Residential 10 District for the purpose of establishing a 20-unit multi-family development, the proposal is to be reviewed for this specific use and its relation and impact.

6.8.1 UDO Administrator: Recommended Conditions

When reviewing proposals for conditional rezoning requests, the UDO Administrator may make recommendations to the Planning Board and Board of Commissioners for conditions to impose upon the request. The recommended conditions may include but are not limited to those that are related to implementation or conformity with the land use plan or those that address infrastructure needs, safety concerns, or conditions designed to improve the quality of life of all citizens.

6.8.2 Conditional Rezoning Review: Planning Board and Board of Commissioners

When performing review upon a conditional rezoning request, the Planning Board and Board of Commissioners are to consider the proposed use for the property and how it relates to the adjacent land uses, potential uses of adjacent lands, and the future land use designation for the property. They should also consider any conditions that may be necessary to impose upon the proposed use.

6.8.3 Recommendation and Consistency Statement

The Planning Board and Board of Commissioners shall develop their respective statements and conclusions as described in Article 5 and required by G.S. 160D-604 (Planning Board) and G.S. 160D-605 (Board of Commissioners). The UDO Administrator may assist the Boards in the creation of this statement through the information contained within the staff report.

6.8.4 Rezoning Review: How to Review a Conditional Rezoning Proposal

When reviewing proposals for conditional rezoning request, the Planning Board and the Board of Commissioners should be evaluating the requests for the following:

(A) The proposed use in the proposed conditional zoning district and how it relates to the adjacent zoning districts.

(B) The proposed use and how it relates to existing and future potential uses upon adjacent properties.

(C) The adjacent zoning districts to the parcel proposed for conditional rezoning.

(D) The adjacent future land use designations.

(E) The overall public interest and its wellbeing.

(F) Infrastructure/utilities and their ability to serve the proposed use and the impact of the use upon the existing infrastructure.

(G) The Town of Warsaw Land Use Plan, Future Land Use Map designation for the parcel.

(H) The proposal and how it relates to the contents of the Town of Warsaw Land Use Plan.

6.8.5 Conditional Rezoning: Conditions

The Board of Commissioners may require conditions to be placed upon the approval of conditional rezoning requests in accordance with the provisions established by Article 5. The imposed conditions shall be agreed upon in writing by the applicant. The UDO Administrator shall prepare a document including the conditions and provide it to both the applicant and the Board of Commissioners for their signature. A development agreement may also be required as part of the conditions when imposed conditions warrant infrastructure installation and extensions.

6.8.6 Denied Conditional Rezoning Request and Reapplication

In the event that a conditional rezoning request is denied, the parcel shall not be proposed for a conditional rezoning again for a period of 12 months, regardless of who is proposing the conditional rezoning. The exceptions to this rule include the following:

(A) A rezoning request to a separate district than was originally applied for.

(B) A substantial change from the initial proposed use in the conditional rezoning request. Substantial changes are a 30% reduction in the proposed number of units or lots, or a 30% addition in common open space or the addition of public amenities and infrastructure that the Planning Board deems substantial. The Planning Board may only make this determination after 6 months have elapsed from the date of the initial denial.

(C) A decision by the Planning Board that there is new evidence or elements of the land use plan that were not analyzed in the initial consideration of the conditional rezoning proposal. The Planning Board may only make this determination after 6 months have elapsed from the date of the initial denial.

(D) The Planning Board must make these determinations by majority vote. If the determination is made, a public hearing by the Board of Commissioners can then be advertised.

Section 6.9: Rezoning and Conditional Rezoning-Amendment to the Land Use Map

When rezonings or conditional rezonings that are proposed do not align with the designation given by the future land use map, the approval of such zoning map amendment has the effect of also amending the future land use map included in the Town of Warsaw Land Use Plan. The zoning map amendment does not amend the text of the plan; however, it does amend the future land use map. There may be situations where the proposed zoning map amendment aligns with the text and intent of the plan but does not align with the map. Per G.S. 160D-605(a). Amendments that are inconsistent with the map or plan shall be noted within the plan per G.S. 160D-501.

Section 6.10: Text Amendment

A Text Amendment is a proposal to either amend the text of this UDO or the Town of Warsaw Land Use Plan. Regardless of which text is proposed to be amended, both are required to undergo the same process. A text amendment involves the amendment of the text to introduce new requirements, standards, or uses or to remove certain language from the text that the Board of Commissioners has determine to no longer be necessary or relevant for advisory or regulatory purposes.

6.10.1 Text Amendment: Pre-Application Meeting Required

Applicants who wish to propose text amendments are required to have a pre-application meeting with the UDO Administrator to discuss the reasoning for the amendment request and discuss what the best proposed language should be for the amendment.

6.10.2 Text Amendment Review: Planning Board and Board of Commissioners

When reviewing a proposed text amendment, the Planning Board and Board of Commissioners should examine both the short-term and long-term effects of the proposed amendment as well as examine the amendments relation and effect on the document in which the proposed amendment is located in. The respective Boards should take into consideration that the proposed amendment benefits the overall public health, safety, and welfare of Warsaw as a whole and not one person or a select group or community.

6.10.3 Recommendation and Consistency Statement

The Planning Board and Board of Commissioners shall develop their respective statements and conclusions as described in Article 5 and required by G.S. 160D-604 (Planning Board) and G.S. 160D-605 (Board of Commissioners). The UDO Administrator may assist the Boards in the creation of this statement through the information contained in the staff report.

6.10.4 Denied Text Amendments

In the event that a text amendment request is denied, the same text amendment or one of similar nature shall not be proposed for a text amendment again for a period of 12 months, regardless of who is proposing the amendment.

Section 6.11: Appeals of Legislative Decisions

Appeals of the legislative decisions outlined within this Article shall be made in the manner outlined by G.S. 160D-1401.

(This page intentionally left blank.)

ARTICLE 7: QUASI-JUDICIAL PROCEDURE & DECISIONS

Section 7.1: Purpose

Certain uses, due to their nature, may not be permitted by right within certain zoning districts. Such uses may be permitted with special requirements or conditions place upon them to mitigate potential impacts of the use upon the adjacent properties. These uses shall require quasi-judicial review from the Board of Adjustment and the issuance of a Special Use Permit in order to establish themselves and operate. There are other situations that may exist which require a variance, or the lessening of the standards outlined in this UDO in certain circumstances and unique situations. This Article also sets forth the manner in which appeals of administrative decisions are to be dealt with.

Section 7.2: Appeals of Quasi-Judicial Decisions, Subject to Judicial Review

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. Appeals shall be filed within the times specified in G.S. 160D-1405(d).

Section 7.3: Ex-Parte Communication Forbidden

There shall be no ex-parte communication between any parties involved in a quasi-judicial hearing prior to the hearing, including communication beyond the general scope of what has been applied for. Parties include the Board of Adjustment, persons with standing, and the UDO Administrator but is not limited to such. If ex-parte communication occurs, it shall be disclosed at the hearing.

Section 7.4: Hearsay Prohibited

The Board of Adjustment shall not consider hearsay or general opinion in quasi-judicial hearings. The Board shall only consider expert opinion, witness, evidence, and testimony when making quasi-judicial decisions.

Section 7.5: Presentation of Evidence

For all quasi-judicial matters, all items submitted by the applicant including the application itself and any other associated document shall be provided to the Board of Adjustment at the hearing as evidence to be part of the record. This documentation includes the staff report and any other document of analysis produced by the UDO Administrator. The Administrator shall submit all documents, staff reports, and correspondence to the Board of Adjustment at the hearing as well so that it is a part of the official record.

All items, materials, and evidence shall also be provided to the Board of Adjustment and the applicant and landowner, if the landowner is different from the applicant. The materials shall be provided at the same time they are provided to the Board of Adjustment, in the same manner as it is provided to the Board of Adjustment, whether that be standard mail, email, or hand delivery. These items shall be provided at least one week prior to the hearing so that all parties involved may begin to familiarize themselves with and gain an understanding of the proposal. Objections to the inclusion or exclusion of materials may be made before or during the hearing.

Section 7.6: Burden of Evidence and Duties

7.6.1 Special Use

The initial duty in a quasi-judicial hearing falls upon the UDO Administrator to present all his findings, reports, and evidence to the Board so that they may have access to the materials to understand the proposal and any applicable specific requirements. The burden of evidence then shifts to the applicant, who shall produce factual and substantial evidence to the Board of Adjustment so that they may be able to vote upon the four required findings. The applicant may have expert witnesses and professionals testify at the hearing as part of their burden of the presentation of evidence. The applicant may also be represented by a NC licensed attorney. Adjacent owners and other citizens who can prove they are legitimately affected by the proposed use may also provide expert witness and testimony and present evidence that supports such, as well as have a NC licensed attorney represent their interest and concern at the hearing.

7.6.2 Variance

The burden of producing factual evidence and the burden of persuasion to the Board to prove all four Variance findings have been met are the sole duty of the applicant. The duty of the UDO Administrator is to produce a professional staff report and evaluation of the facts and existing conditions.

7.6.3 Appeal

The UDO Administrator has the initial burden of presenting evidence to justify why such a decision was made. This burden shifts to the aggrieved person at the conclusion of the UDO Administrator's testimony. Likewise, the aggrieved person or party shall present to the Board a detailed analysis of their grievance with the decision and what they believe the correct interpretation of this UDO is.

Section 7.7: Public Hearing (Special Use, Variance, Appeals of Administrative Decisions)

Prior to voting and making a decision upon a special use, variance, or administrative appeal, the Board of Adjustment shall conduct a quasi-judicial public hearing. The UDO Administrator shall keep detailed records of advertisement for the public hearing so that he may verify that the requirements have been met. The following steps shall be taken prior to the public hearing to satisfy the requirements of G.S. 160D-406.

7.7.1 Mailed Notice

Notices shall be mailed to the person or entity whose application is the subject of quasi-judicial review as well as the property owner, when different from the applicant. Notice shall also be mailed to the owners of all parcels of land that are abutting the parcel that is the subject of the quasi-judicial hearing. The notice shall be sent via first-class mail to everyone who is required to receive a mailed notice at the mailing address that is listed in the Duplin County Tax Office. Properties are considered to be adjacent or abutting even if separated by a street, railroad, or other transportation corridor. The mailed notice shall be mailed no less than 10 days but no more than 25 days prior to the date scheduled for the public hearing.

(A) Language Requirements. The mailed notice shall include a letter prepared by the UDO Administrator that outlines the nature of the request, informs the letter recipient of the date

and location that the Board of Adjustment will conduct a public hearing to perform quasi-judicial review. The letter shall also include language that describes what the quasi-judicial process is, identifies the voting requirements for the type of hearing, as well as informs of the burden of evidence as described by this Article. The letter shall include explicit language of how ex parte communication is prohibited.

7.7.2 Posted Notice

The UDO Administrator shall post a notice of the public hearing upon the parcel that is subject to quasi-judicial review. When it is not physically possible to post the notice upon the parcel or if the notice is not easily visible from the public right-of-way, the notice shall be posted on an adjacent street or public right-of-way as close as possible to the parcel that is under quasi-judicial review. The notice shall be posted no less than 10 days but no more than 25 days prior to the date scheduled for the public hearing.

(A) Language Requirements. The posted notice should include language that indicates the date, time, and location of the public hearing and is encouraged to identify the type of hearing that Is being held (Special Use, Variance, Appeal).

Section 7.8: Continuation of Hearing

In certain situations, the public hearing may not reach its conclusion at the Board of Adjustment meeting in which it is heard. The Board of Adjustment may leave the public hearing open and continue the meeting to a certain date, time, and location. The Board must specify this in its motion to continue. The Board shall not have any communication to be considered ex-parte communication once the hearing has been continued. There also may be instances where a quorum cannot be obtained to conduct a quasi-judicial hearing. In these instances, the hearing will be continued to the next regular scheduled meeting of the Board of Adjustment.

Section 7.9: Special Use Permits

7.9.1 Voting Requirements

At the conclusion of the public hearing, the Board shall close the hearing and enter its discussion, deliberation, and voting upon the special use permit request. In its voting procedure, the Board may place conditions upon their findings in accordance with this Article if the conditions are warranted. To approve a special use permit request, the Board must approve by majority vote all four findings listed below. If one of the four does not receive a majority vote for approval, the special use permit shall not be issued. The Board is encouraged to vote on each of these findings individually so that the record is definitively accurate. For purposes of this Section, vacant positions on the Board of Adjustment and members who have been disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority.

7.9.2 Findings

In approving the permit, the Board of Adjustment shall find as a specific finding of fact and reflect in their minutes that the permit will comply with the following four facts:

(A) The use will not materially endanger the public health or safety if approved.

(B) The use will not substantially injure the value of adjoining or abutting property.

(C) The use will be in harmony with the area in which it is to be located.

(D) The use will be in general conformity with the Town of Warsaw Land Use Plan or other plans and policies adopted by the Board of Commissioners.

If the Board determines that factual evidence has not been produced in an adequate manner to make these findings, the Board may deny the special use permit request based on the lack of substantial and factual evidence.

7.9.3 Written Decision

At the conclusion of voting, the Board shall provide a written decision to the Applicant that reflects the record of the public hearing including testimony given and how the Board voted on the four findings. The written decision shall reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be produced within a reasonable amount of time and signed by the Chair of the Board of Adjustment. The decision is effective upon its filing with the clerk to the Board of Adjustment.

In addition to providing a copy of the decision either in electronic form or first-class mail to the applicant, the decision shall be provided to the landowner if different from the applicant and any other person who has submitted a written request for a copy of the decision. Copies of decisions shall be filed and kept in the office of the UDO Administrator.

7.9.4 Denied Special Use Permit Request & Reapplication

If the Board of Adjustment denies a special use permit request, such special use permit proposal may not be reapplied for upon the same parcel of land for a period of 12 months. The exceptions to this requirement are as follows:

(A) New information is available that could not with reasonable diligence have been presented at the previous hearing. A request to be reheard under this provision must be made within 30 days of the denial.

(B) A new application upon the same in which the proposal is substantially different from or is incorporating a substantial number of amenities to benefit the public. The decision of what is substantial is at the sole discretion of the Board of Adjustment.

(C) The Board of Adjustment must by majority vote approve requests prior to scheduling and advertising for a quasi-judicial hearing.

Section 7.10: Variance

7.10.1 Variance Requirements

There are practical difficulties or unnecessary hardships that prevent compliance with the strict letter of this UDO. In granting the variance, the project will ensure equal or better protection of waters of the State than the requirements of 15A NCAC 02B .0711, and that the public safety and welfare have been assured and substantial justice has been done.

7.10.2 Voting Requirements

At the conclusion of the public hearing, the Board shall close the hearing and enter its discussion, deliberation, and voting upon the variance request. In its voting procedure, the Board may place

conditions upon their findings in accordance with this Article if the conditions are warranted. Warranted conditions are those that ensure the use of the property will be compatible as practicable with surrounding properties. To approve a variance request, the Board must approve by 4/5ths vote of the Board's membership all four findings listed below. If one of the four does not receive a 4/5ths vote for approval, the variance shall not be issued. The Board is encouraged to vote on each of these findings individually so that the record is definitively accurate. For purposes of this Section, vacant positions on the permit-issuing board and members who have been disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority.

If the Board determines that factual evidence has not been produced in an adequate manner to make these findings, the Board may deny the variance request based on the lack of substantial evidence.

Four Fifths Explained – The Board of Adjustment is a 7-member Board. For variances, there must be 6 affirmative votes on each of the findings. In the event that a member is absent or is unable to vote and is not exempted due to a conflict of interest, the 6 votes are still required due to the 4/5ths rule. For members exempted due to a conflict of interest, the 4/5ths will be calculated based on the members that are able to vote on the matter.

7.10.3 Findings

(A) Unnecessary hardship would result from the strict application of this UDO. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

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

(C) 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.

(D) The requested variance is consistent with the spirit, purpose, and intent of this UDO, such that public safety is secured, and substantial justice is achieved.

7.10.4 Written Decision

At the conclusion of voting, the Board shall provide a written decision to the Applicant that reflects the record of the public hearing including testimony given and how the Board voted on the four findings. The written decision shall reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be produced within a reasonable amount of time and signed by the Chair of the Board of Adjustment. The decision is effective upon its filing with the clerk to the Board of Adjustment.

In addition to providing a copy of the decision either in electronic form or first-class mail to the applicant, the decision shall be provided to the landowner if different from the applicant and any

other person who has submitted a written request for a copy of the decision. Copies of decisions shall be filed and kept in the office of the UDO Administrator.

Section 7.11: Appeals of Administrative Decisions

7.11.1 Requirements

Except as provided in G.S. 160D-1403.1, appeals of Administrative Decisions shall be made to the Board of Adjustment per G.S. 160D-405. Appeals of Administrative Decisions on Subdivision Plats shall be made in accordance with G.S. 160D-1403. If the subdivision decision is made by the UDO Administrator, it shall be in accordance with G.S. 160D-405.

Any person who has standing per G.S. 160D-1402(c) may appeal an administrative decision to the Board of Adjustment. Appeals shall be filed with the UDO Administrator and submitted in the form of an "Appeals Application". The time in which the person with standing has to appeal is 30 days from the receipt of the administrative decision or determination. Notices given by first-class mail are deemed to be received on the third business day following deposit of the notice for mailing with the United States Postal Service.

An appeal of an Administrative Decision, Notice of Violation, interpretation of this UDO or any other subsequent appeal in accordance with G.S. 160D-1402 stays enforcement of the action appealed from and accrual of any fines assessed during the pendency of the appeal or during the pendency of any civil proceeding authorized by law or related appeal. If, however, the UDO Administrator certifies to the Board of Adjustment after notice of appeal has been filed that, because of the facts stated in an affidavit, a stay would cause imminent peril to life or property, or because the violation is transitory in nature, a stay would seriously interfere with enforcement of this UDO, then enforcement proceedings are not stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after the request is filed. Notwithstanding any other provision of this section, appeals of decisions granting a development approval or otherwise affirming that a proposed use of property is consistent with this UDO does not stay the further review of an application for development approvals to use the property; in these situations, the appellant or the Town of Warsaw may request, and the Board of Adjustment may grant a stay of a final decision of development approval applications, including building permits affected by the issue being appealed.

7.11.2 Hearing

When conducting a hearing for an appeal, the Board of Adjustment must examine the language of this UDO, and the decision made by the UDO Administrator and determine if the UDO Administrator has correctly interpreted and applied this UDO. The presentation of evidence and factual information is an important aspect of the hearing and should be closely reviewed and considered by the Board of Adjustment. All persons presenting to the Board in an appeal hearing must provide sworn testimony. Any person who willfully swears falsely is guilty of a class 1 misdemeanor. The Board of Adjustment may subpoena witnesses.

The UDO Administrator shall appear as a witness at the hearing, or the person who currently occupies that position if the decision-making UDO Administrator is no longer employed by the Town of Warsaw. At the hearing, the UDO Administrator shall present their determination with a detailed analysis of why such decision was made.

7.11.3 Voting Requirements

The vote shall be a simple majority, and the Board shall vote to uphold the UDO Administrator's decision, overturn, or modify the decision. The Board may make any order, requirement, decision, or determination they deem necessary to be made. The Board must make its decision based on competent, material, and substantial evidence in the record produced at the hearing. For purposes of this Section, vacant positions on the permit-issuing board and members who have been disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite majority.

7.11.4 Written Decision

At the conclusion of voting, the Board shall provide a written decision to the Applicant that reflects the record of the public hearing including testimony given and how the Board voted on the appeal and decision made by the UDO Administrator. The written decision shall reflect the Board's determination of contested facts and their application to the applicable standards. The written decision shall be produced within a reasonable amount of time and signed by the Chair of the Board of Adjustment. The decision is effective upon its filing with the clerk to the Board of Adjustment. In addition to providing a copy of the decision either in electronic form or first-class mail to the applicant, the decision shall be provided to the landowner if different from the applicant and any other person who has submitted a written request for a copy of the decision. Copies of decisions shall be filed and kept in the office of the UDO Administrator.

(This page intentionally left blank.)

ARTICLE 8: VESTED RIGHTS, PERMIT CHOICE, SITE SPECIFIC VESTING PLANS

Section 8.1: Purpose

The purpose of this Article is to provide for the protection of time, expense, and investment of persons into legal land use and development within the Town of Warsaw.

Section 8.2: Definition Applicability

Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this Article shall have the meaning indicated when used in this Article.

(A) Landowner. Any owner of a legal or equitable interest in real property, including the heirs, devisees, successors, assigns, and personal representative of such owner. The landowner may allow a person holding a valid option to purchase to act as his agent or representative for purposes of submitting a proposed site-specific development plan.

(B) Property. All real property subject to the regulations and restrictions of this UDO as well as the zoning district boundaries established by this UDO and depicted on the official zoning map.

(C) Site Specific Development Plan. A plan which has been submitted to the Town of Warsaw by a landowner describing in detail the type and intensity of use for a specific parcel or parcels of property. Such a plan shall be in the form of a site plan required by Article 3, with all additional required information as provided for by Article 3 and having received approval from either the Planning Board, Board of Adjustment, Board of Commissioners, or UDO Administrator as required by this UDO, as applicable to the specific type of development applied for.

(D) Vested Right. The right to undertake and complete the development and use of property under the terms and conditions of an approved site-specific development plan.

Section 8.3: Vested Right

Vested Rights are established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan. Vested Rights allow for the landowner to undertake and complete the development and use of property under the terms of their site-specific vesting plan. Vested Rights may also be established by receiving approval from the Board of Commissioners or Board of Adjustment for a specific use through the conditional rezoning or special use process.

8.3.1 Establishment of Vested Right

A vested right is established once valid approval or conditional approval has been issued for a site-specific vesting plan. These valid approvals shall only be given by either the Planning Board, Board of Adjustment, Board of Commissioners, or UDO Administrator as required by this UDO, as applicable to the specific type of development applied for.

8.3.2 Claiming Vested Rights

A person claiming a statutory or common law vested right may submit information to substantiate that claim to the UDO Administrator, who shall make an initial determination as to the existence of the vested right. The decision of the UDO Administrator 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 or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

8.3.3 Duration of Vested Rights

The duration for vested rights for a site-specific vesting plan is for a period of 24-months from the date of the UDO Administrator's approval. A vested right shall not be extended by any amendments or modifications to an approved site-specific development plan unless expressly provided for by the Board of Commissioners. A vested right shall expire at the end of 24-months if no building permit applications have been filed with the Town of Warsaw to construct the use or uses proposed in the approved site-specific development plan. If building permits are issued, the provisions of G.S. 160D-1111 and G.S. 160D-1115 shall apply, except that a building permit shall not expire or be revoked because of the lack of progress during the 24-month vesting period. A vested right terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

8.3.4 Vested Phased Development

A multi-phased development (development containing 25 acres or more) is vested for the entire development with the regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this Article remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

8.3.5 Vested Rights Protections

A vested right, once established or provided for in this section, precludes any zoning action by the Town of Warsaw which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the approved site-specific development plan, except:

(A) With the written consent of the affected landowner;

(B) Upon findings, by ordinance after notice and a public hearing, that natural or man-made hazards in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific development plan;

(C) To the extent that the affected landowner receives compensation 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 Town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property, which is caused by such action;

(D) Upon findings, by ordinance after notice and a public 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 of the site-specific development plan; or

(E) Upon the enactment or promulgation of a state or federal law or regulation which precludes development as contemplated in the site-specific development plan, in which case the Town 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 public hearing.

The establishment of a vested right shall not preclude the application of overlay zoning which imposes additional requirements but does not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.

Notwithstanding any provisions of this Section, the establishment of a vested right shall not preclude, change, or impair the authority of the Town to enforce provisions of this UDO governing nonconforming situations or uses. A vested right obtained under this section is not a personal right but shall attach to and run with the applicable property. After approval of a site-specific development plan, all successors to the original landowner shall be entitled to exercise such vested rights. The Town shall not require a landowner to waive his vested rights as a condition of developmental approval.

Section 8.4: Permit Choice

If this UDO is amended between the time a development permit application was submitted (including all types of development permit applications listed in this UDO) and a decision is made upon the application, the applicant of the development permit has the right to choose which version of this UDO shall apply to their development permit. If the development permit applicant chooses the version of the rule of this UDO applicable at the time of the permit application, the development permit applicant shall not be required to await the outcome of the amendment to the rule, map, or UDO prior to acting on the development permit. If an applicable portion of this UDO is amended after the development permit is wrongfully denied or after an illegal condition is imposed, as determined in a proceeding challenging the permit denial or the condition imposed, the development permit applicant may choose which adopted version of the UDO will apply to the permit and use of the building, structure, or land indicated on the permit application. Provided, however, any provision of the development permit applicant's chosen version of the UDO that is determined to be illegal for any reason shall not be enforced upon the applicant without the written consent of the applicant.

Section 8.5: Multiple Permits for Development Project

Subject to the Duration of Vested Rights section of this Article, where multiple development permits are required to complete a development project, meaning permits from the Town of Warsaw and other local or state governmental agencies, the development permit applicant may choose the version of each of the regulations applicable to the project upon submittal of the application for the initial development permit. This subsection is applicable only for those subsequent development permit applications filed within 18 months of the date following the approval of an initial permit. This subsection does not limit or affect the duration of any vested right established under the Duration of

Vested Rights section of this Article. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

Section 8.6: Site Specific Vesting Plan

A site-specific vesting plan consists of a plan submitted to the UDO Administrator in which the applicant requests vesting pursuant to this section, describing with reasonable certainty on the plan the type and intensity of use for a specific parcel or parcels of property. The plan shall be in compliance with the applicable requirements outlined in Article 3 for the plan type required for the certain proposed development. What constitutes a site-specific vesting plan under this section that would trigger a vested right shall be finally determined by the UDO Administrator pursuant to this UDO, and the document that triggers the vesting shall be so identified at the time of its approval. Generally, plans associated with applications in Article 3 will be considered as a site-specific vesting plan unless the UDO Administrator determines they have not met the minimum site-specific vesting plan requirements, or the approved plan left significant relevant information out of its contents. At a minimum, a site-specific vesting plan shall contain the following information:

(A) Boundaries of the site.

(B) Significant topographical and other natural features affecting the development of the site.

(C) The approximate location on the site of the proposed buildings, structures, and other improvements.

(D) The approximate dimensions, including height, of the proposed buildings and other structures.

(E) The approximate location of all existing and proposed infrastructure on the site including water, sewer, roads, and pedestrian walkways.

A variance does not constitute a site-specific vesting plan. If a sketch plan or other document fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

ARTICLE 9: DEVELOPMENT AGREEMENTS & PERFORMANCE GUARANTEES

Section 9.1: Authorization for Development Agreements

There are certain projects that due to their type will occur in multiple phases over several years which will require a long-term commitment from both the Town of Warsaw and the developer to see the project completed. These projects, due to their complexities, may not be handled most efficiently using traditional practices for zoning approval. These projects require careful planning and commitment to ensure that the necessary facilities and infrastructure are in place to allow for the project to continue meeting its phases and milestones as it works towards completion. For projects of this type, developers need assurances from the Town of Warsaw prior to committing to executing the project.

Development that is authorized by a development agreement shall comply with all State and Federal laws including the provisions of this UDO. The Town of Warsaw shall not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.

Development Agreements must be approved by the Board of Commissioners in accordance with procedures set forth in G.S. 160D-1005. A legislative hearing shall be held for the proposed Development Agreement and shall follow the procedure set forth in Article 6. The hearing notice shall specify the location of the property subject to the Development Agreement, the development uses proposed on the property and specify a place where the copy of the proposed agreement can be obtained.

Section 9.2: Applicability of Development Agreements used in Concurrence

Development agreements may, by an Ordinance to Approve, be incorporated, in whole or in part, into any development regulation adopted by the Town of Warsaw. A development agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plan required under a subdivision regulation, or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

Section 9.3: Parcel Size and Time Restrictions

There is no minimum parcel size requirement for a Development Agreement and the Board of Commissioners shall determine a reasonable time for the agreement based upon the scope of the project.

Section 9.4: Contents of Agreement

The following are the minimum requirements of components that must be incorporated into the Development Agreement.

(A) A description of the property subject to the agreement and the names of its legal and equitable property owners.

(B) The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.

(C) The development uses permitted on the property, including population densities and building types, intensities, placement on the site, and design.

(D) A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the Town of Warsaw shall solely provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.

(E) A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceeds existing laws related to the protection of environmentally sensitive property.

(F) A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.

(G) A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

(H) A description of the penalties for breach in lieu of termination.

The Development Agreement may also include language that stipulates when certain aspects or phases of the development must be commenced or completed by. The Development Agreement shall include a development schedule timeline, and no portion of the timeline shall have greater than 5-year increments in between phases. Failure to meet a commencement or completion date does not, in and of itself, constitute a material breach of the development agreement pursuant to G.S. 160D-1008 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as required to be set forth in the agreement. Modifications must be approved by the Board of Commissioners.

If the Town of Warsaw is not the sole unit of local government in the agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.

The development agreement may include mutually acceptable terms regarding provision of public facilities and other amenities and the allocation of financial responsibility for their provision, provided any impact mitigation measures offered by the developer beyond those that could be required by the Town of Warsaw shall be expressly enumerated within the agreement, and provided the agreement may not include a tax or impact fee not otherwise authorized by law.

Major modifications to Development Agreements shall follow the same procedures as required for initial approval of a development agreement.

Section 9.5: Vesting for Development Agreements

Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of the execution of the agreement.

Except for grounds specified in G.S. 160D-108 (c) or (d), the Town of Warsaw may not apply subsequently adopted ordinances or policies to a development that is subject to the agreement. In the event State or Federal law undergoes change after a development agreement has been entered into, and the change prevents or precludes compliance with one or more provisions of the agreement, the Town of Warsaw may modify the affected provisions, upon a finding that the change in State or Federal law has a fundamental effect on the development agreement.

Section 9.6: Breach and Cure

The UDO Administrator shall periodically review the project and contents of the Development Agreement to ensure that the developer is demonstrating good faith compliance with the terms of the agreement. If the UDO Administrator finds and determines that the developer has committed a material breach of the agreement, the UDO Administrator shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach consistent with the Violations and Enforcement provisions established by this UDO.

If the developer fails to cure the material breach within the time given, then the Town of Warsaw unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the Board of Adjustment in the manner provided by G.S. 160D-405. An ordinance adopted pursuant to G.S. 160D-1003 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation.

Nothing in this Article shall be construed to abrogate or impair the power of the Town of Warsaw to enforce applicable law. A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of the development agreement.

Section 9.7: Amendment & Termination and Change of Jurisdiction

Subject to the provisions of G.S. 160D-1006(e), a development agreement may be amended or terminated by mutual consent of the parties.

Any development agreement entered into by the Town of Warsaw before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The parties to the development agreement and the local government assuming jurisdiction have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction. A local government assuming jurisdiction may modify or

suspend the provisions of the development agreement if the local government determines that the failure of the local government to do so would place the residents of the territory subject to the development agreement or the residents of the local government, or both, in a condition dangerous to their health or safety, or both.

Section 9.8: Recordation

The developer shall record the agreement with the Duplin County Register of Deeds within 14 days after the local government and developer execute an approved development agreement. No development approvals may be issued until the development agreement has been recorded. The burdens of the development agreement are binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.

Section 9.9: Applicability of Procedures to Approve Debt

In the event that any of the obligations of the Town of Warsaw in the development agreement constitute debt, the Town of Warsaw shall comply, at the time of the obligation to incur the debt and before the debt becomes enforceable against the Town of Warsaw with any applicable constitutional and statutory procedures for the approval of this debt.

Section 9.10: Performance Guarantees

There may be instances where the developers desire to receive approval for a final subdivision plat to be signed and recorded prior to the installation of required infrastructure or items shown to be installed on a site plan. These instances may also include but are not limited to the installation of a buffer in non-planting months, the provision of required site amenities such as multi-use paths, open space structures or amenities, etc.

When these situations exist, the applicant or developer may provide a detailed cost estimate for a Performance Guarantee to the UDO Administrator for review. Developers and applicants should make good faith efforts for all improvements to be installed and in working order and good condition prior to their attempt at obtaining a final permit or plat approval.

When the Administrator determines that a Performance Guarantee and the associated detailed cost estimate is valid, the UDO Administrator shall accept the guarantee to ensure that any outstanding requirements are completed prior to the release of the Performance Guarantee back to the applicant or developer.

Incomplete improvements that have been assured by a Performance Guarantee are expected to be completed within a one-year period.

Performance Guarantees shall be provided and approved prior to any issuance of permit, or the UDO Administrators signature is signed upon the final plat.

Prior to the issuance of the first associated building permit within the subdivision, the developer shall provide a status update on the completion of infrastructure. There shall be no certificate of occupancy issued until the outstanding items and the terms of the Performance Guarantee have been satisfied.

9.10.1 Types

The following types of guarantees may be accepted by the Town of Warsaw. The UDO Administrator may consult the Town attorney to determine if the type of proposed guarantee is sufficient and in an acceptable format.

(A) Surety bond issued by any company authorized to do business in North Carolina.

(B) Letter of credit issued by any financial institution licensed to do business in North Carolina.

(C) Cash or Check.

9.10.2 Amount

The amount required to be posted for the Performance Guarantee shall be 125% of the cost estimated to complete the incomplete infrastructure or outstanding site requirements. This projected cost is to be provided by the developer or applicant. The cost estimate will be reviewed by the UDO Administrator and other Town of Warsaw employees as deemed necessary by the UDO Administrator to accurately determine validity of the proposed cost. The cost estimate shall contain a detailed description of cost, materials, activities, and anticipated completion dates for the proposed infrastructure within the estimate. A lump sum estimate without any detailed explanation is not to be accepted by the UDO Administrator.

Specifically, the estimate is to include the cost of labor and material necessary for the completion of the required improvements. Cost shall be based upon unit pricing where applicable.

9.10.3 One-Year Administrative Meeting

One year from the date of the posting of the guarantee, the Developer or Applicant is required to have a meeting with the UDO Administrator to provide updates on installation and give a progress report with estimated dates for completion. Failure to have this meeting within 30 days of the one-year date of the initial acceptance of the guarantee may result in the Town of Warsaw executing the guarantee for the purpose of completing the incomplete required improvements.

9.10.4 Duration

The initial guarantee shall be valid for a period of one year unless the Board of Commissioners determines that the type of required improvement necessitates a period longer than one year. The Developer or Applicant shall not independently decide the scope of work necessitates a longer time than one-year. In the event the developer or applicant feels a period of one-year is not sufficient, they shall request that the UDO Administrator place their request upon the agenda of the Board of Commissioners.

Bonds and Letters of Credit shall include language for automatic renewal in the event that the required improvements have not been completed by the designated expiration date.

9.10.5 Extension

The Developer or Applicant shall put forth a good faith effort and actively work to have all required improvements completed prior to the initial expiration date. The Town of Warsaw does acknowledge that certain situations may necessitate the need for an extension. In the event that the posted Performance Guarantee is going to expire and there is no longer language that automatically extends the guarantee in either the bond or letter of credit, the Developer or Applicant is required to request

an extension. An extension request must be made to the Town of Warsaw Board of Commissioners. These requests must be made in advance of the expiration of the guarantee. If the applicant has failed to request an extension within 30 days of the defined expiration date, the Town of Warsaw shall call upon the bond or letter of credit and begin the necessary process to obtain the guaranteed funds for the purpose of completing the required improvements.

The UDO Administrator shall notify the applicant or developer 6 months prior to the expiration date and inform them of their responsibility to either complete the improvements or petition to the Board of Commissioners for an extension. The notification shall include the language of the Town of Warsaw's intention to obtain the guaranteed funds in the event the applicant or developer fails to comply with the notice. The notification shall be provided in certified mail, first-class mail, and email. The UDO Administrator shall also keep records of the date the notice was provided. The UDO Administrator may also elect to post the property(s) with a notice sign. \

9.10.6 Release

Once the required improvements have been made, the Developer or Applicant shall notify the UDO Administrator so that he may inspect to verify that the improvements have been completed and are adequate. The Developer or Applicant shall provide all documentation relevant to the improvements when notifying the UDO Administrator including but not limited to certification letters, testing results, invoices, and notarized statements from the parties contracted for improvement installation as determined necessary by the UDO Administrator.

The Administrator shall prepare a report for the Board of Commissioners outlining all improvements that have been made with documentation and evidence of their completion. The Board of Commissioners shall determine if the improvements have met the requirements of this UDO and authorize the return of Bonds, Letters of Credit, or escrowed funds upon completion of the improvement back to the Developer or Applicant. The UDO Administrator shall include written acknowledgement with return of the Performance Guarantee.

Cash or check guarantees will be deposited into the Town of Warsaw's finances for the purpose of being used to complete the required improvements in the event the Developer or Applicant fails to do so. If the Developer or Applicant completes the required improvements, the Administrator shall petition to the Town of Warsaw Finance Office for release of the funds back to the Developer or Applicant. The funds shall not be spent on anything other than for the completion of the identified improvements that have been guaranteed. The Town of Warsaw Finance Department is responsible for ensuring that the funds remain unused until such time to refund the developer or applicant or to complete the required infrastructure.

The Developer or Applicant may request a partial refund if more than 50% of the required improvements have been completed, this 50% is based on the initial Cost Estimate provided to determine the guaranteed amount. A partial refund request must be accompanied by detailed cost estimates outlining the work that has been completed with the inclusion of any applicable invoices and acceptance documents as deemed necessary by the UDO Administrator. The UDO Administrator shall report to the Board of Commissioners when partial requests have been made and provide evidence so that the Board of Commissioners may determine if the partial release is necessary.

ARTICLE 10: NONCONFORMING SITUATIONS

Section 10.1: General

A nonconforming situation occurs when, on the effective date of this UDO, an existing lot or structure, or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures exceed maximum height limitations, because the relationship between existing buildings and the land (in such matter as density and setback requirement) is not in conformity with this UDO, because signs do not meet the requirements of this UDO or because land or buildings are being utilized for uses that are not permitted within the zoning district in which they occur.

Unless otherwise specifically provided for in this UDO, and subject to the restrictions and qualifications set forth in the remaining sections of this Article, nonconforming situations that were otherwise lawful on the effective date of this UDO may be continued, the fact that situations exist but do not have proof of valid permits from the Town of Warsaw does not authorize them to allow to legally be considered as a nonconforming situation. Whenever this UDO refers to the effective date of adoption, the reference shall be deemed to include the effective date of any amendments to this UDO if the amendment, rather than this UDO as originally adopted, creates a nonconforming situation.

To be considered legally existing, permits issued by the Town of Warsaw must be presented to the UDO Administrator for verification of such existence. The UDO Administrator shall make all efforts to find documentation of the existing permit within the Town of Warsaw records. If the applicant, owner, or developer is unable to produce a copy of the initial permit and the UDO Administrator is unable to find a copy of the original permit, the Board of Commissioners shall review and determine if legal nonconforming status should be granted. This determination shall be based on upholding the intent and integrity of this UDO.

Section 10.2: Cost of Improvement and Tax Value

When determining cost of improvements based upon tax value to determine if 50% or more damage has occurred, property owner or applicants on their behalf are required to provide a detailed cost estimate including labor cost of the repairs necessary to restore the structure. If this cost exceeds 50% of the tax value of the structure, then it shall be considered as having incurred substantial damage, or damage greater than 50%. The tax value for the structure shall be the value assigned by the Duplin County Tax Office.

Section 10.3: Nonconforming Lots

10.3.1 Single Lot of Record with Lot Area and/or Lot Width Nonconformity

(A) When a vacant lot has an area or width which does not conform to the dimensional requirements of the district where located, but such lot was legally approved and of record at the time of adoption of this UDO or any subsequent amendment which renders such lot nonconforming, then such lot may be used for a use permitted in the district where located, provided that the setback dimensions and other requirements, except area or width, are complied with.

(B) In residential zones, only permitted residential uses shall be permitted on the nonconforming lot.

10.3.2 Lots with Contiguous Frontage in One Ownership

When two or more adjoining and vacant lots of record with contiguous frontage are in one ownership or in common ownership, meaning that the adjacent owner is of familial relation or the owner is a member of group ownership of the adjacent parcel at the time of the adoption of this UDO or subsequent to adoption and said lots individually have a lot area or lot width which does not conform to the dimensional requirements of the district where located, such lots shall be combined to create one or more lots that meet the standards of the district where located, prior to the issuance of any development permit for either lot.

10.3.3 Reduction of a Lot of Record

A lot of record reduced to less than the required area, width, or setback dimensions as the result of a condemnation or purchase by a local or state government agency shall become a nonconforming lot of record.

Section 10.4: Nonconforming Use of Land

10.4.1 Continuance of Nonconforming Use of Land

Any nonconforming use legally existing at the time of adoption or amendment of this UDO may be continued so long as it remains otherwise lawful subject to conditions provided in this Section.

10.4.2 Conditions for Continuance

Such nonconforming use of land shall be subject to the following conditions:

(A) The number of dwelling units in nonconforming residential uses shall not be increased.

(B) No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this UDO.

(C) No nonconforming use shall be expanded to a portion of the structure housing it that was not previously utilized for the use, unless permitted otherwise by this Article.

(D) If any nonconforming use of land ceases for any reason for a continuous period of more than 180 days, any subsequent use of such land shall be required to comply with the provisions of this UDO. The 180-day period shall begin either on the date a given use is removed from the property, or on the date a given use suffers substantial damage, the fact that the structure housing the use may have been maintained and water, sewer, electric service, etc., was still in active status at the property does not prevent the 180-day period from being effective. Substantial damage for the purposes of this section is defined as any structure that has incurred damage exceeding 50% of the structure's fair market value. Restoration of any nonconforming use must be with the clear intent of being continuous and permanent.

(E) The resumption of a nonconforming use of land shall not be permitted if such nonconforming use is superseded by a permitted use for any period of time.

(F) No additional structure(s) not conforming to the requirements of this UDO shall be erected in connection with such nonconforming use of land.

10.4.3 Extension, Enlargement, or Replacement of a Nonconforming Use

(A) Except as provided for in subsection (B) through (F), no nonconforming use shall be extended, enlarged, or replaced.

(B) Any single-family residential nonconforming use (which may be a manufactured home) may be enlarged or replaced with a similar single-family residential structure of the same size or of a larger size, so long as the enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to setback requirements. Replacement manufactured homes must be built after June 15, 1976, and comply with HUD requirements.

(C) A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this UDO was manifestly designed or arranged to accommodate such use, meaning the building was already "upfit" to accommodate for such use. However, a nonconforming use may not be extended to additional buildings or to land outside the original building.

(D) A nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming.

(E) The volume, intensity, or frequency of use of property where a nonconforming use exists may be increased and the equipment or processes used at a location where a nonconforming use exists may be changed if the Board of Adjustment can determine in a quasi-judicial hearing that the intensification will have no adverse impact on adjacent property and that no violations of other Articles of this UDO occurs, and that the Board of Adjustment can definitively determine that the use and nature of the original use does not change.

(F) In issuing a Special Use Permit, the Board of Adjustment may affix other reasonable and appropriate conditions such as, but not limited to, landscaping and buffering to separate dissimilar uses or to screen parking and loading areas. When issuing a Special Use Permit, the Board of Adjustment shall follow the same procedures and process as outlined in Article 7.

Section 10.5: Nonconforming Structures

10.5.1 Continuance of Nonconforming Structure

Any nonconforming structure legally existing at the time of adoption or amendment of this UDO may be continued so long as it remains otherwise lawful.

10.5.2 Conditions for Continuance

Such nonconforming structures shall be subject to the following conditions:

(A) No nonconforming structure may be enlarged or altered in any way which increases its nonconforming status in relation to setbacks or square footage requirements.

(B) In the event of damage by fire or other causes to the extent exceeding 50 percent of its tax value prior to such damage as established by the UDO Administrator, reconstruction of a nonconforming structure shall be permitted to occur within the same footprint as the previously existing nonconforming structure or to comply with the requirements of this UDO. The time period for application for reconstruction due to fire, disasters, or acts of God must take place within 180 days of the disaster. The time period for the actual commencement of construction must occur within a one-year period from the date of building permit issuance. For example, a home that burned down in 2006 is not eligible to apply for reconstruction within the same footprint of the home as it stood in 2006 in 2024.

(C) In the event of damage by fire or other causes to the extent causing less than 50 percent of its tax value prior to such damage as established by the UDO Administrator, reconstruction of a nonconforming structure shall be permitted provided it is constructed in the same way it originally existed subject to compliance with the requirements of the NC State Building Code or in compliance with the requirements of this UDO.

(D) No nonconforming structure shall be moved or relocated unless it is made to comply with the setback, square footage, and use requirements of the district in which it is relocated and with the requirements of the NC State Building Code.

10.5.3 Preservation of Safe or Lawful Conditions

Nothing in this UDO shall prevent the strengthening or restoration to a safe or lawful condition any part of any building declared unsafe or unlawful by the County Building Inspector or other duly authorized official.

Section 10.6: Miscellaneous Nonconforming Situations

10.6.1 Nonconforming Situation Resulting from Governmental Acquisition

Any lot reduced in size by the Town of Warsaw, Duplin County, or North Carolina condemnation or purchase of land shall obtain nonconforming lot or building status to the extent that said condemnation or purchase causes noncompliance with any provisions of this UDO.

10.6.2 Nonconforming Parking Created by Change of Use

Whenever a change of use that does not involve the enlargement of an existing structure is proposed for a lot on which the parking requirements of this UDO for the proposed new use cannot be met due to insufficient lot area, the proposed change of use shall not be regarded as an impermissible extension or enlargement of a nonconforming situation. However, the permit-issuing authority shall require that the parking requirements be satisfied to the extent possible utilizing the lot area that is available and may require that satellite parking space be obtained. The UDO Administrator may also make the determination that the existing spaces are not adequate to accommodate for the proposed use.

Section 10.7: Nonconforming Projects

All nonconforming projects on which construction was begun at least 180 calendar days before the effective date of this UDO as well as all nonconforming projects that are at least ten percent completed in terms of the total expected cost of the project on the effective date of this UDO may be completed in accordance with the terms of their permits, so long as these permits were validly issued

and remain unrevoked and unexpired. If a development is designed to be completed in stages, this Section shall apply only to the particular phase under construction. In addition, neither this UDO nor any amendment to it shall, without the consent of the property owner, affect any lot with respect to which a building permit has been issued pursuant to G.S. 160D-1108 prior to the enactment of the Article making the change so long as the building permit remains valid, unexpired, and unrevoked.

Section 10.8: Nonconforming Signs

10.8.1 Continuance of Nonconforming Signs

(A) Signs in existence on the effective date of this UDO which do not conform to the provisions of this UDO, but which were constructed, erected, affixed, or maintained in compliance with all previous regulations, shall be regarded as nonconforming signs. Although it is not the intent of this UDO to encourage the continued use of nonconforming signs, nonconforming signs shall be allowed to continue and a decision as to the continued existence and use or removal of such signs shall be controlled as follows:

(1) No nonconforming sign shall be changed to another nonconforming sign.

(2) No nonconforming sign shall have any changes made in the words or symbols used or the message displayed on the sign unless the sign is specifically designed for periodic change of message.

(3) No nonconforming sign shall be structurally altered so as to change the shape, size, type or design of the sign other than to make the sign a conforming sign.

(4) No nonconforming sign shall be re-established after the activity, business, or use to which it relates has been discontinued and such sign shall be removed.

(5) No nonconforming sign shall be re-established, and all remains of the sign must be removed after damage or destruction, if the estimated expense of repairs exceeds 50 percent of the estimated total value of the sign at the time of destruction, as determined by the UDO Administrator. If damaged by less than 50 percent, but repairs are not made within 180 days of the time such damage occurred, the nonconforming sign shall not be allowed to continue and must be removed.

(6) No nonconforming sign shall be relocated unless it is brought into conformance with the requirements of this UDO.

(7) Normal maintenance and repair of a nonconforming sign is permitted providing the shape, size, type, or design of the sign is not altered.

(8) In the event the use that the nonconforming sign is associated with ceases operation for 180 days, future occupants of the structure are required to remove the nonconforming sign or to make modifications to the existing sign so that it complies with the requirements of this UDO.

(B) Any nonconforming sign that is structurally altered, relocated, or replaced shall immediately be brought into compliance with all the provisions of this UDO.

(C) Any nonconforming sign which (i) is a safety hazard, (ii) has been abandoned, (iii) displays language, images, or text that in the opinion of the Town Attorney are offensive and not

protected under the First Amendment of the US Constitution, or (iv) which has not been properly maintained, including cleaning and painting of painted surface areas and replacement of damaged parts, shall be removed after due notice has been given by the UDO Administrator.

10.8.2 Violations of Nonconforming Sign Provisions

The UDO Administrator shall order the removal of any sign maintained in violation of the provisions of this Section for which removal procedures are herein prescribed, accordingly: the UDO Administrator shall give ninety days written notice to the owner or lessee to remove the sign or to bring it into compliance with this UDO. If the owner or lessee fails to remove the sign within ninety days after the ninety-day written notice has been given, the UDO Administrator or his duly authorized representative may institute removal proceedings according to the procedures specified in G.S. 153A-123.

Section 10.9: Existing Legally Established Nonresidential Development

10.9.1 Conforming Status of Existing Development

Notwithstanding any other provision of this UDO, any lawfully established nonresidential lot, building, structure, use, site improvement, or development existing on the effective date of this UDO shall be deemed conforming with respect to site and development standards that were not applicable to the development when it was lawfully established or that have been increased or made more restrictive by adoption of this UDO.

Such existing development shall not be classified or treated as nonconforming solely because it does not comply with a subsequently adopted or more restrictive requirement of this UDO pertaining to lot dimensions, building setbacks, building or site dimensional standards, off-street parking or loading, landscaping, buffering or screening, tree planting, lighting, pedestrian facilities, access, driveway location or spacing, internal circulation, open space, or other comparable site-development standards.

10.9.2 Continued Use, Maintenance, and Improvement

Development deemed conforming pursuant to this Section may continue to be used, occupied, maintained, repaired, renovated, and improved without being required to bring the entire existing site into compliance with subsequently adopted or more restrictive site-development standards, except as otherwise expressly required by this UDO.

10.9.3 Expansion, Addition, or Redevelopment

An addition, expansion, change of use, or redevelopment of a site deemed conforming under this Section shall not require portions of the site that are not affected by the proposed development activity to be brought into full compliance with current UDO standards solely as a condition of approval.

New development and the portion of a site directly affected by an addition, expansion, change of use, or redevelopment shall comply with applicable requirements of this UDO to the extent reasonably related to and necessitated by the proposed development activity, unless otherwise provided by this UDO.

An addition or expansion shall not increase an existing encroachment into a required setback, buffer, access separation, or other dimensional standard, except where expressly authorized by this UDO.

10.9.4 No Creation of Nonconforming Status

Adoption or amendment of this UDO shall not, by itself, cause a lawfully established nonresidential development to become a nonconforming use, structure, lot, or site solely because existing site conditions do not satisfy a newly adopted or more restrictive development standard identified in this Section.

Nothing in this Section shall authorize the continuation of a use that is not permitted within the applicable zoning district or otherwise alter the provisions of this Article governing nonconforming uses.

10.9.5 Intent

The intent of this Section is to preserve the conforming status of lawfully established nonresidential development when new or more restrictive site-development standards are adopted and to avoid the creation of nonconforming status based solely upon adoption or amendment of this UDO.

ARTICLE 11: VIOLATIONS AND ENFORCEMENT

Section 11.1: Purpose

The purpose of this Article is to establish the method of enforcement for when the UDO Administrator, Warsaw Police Department, Warsaw Fire Department, or the designee of the UDO Administrator discover violations of this UDO. The Warsaw Police Department and Warsaw Fire Department may be interpreted as agents of the UDO Administrator for the purpose of this Article. The UDO Administrator shall be responsible for the primary enforcement of violations. Due to the nature of the work conducted by Warsaw Police Department and Fire Department, they may observe potential violations and shall report these to the UDO Administrator for further investigation. The UDO Administrator may elect to informally work towards compliance with the violator prior to enacting the full duties of this Article.

Section 11.2: Violations

The following are types of common violations of this UDO. Violations of this UDO are subject to enforcement through remedies and penalties established by this UDO as well as the laws of the State of North Carolina. When a violation is discovered, a Notice of Violation may be sent to the violator and the property owner.

(A) Non-Permitted Activity. The engagement of development, construction, remodeling, or other activities of any nature upon a parcel of land that involves physical structures or their portions thereof without valid required permits authorizing such activity.

(B) Inconsistent Activity. The engagement of development, construction, remodeling, or other activities of any nature upon a parcel of land that involves a physical structure that does not align with the contents of the permit, including its site plan or the activity that Is permitted by the permit.

(C) Use Violations. The engagement in a land use with or without structures present upon a parcel of land where the situation exists that the use never received a permit for operation upon the parcel of land or the use is operating in a manner that is inconsistent with the provisions allowed for such use by this UDO.

(D) Maintenance Violation. A violation in which the parcel is not being maintained in the manner required by such approved site plans or the requirements of this UDO, to include but not be limited to buffers, required improved areas, landscaping, etc.

(E) Violation by Neglect. The operation and blatant disregard for any site specific or use specific conditions imposed upon uses that are authorized by either a Special Use Permit, Variance, or through a Conditional Rezoning.

Section 11.3: Records of Violations and Inspections

The UDO Administrator is to keep detailed records of all notices both formal and informal, complaints, inspections, violations, and violators. These records should include the nature of complaints, source, remedies, and the results. These records will serve to be valuable for enforcement proceedings as well as a reference for future violations and the best method to achieve compliance.

Section 11.4: Enforcement Procedures

When the UDO Administrator or his agent discovers a violation of this UDO or receives a complaint alleging a violation of this UDO, it shall be his/her duty to inspect the alleged violation to determine its validity. Violations observed by a designated agent of the UDO Administrator shall only be inspected by the UDO Administrator. Any observation made by an agent shall not be considered an inspection and shall be considered hearsay until the UDO Administrator performs a legal inspection to determine the validity of the alleged violation(s). In the event that the alleged violation is found to be a valid violation of this UDO, the Administrator may attempt to immediately notify the owner and occupant of the land, building, structure, sign, or use of the violation. The Administrator may elect to take informal action with the property owner or violator to achieve compliance prior to the issuance of a formal Notice of Violation. Complaints or reports of violations that are made by citizens must come from citizens who are a minimum of 18 years old, the Administrator may take measures to verify that the complaint is made by a person of valid age.

Section 11.5: Citizen Complaints

Citizens have the right to remain anonymous in their complaints of violations of this UDO. Citizens may also provide their information so that the UDO Administrator can provide them with updates of the status of such violations. The UDO Administrator shall investigate complaints of violations that have generated from citizen complaints based on the following timeline. The UDO Administrator may also determine that the nature of the complaint warrants an immediate inspection.

(A) 1-2 citizen complaints for the same violation shall result In the UDO Administrator inspecting the alleged violation within 3-4 business days of the alleged complaint.

(B) 3-4 citizen complaints for the same violation shall result in the UDO Administrator inspecting the alleged violation within 2-3 business days of the alleged complaint.

(C) 5-7 citizen complaints for the same violation shall result in the UDO Administrator inspecting the alleged violation within 1 business day of the alleged complaint.

(D) 8 or more citizen complaints for the same violation shall result in the UDO Administrator inspecting the alleged violation on the same day that the complaint was received.

Section 11.6: Right to Inspection

The UDO Administrator has the right to inspect and enter upon properties at any reasonable time for the purpose of determining if a violation of this UDO exists. The UDO Administrator shall respect the property owner's reasonable expectation of privacy and shall not inspect any areas of the property which are not viewable from the public right-of-way. The UDO Administrator may elect to obtain an administrative search warrant for inspection If he deems the situation necessary. The UDO Administrator shall not enter upon any property that is marked no trespassing. However, if the UDO Administrator is able to observe violations on such properties from a public right-of-way he may issue a notice of violation for such properties. The UDO Administrator shall not inspect any properties from other properties that would infringe upon a reasonable expectation of privacy. For example, the Administrator may not conduct an inspection from the rear yard of an adjacent property to find a violation. When conducting inspections under the authority of an administrative warrant the search shall only be for the contents identified by the warrant and the UDO Administrator shall not

perform any illegal search or seizure under any circumstances. The UDO Administrator may request a member of the Warsaw Police Department to accompany him for inspections.

Section 11.7: Informal Notice

The UDO Administrator may elect to provide informal notice to the violator and property owner. The informal notice may be in the form of a phone call, email, letter, or in-person meeting. The informal notice provided by the UDO Administrator should identify what type of violation exists and the actions necessary to remedy the violation. The UDO Administrator is not required to provide this type of notice but is encouraged to for first time violators of the UDO. Repeat offenders, meaning persons who have violated the provisions of this Article and UDO more than 3 times for the same type of violation or similar type of violation shall not be granted informal notice or an informal timeline for compliance. In the event that the violation Is severe or egregious, an informal notice may be bypassed for first time offenders. The UDO Administrator shall request compliance be achieved within a 10–30-day period based upon the severity of the violation when this type of notice is being provided.

Section 11.8: Formal Notice of Violation

Upon the discovery of a valid violation, the UDO Administrator, by first-class mail and standard mail, shall notify the property owner and violator of the violations that exist upon the parcel of land. The UDO Administrator may also elect to provide electronic notice or verbal notice, but this is additional notice and not required. This official Notice of Violation begins the process for the violator to comply or be subject to enforcement action and penalty.

Section 11.9: Contents of Notice of Violation

At a minimum, the official Notice of Violation shall include all the following information. The UDO Administrator may elect to include additional information as he deems necessary.

(A) Description of the Violation.

(B) Date that the violation was observed/inspected and acknowledgement that the UDO Administrator observed the violation.

(C) Citation of the section of the UDO that applies to the violation.

(D) Instructions to remedy the violation.

(E) Date that the violation must be brought into compliance.

(F) Notice of right to appeal.

(G) Description of civil penalties including notice that fees are accruing and enforcement action that will be taken if compliance is not reached. Include the date on which the civil penalties begin accruing.

(H) The UDO Administrator shall include language in the NOV to have a meeting with the violator to discuss the nature of the violations and establish a timeline for compliance. The failure of the applicant to be at this meeting does not affect the timeline for compliance or enforcement.

Section 11.10: Stop Work Order

In instances where the issued Notice of Violation is for illegal construction or other structural matters, the UDO Administrator shall consult with the Duplin County Building Inspector and request that a stop work order be issued to the property owner and any associated contractor or party involved in the construction of such illegal structure. The UDO Administrator also has the authority to issue a stop work order when there has been found a violation of Article 19 to exist.

Section 11.11: Timeline for Compliance

The Notice of Violation shall set forth a timeline for compliance. As all violations are not the same in nature or severity, certain violations require a more rapid response and the need for immediate compliance due to the hazards and risks to public health and safety that they may cause. The UDO Administrator shall be equitable in their timeline for compliance and may deviate from the time schedule indicated below when they deem it necessary and appropriate and serves for the protection of public health and safety of Warsaw while at the same time remaining fair and impartial to the violator.

(A) 10 Days. Egregious violations involving but not limited to extreme cases of solid waste, rubbish, junk vehicles, or other nuisances that are a threat to public health and safety which may include unpermitted structures that serve as an extreme hazard. 10 days for compliance applies to repeat and multiple time offenders, 3 or more-time offenses within a calendar year. This also applies to use violations where the use is not permitted within the zoning district.

(B) 20 Days. Significant violations that are not on the scale of being considered egregious but violations that warrant prompt attention. Violations including solid waste, rubbish, junk vehicles, other public nuisances and structures that serve as a hazard. 20 days for compliance applies to seldom offenders, people committing their 2nd offense within a calendar year.

(C) 30 Days. Minor violations of the UDO that require compliance but do not serve an immediate threat to the general public's health or safety. These violations may include but are not limited to unpermitted structures, elimination of required landscaping or buffers, sign violations, etc. First time offenders of any violation may be given 30 days for compliance based upon the determination of the UDO Administrator.

Section 11.12: Right to Appeal

The recipient of the Notice of Violation has the right to appeal per G.S. 160D-405 in the manner set forth by Article 7. The recipient shall have 30 days to appeal from the date that the Notice of Violation is received. First-class mail is deemed to be received on the third business day following deposit of the notice with the United States Postal Service.

Section 11.13: Failure to Comply

Failure of the violator to comply with the conditions outlined in the Notice of Violation or an order to comply issued by the Board of Adjustment in the instance of an appeal, shall result in the Town of Warsaw pursuing enforcement upon the violator to remedy the violation.

Section 11.14: Remedies

The Town of Warsaw may institute appropriate action to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, use, or development to abate the violation, prevent occupancy of the building, structure, or land and to prevent any illegal act, conduct, business, or use in or about the premises.

In instances where buildings, structures, sites areas or objects are designated as a historic landmark or located within the Town of Warsaw Historic District, and are found to be in violation of this UDO, and are subject to be demolished due to neglect by the property owner, the Historic Preservation Commission in association with the Board of Commissioners may institute actions or proceedings to eliminate the demolition or destruction of the structure.

Section 11.15: Enforcement

Per G.S. 160A-175, the Town of Warsaw will enforce violations of this UDO in the following manner.

11.15.1 Criminal Penalties

Per G.S. 160A-175 the Town of Warsaw must specify the types of violations that are subject to criminal penalties and that the provisions of G.S. 14-4 shall apply to. These shall be considered misdemeanors and are subject to a fine of $500.

The types of violations that the Town of Warsaw identifies as a misdemeanor are violations of Article 12 of this UDO which includes all violations related to nuisances, junk, and rubbish that are a legitimate threat to the public health, safety, and welfare of Warsaw.

11.15.2 Civil Penalties

All other violations of this UDO that are not corrected within the timeline provided by the UDO Administrator or the Board of Adjustment shall be subject to civil penalties. These civil penalties shall be recovered by the Town of Warsaw in a civil action in the nature of debt if the offender does not pay the penalty within the prescribed period. Each days violation shall be considered a separate and distinct offense.

Penalty Amount:

- First Day – $50
- Second Day - $100
- Third Day - $150

The penalty amount shall be $150 for every day following the third day. Failure to satisfy and resolve the penalty for a continuous period after the date indicated for initial compliance and the identified date that penalties will begin being imposed shall result in the Town of Warsaw enacting the provisions of this Article and seeking recovery and civil action in the nature of debt.

11.15.3 Injunctions and Abatement

The Town of Warsaw may apply to the Duplin County Superior Court of Justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the violation that has been identified in the Notice of Violation. The Court may enter an order of abatement as part of the judgement in the cause. The order of abatement may direct that buildings or structures upon

the property be closed, demolished, or removed and that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repair be made, or that any other action that is necessary be taken to bring the property into compliance. Failure to comply may result in the court determining that the violator is in contempt, and the Town of Warsaw shall issue an order of abatement. The Town of Warsaw shall have a lien upon the property for the cost of executing an order of abatement in the nature of a mechanics and material man's lien.

The defendant may secure cancellation of the order by paying all costs of the proceedings and posting a bond for compliance with the order.

11.15.4 Enforcement by Combination

The Town of Warsaw may enforce by using a combination of the provisions within this Article or by a single method.

Section 11.16: Illegal Subdivision

Illegal subdivision of land and the transfer or sale of land that has not been legally subdivided is guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process does not exempt the transaction from this penalty. The Town of Warsaw shall bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the Court, upon appropriate findings, shall issue an injunction and order requiring the offending party to comply with this UDO. Building permits shall be denied for parcels that have not been legally subdivided.

ARTICLE 12: NUISANCE PROPERTIES & JUNK VEHICLES

Section 12.1: Purpose

The purpose of this Article is to regulate hazardous property conditions that threaten the general public, health, and welfare of the citizens of Warsaw including those that impact neighboring properties and violate the UDO. These conditions include but are not limited to accumulations of solid waste or junk; junkyards; vehicle graveyards; inoperable, junk, or abandoned motor vehicles; common household items typically located within the structure such as furniture, appliances, electronics and clothes off a clothesline; unkept and uncontrolled growth of vegetation, noxious weeds, and grass that serve as a breeding ground for insects, pests, rodents, vermin and reptiles; animal and vegetable matter; and abandoned unsecured structures. In the event that the provisions of this Article are contradicted by provisions located in the Town of Warsaw Code of Ordinances, the most stringent conditions shall take precedence and apply to the situation. The provisions of Article 13 also apply to situations that may be enforceable under this Article as applicable.

Section 12.2: Conditions Considered to be a Violation

The presence or existence of these conditions and the state they exist in are a condition and cause to be a violation. Household items are expected to be contained within the structure, vehicles are expected to be compliant with the standards of this Article, yards and their associated areas are expected to be maintained and kept free of debris, solid waste, and rubbish. Businesses and other non-residential operations and use are also expected to comply with these requirements by preventing the existence of any of the conditions listed below.

(A) Abandoned motor vehicles.

(B) Junked motor vehicles.

(C) The uncontrolled growth of grass or other ground vegetation including weeds and noxious growth of more than 4 inches. This shall also apply to vacant properties that are not in a completely wooded or forested condition.

(D) The accumulation of debris and other construction & demolition materials, including but not limited to sheetrock, insulation, wood, nails, and other materials associated with construction.

(E) The accumulation of solid waste including but not limited to household trash, rubbish containers that haven't been properly sealed or maintained, trash bags that are not within receptacles, barrels and containers used for storing junk, rubbish, or trash.

(F) Household appliances (interior/exterior) that are not connected to and servicing the structure. This includes but is not limited to hot water heaters, washing machines, dryers, microwaves, bathtubs, showers, stoves, ovens, generators, HVAC units, etc.

(G) Household furniture, that is commonly upholstered but not required to be, including but not limited to beds, couches, recliners, rugs, carpets, curtains.

(H) Containers including but not limited to barrels, cans, carts that are not secured and in a condition that holds standing water which contributes to breeding for mosquitoes and other pests.

(I) The storage or accumulation of human or animal fecal matter which attracts pests and other vermin, posting risks to public health and quality of life.

(J) The accumulation of animal or vegetable matter the Is offensive by the virtue of odors or vapors or the inhabitance of pests or vermin.

(K) The accumulation of any object that may be considered by the Town of Warsaw Fire Department to constitute a high risk or fire hazard (not including materials used for the construction of a new structure that has a valid building permit).

(L) The existence of an abandoned structure, where the structure has the absence of doors, windows, or other similar types of structural features without adequate means to prevent entry into the structure such as solid coverings to obscure the openings and make them airtight and physically impassable.

(M) Any condition In the opinion of the Duplin County Health Department that is detrimental to public health.

(N) Any condition in the opinion of the Warsaw Police Department that is detrimental to public safety.

Section 12.3: Abandoned Structure Violation

The fact that the abandoned structure may be secured and brought into compliance with this Article by eliminating the immediate dangers it previously posed to public safety, health, and welfare, does not mean that is considered to be compliant with all other Articles of this UDO and further abatement of the abandoned structure may be required by the provisions set forth in Article 13.

For structures that are abandoned but have not deteriorated to the point of requiring enforcement under the provisions of Article 13, the property owner shall ensure that the structure is in compliance by having the structure secured, preventing the entry of other persons and animals. This includes doors, windows, roofs, garages, crawl spaces. These situations shall comply in entirety with the provisions outlined in **Section 13.10: Alternative Compliance - Abandoned and Unoccupied Structures.**

Section 12.4: Conditions of an Abandoned Structure

The following are conditions which make an abandoned structure qualify as being considered a nuisance, or the fostering of such conditions adjacent to the structure.

(A) A breeding ground for mosquitoes, other insects, rats, or other pests.

(B) A point of heavy growth of weeds or other noxious vegetation exceeding the 4-inch requirement.

(C) The collection of pools or ponds of water on the structure or on the land adjacent to the structure because of structural deficiencies preventing its ability to divert stormwater and drain properly.

(D) Concentrated quantities of gasoline, oil, or other flammable or explosive materials.

(E) A source of danger for children because of the possibility of entrapment or injury from exposed sharp surfaces of metal, glass, or other rigid materials.

(F) A source of danger from the home, or parts thereof, falling or turning over.

(G) Any structure specifically declared a public health and safety hazard by the Town of Warsaw Chief of Police, Fire Chief, Duplin County Building Inspections, or UDO Administrator.

Section 12.5: Abandoned & Junked Motor Vehicles

Abandoned or junked motor vehicles are prohibited. This includes allowing for motor vehicles to be in an abandoned or junked state on a piece of property or a public right of way.

To be considered an abandoned motor vehicle any of the following factors may exist, a combination of factors is not necessary. This also applies to boats, trailers, and other recreational vehicles.

(A) The vehicle has been left on a street or highway in violation of a law prohibiting parking or transportation within the right-of-way.

(B) Is left on property owned or operated by the Town of Warsaw for a period of 24 hours or more.

(C) Is left on private property without the consent of the owner, occupant, or lessee.

(D) Is left on any public street, right of way, or highway for more than seven days.

To be considered a junked motor vehicle, any of the following factors may exist, a combination of factors is not necessary. This also applies to boats, trailers, and other recreational vehicles.

(A) Partially dismantled or wrecked;

(B) Cannot be self-propelled in the original manner it was designed and intended to do.

(C) Does not display a current license plate that corresponds with the VIN number of the vehicle it is located upon.

12.5.1 Vehicle Methods of Compliance

Abandoned or junked motor vehicles may be covered with a fitted car cover or boat cover as applicable until such a time when they no longer can be classified as being abandoned or junked. Properties shall have no more than one abandoned or junked vehicle with a fitted vehicle cover. For properties that have in excess of one abandoned or junked vehicle, all excess vehicles are only allowed to remain covered for a period of 180 days before they are required to comply or be removed from the property. This does not apply to vehicles located within the right-of-way as they are not eligible for this method of compliance. Vehicles may also be located within a building that is completely enclosed and removes the vehicle from the public view.

Section 12.6: Method of Vehicle Removal

In the event that the UDO Administrator determines that the abandoned or junked vehicle needs to be removed, he shall take the steps necessary to ensure that the legal removal of the vehicle occurs. The vehicle may not be removed from private property without written consent of the property owner unless the Board of Commissioners declares the vehicle to be a public health and safety hazard.

12.6.1 Removal without Consent

The Board of Commissioners shall take into consideration the following factors when making a determination to remove the vehicle from private property without the consent of the property owner. The owner shall be given the opportunity to voluntarily remove or provide consent for the Town of Warsaw to remove prior to the Board hearing matters of this nature and making decisions.

(A) Protection of property values

(B) Protection of public health and safety

(C) Preservation of the integrity and character of the community

12.6.2 Removal with Consent

The owner of the property and vehicle may provide consent to the Town of Warsaw for the removal of the vehicle that is not in compliance with the requirements of this UDO. The Town of Warsaw shall require that the person who has requested the removal of the vehicle from private property to indemnify the Town of Warsaw against any loss, expense, or liability incurred because of the vehicle's removal, storage, or sale.

12.6.3 Notice for Removal from Private Property

When any junked of abandoned motor vehicle is removed, the UDO Administrator shall provide written notice to the registered owner and property owner at his last known address on file with the NC Department of Motor Vehicles. The notice to the vehicle owner shall inform them of the Town of Warsaw's intention and actions that may include the sale or other disposition of the vehicle. The notice shall inform the owner of the vehicle that they may regain possession of the vehicle by paying the Town of Warsaw all reasonable costs incidental to the removal and storage of the vehicle. The notice to the property owner shall inform them of the vehicle that is non-compliant that is located on their property and the intended actions of the Town of Warsaw.

12.6.4 Removal from Right-of-Way

In the event that the abandoned or junked vehicle is not removed from the right-of-way. The UDO Administrator shall have the vehicle removed. The UDO Administrator shall adhere to the following process when removal is necessary.

(A) Pre-Towing Notice. The notice shall be mailed to the owner of the vehicle in addition to being conspicuously posted on the windshield or some other visible location on the vehicle. The notice will include the following:

(1) Description of why the vehicle is in violation.

(2) How the violation may be fixed.

(3) Contact information for the UDO Administrator.

(4) The date on which the Town of Warsaw will have the vehicle towed. There shall be a **7-day** period between the posting of the notice and the actual towing of the vehicle.

(B) Towed Vehicle Location. The vehicle that has been removed may be located at a storage garage or other area as determined by the tow company contracted by the Town of Warsaw to perform such services. The UDO Administrator shall provide notice to the owner of the vehicle once the vehicle has been towed. The notice shall include the following information:

(1) Description of the removed vehicle (including VIN #).

(2) Location of where the vehicle is being stored.

(3) The reason that the vehicle was towed and any charges against the owner.

(4) The procedure in which the vehicle owner may regain possession of their vehicle.

Section 12.7: Vehicle Recovery

The vehicle may be recovered by the owner of the vehicle paying the towing fee and any liability that has been incurred by the Town of Warsaw. Vehicle recovery from a storage facility, impound lot, or property under the ownership of the tow company is unlawful until all fees identified have been paid and the UDO Administrator determines that the vehicle may be released to the owner. The vehicle may also be recovered by anyone who has legal interest by paying all costs accrued.

12.7.1 Sale or Disposal of Vehicle

If the owner of the vehicle fails to recover the vehicle and legally regain possession of it, the Town of Warsaw may take the necessary steps to sell the vehicle, after it has been in possession of the Town of Warsaw for a minimum of 30 days. The following steps shall occur to sell or dispose of the vehicle:

(A) If the vehicle appears to have a fair market value of less than $100, it may be disposed of as a junk motor vehicle as provided by this Article.

(B) After the 30-day requirement has been met, the vehicle may be sold if a 20-day notice has been given to the Department of Motor Vehicles of the intended date of sale, which must be at least 20 days after such notice. Notice shall also be given to the last registered owner and to holders of all liens of record.

(C) The vehicle may be sold by public or private sale, but no vehicle may be sold until its value has been determined by three (3) disinterested licensed NC dealers of automobiles, or automotive subject experts.

(D) The proceeds of any sale shall be forwarded to the Town of Warsaw Finance Department, who shall pay from the proceeds of said sale the cost of removal, storage, investigations as to ownership and sale, and liens, in that order. If, after the sale, the ownership at the time of the removal is established satisfactorily to the Town of Warsaw Finance Department, the owner shall be paid so much of the proceeds as remains after payment of the forgoing costs and

liens. Where ownership cannot be established, any remaining proceeds shall be deposited in the general fund of the Town of Warsaw.

Section 12.8: Protections against Civil and Criminal Liability

Any person who removes a vehicle pursuant to this Article shall not be held liable for damages for the removal of the vehicle to the owner, lienholder, or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.

Section 12.9: Open Burning

Open burning is the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a stack, chimney, or permitted air pollution control device. All methods of open burning are prohibited within the Town of Warsaw and its jurisdiction. This does not apply to designed fire pits in which the fire is completely self-contained, and the material being burned is logs, wood, or firewood. Burn barrels are not considered fire pits.

Section 12.10: Violations and Enforcement

Violations and the enforcement of such violation under this Article are subject to be enforced under the provisions outlined in Article 11.

ARTICLE 13: SUBSTANDARD DWELLINGS & ABANDONED STRUCTURES

Section 13.1: Purpose

This Article is designed to promote a safe and healthy environment for the citizens of the Town of Warsaw, as well as preserving and protecting properties in violation and neighboring properties. This Article sets forth standards that citizens and property owners must abide by to achieve a safe and healthy environment. All dwellings, structures, and parcels of land within the jurisdiction of the Town of Warsaw shall comply with this Article.

Section 13.2: Discretion

Elements of this Article may resemble conditions that are also to be considered a violation under the provisions of Article 12. The UDO Administrator shall determine based off of the nature of the violation that exists if compliance may be achieved best through enforcing the provisions of this Article or of Article 12. The UDO Administrator may also apply the provisions of both Articles to the violation to achieve compliance. For example, there may be solid waste conditions that exist upon a piece of property that are best enforced by Article 12 and the structure may need to be enforced under the provisions of this Article when it is determined the act of securing the structure would not eliminate the violation or benefit public health, safety, interest, and welfare.

Section 13.3: Authorization

Whenever the Town of Warsaw finds that dwellings or structures are unfit for human habitation or that are a health or safety hazard as a result of the attraction of insects or rodents, conditions creating a fire hazard, dangerous conditions constituting a threat to children, or frequent use by vagrants as living quarters in the absence of sanitary facilities, the Town may order such dwelling or structure to be repaired, closed or demolished per G.S. 160D-1201.

Section 13.4: General Standards

Structures are expected to meet a general level of standards. These standards are measured by examination of defective conditions. Defective conditions are those that render the structure dangerous or injurious to the health, safety, and welfare of the occupants of the structure or neighboring properties or structures, or residents of the Town of Warsaw. Defective conditions include defects therein increasing the hazards of fire, accident, or other calamities; lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; or uncleanliness.

Section 13.5: Structural Standards

The following are the minimum structural standards for both dwellings and any other type of structure within the jurisdiction of the Town of Warsaw.

(A) Walls, floors, roofs, and any other structural member shall not have any portion of, or all of, in a rotted, deteriorated, or damaged (visible or non-visible) state that would compromise the structural integrity.

(B) Foundations, foundation walls, piers, or other foundation supports shall not be deteriorated or damaged to a point that compromises their supporting strength.

(C) Stairs, porches, and any appurtenance thereto shall be safe to use and capable of supporting a normal load.

(D) Adequate and unobstructed entrances for ingress and egress shall be provided for each structure and be of sound condition.

(E) All components of the structure that are exposed to the weather (all exterior features) shall be designed and maintained to be reasonably weatherproof and watertight.

(F) There shall be no appurtenances to the structure such as but not limited to a chimney, that is structurally deficient and constitutes a hazard.

(G) There shall be no exposed earth serving as a floor. No flooring material shall be directly in contact with exposed earth.

Section 13.6: Equipment And Facilities Standards

Each occupied dwelling and any other type of structure within the jurisdiction of the Town of Warsaw shall provide adequate plumbing, heating, and electrical systems for its occupants and inhabitants. Adequate facilities include plumbing, heating, and electrical systems operating in a normal fashion as intended by the design manufacturer. Adequate facilities also include all equipment and facilities required to be present and in good working order within a structure to receive a Certificate of Occupancy and meet the NC Building Code.

Section 13.7: Heat Source Requirements

Every dwelling unit leased as rental property shall have at a minimum, a central or electric heating system or sufficient chimneys, flues, or gas vents, with heating appliances connected, so as to heat at least one habitable room, excluding the kitchen, to a minimum temperature of 68 degrees Fahrenheit measured 3 feet above the floor with an outside temperature of 20 degrees Fahrenheit.

Section 13.8: Solid Waste & Infestations Standards

Both dwellings and structures, and the parcel of land which they occupy, shall be maintained to prevent the accumulation of solid waste and the creation of a situation that is conducive to insects, rodents, or other pests. Solid waste includes but is not limited to trash, indoor furniture, household appliances, junk, rubbish, household trash, commercial trash, junk/inoperable boats, golf carts, ATV's, etc. Dwellings and structures shall be provided with an adequate trash receptacle or container to house such items until they may be properly disposed of.

Section 13.9: Mold

Mold is not addressed or enforced by this Article or any other portion of the Town of Warsaw UDO. Mold should be addressed as a civil matter between property owners, inhabitants, occupants, and third parties.

Section 13.10: Alternative Compliance: Abandoned and Unoccupied Structures

In certain circumstances, where minimal deterioration exists (which is less than 20% of the tax value of the structure), the UDO Administrator may allow for alternative methods of compliance. If this alternative method is allowed, the following methods shall be followed. There may be structures within the jurisdiction of the Town of Warsaw that are designed for use or occupancy as a dwelling or non-dwelling, but they may currently be abandoned, unoccupied, or out of service. In these instances, the structure is required to meet all structural standards of this Article and to maintain the property to prevent solid waste & infestation from taking place on the property. When the structure is found to be minimally deteriorated, these structures shall be secured from any type of access from citizens, vagrants, insects, rodents, and pests. Securement may be achieved by the boarding of windows, doors, etc. Prior to the occupancy of this structure, all NC building code requirements shall be met as well as all structural, equipment and facilities, and solid waste and infestations standards must be met.

Section 13.11: Investigation, Complaint, Hearing

Whenever a petition is filed with the UDO Administrator by observance of a violation by the UDO Administrator or other Town of Warsaw staff, or by at least five residents of the Town of Warsaw at least 18 years of age that there appears to be a substandard dwelling, structure, or abandoned structure, the UDO Administrator shall investigate the petition to determine the validity of the complaint. Valid NC licensed identification must be provided to verify age and residency for violation complaints of 5 or more citizens.

If upon investigation, the UDO Administrator determines the complaint is valid, he shall serve upon the owner and parties in interest a Notice of an Administrative Hearing. The Administrative Hearing shall be not less than 10 days nor more than 30 days after the serving of the complaint. The rules of evidence prevailing in courts of law or equity shall not be controlling in a hearing before the Public Officer. Notice of the Administrative Hearing shall include the following:

(A) Indicate the violation and the date the violation was observed.

(B) Include pictures of the violation.

(C) Include language on how compliance may be reached.

(D) Include the date, location, and time of when the Administrative Hearing will be held.

(E) Inform the owner and parties of interest of their right to file an answer to the complaint and appear in person and give testimony at the Administrative Hearing.

(F) Inform the owner and parties of interest of their right to come into compliance prior to the Administrative Hearing, which would eliminate the need to have the hearing.

Section 13.12: Methods Of Service

(A) Complaints or orders issued by the UDO Administrator under this Article shall be served upon persons either personally or by certified mail. When service is made by certified mail, a copy of the complaint or order may also be sent by regular mail. Service shall be deemed sufficient if the certified mail is unclaimed or refused but the regular mail is not returned by the post office within 10 days after the mailing. If regular mail is used, notice of the pending proceedings shall be posted in a conspicuous place on the premises affected.

(B) If the identities of any owners or the whereabouts of persons are unknown and cannot be ascertained by the public officer in the exercise of reasonable diligence, or, if the owners are known but have refused to accept service by certified mail, and the public officer makes an affidavit to that effect, then the serving of the complaint or order upon the owners or other persons may be made by publication in a newspaper having general circulation in the jurisdiction at least once no later than the time at which personal service would be required under the provisions of this Article. When service is made by publication, a notice of the pending proceedings shall be posted in a conspicuous place on the premises thereby affected.

Section 13.13: Orders

If, after notice and Administrative Hearing, the UDO Administrator determines that the substandard dwelling, structure, or abandoned structure under consideration is unfit for human habitation or occupancy, the UDO Administrator shall state in writing findings of fact in support of that determination and shall issue and cause to be served upon the owner one of the following orders, as appropriate:

(A) Deterioration Order. If the repair, alteration, or improvement of the substandard dwelling, structure, or abandoned structure can be made at a reasonable cost, less than 50% in relation to the tax value of the structure, the owner, within 90 days, shall repair, alter, or improve the structure to comply with the standards set forth in this Article. The property may be required to be vacated and closed if continued occupancy during the time allowed for repair will present a significant threat of bodily harm, taking into account the nature of the necessary repairs, alterations, or improvements; the current state of the property; and any additional risks due to the presence and capacity of minors under the age of 18 or occupants with physical or mental disabilities. The order shall state that the failure to make timely repairs as directed in the order shall make the structure subject to be closed and considered unfit for habitation or occupation.

(B) Dilapidation Order. If the cost to repair, modify, or improve a substandard or abandoned structure exceeds 50% of its tax value, and the owner does not plan to proceed with repairs, an order will be issued requiring the owner to remove or demolish the structure within 90 days. Once the order is issued, the property must be vacated and closed.

Section 13.14: Appeals Of Orders

Appeals shall be made in accordance with the provisions of G.S. 160D-1208.

Section 13.15: Failure To Comply

In the event that the owner fails to comply with a Deterioration Order or Dilapidation Order from the UDO Administrator, the following shall take place:

If the owner fails to repair, alter, improve, remove or demolish substandard dwellings, structures or abandoned structures that have been given an order and instructions to comply, then the UDO Administrator shall petition to the Town of Warsaw Board of Commissioners to adopt an Ordinance instructing the UDO Administrator to effectuate the purpose of this Article. No Ordinance shall be adopted to require demolition until the owner has first been given a reasonable opportunity to bring the structure into conformity. This Ordinance shall be recorded in the Duplin County Register of Deeds and shall be indexed in the name of the property owner. Per G.S. 160D-1203.

Section 13.16: Ordinance For Repair Or Closing (Initial Ordinance)

Upon adoption of the Ordinance by the Town of Warsaw Board of Commissioners, the UDO Administrator shall cause the substandard dwelling, structure, or abandoned structure to be repaired, altered, improved, or vacated and closed, depending on the specific language of the Ordinance. The UDO Administrator may determine it necessary to post the structure with a placard that reads:

"This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful. Occupation of this building is a Class 1 misdemeanor."

The duty to repair the structure is the responsibility of the property owner. The only action the UDO Administrator will take is posting the structure to be closed.

Section 13.17: Ordinance For Demolition (Initial Ordinance)

Upon adoption of the Ordinance by the Town of Warsaw Board of Commissioners, the UDO Administrator shall cause the substandard dwelling, structure, or abandoned structure to be demolished or removed, depending on the specific language of the Ordinance. The UDO Administrator shall determine it necessary to post the structure with a placard that reads:

"This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful. Occupation of this building is a Class 1 misdemeanor."

The duty to remove or demolish the structure is the responsibility of the property owner. The UDO Administrator may only demolish or remove the structure upon adoption of a Final Ordinance pursuant to the Abandonment of Intent to Repair section of this Article.

Section 13.18: Abandonment Of Intent To Repair (Final Ordinance)

If a substandard or abandoned structure has remained vacated and closed for one year under an ordinance adopted by the Town of Warsaw Board of Commissioners, or following an official order or proceedings under substandard housing regulations, the Board may determine that the owner has abandoned efforts to repair, modify, or improve the property to make it suitable for habitation. In such cases, if the ongoing vacancy and deterioration pose risks to public health, safety, and welfare—such as fire hazards, threats to children and vagrants, attraction of criminal activity, contribution to blight,

decline in property values, and the loss of potential housing—the Board of Commissioners may, after the one-year period, enact an ordinance and formally serve it to the owner, setting forth the following:

(A) If it is determined that the repair of the structure to render it fit for human habitation or occupancy can be made at a cost not exceeding fifty percent (50%) of the tax value of the structure, the ordinance shall require that the owner either repair or demolish and remove the structure within 90 days.

(B) If it is determined that the repair of the structure to render it fit for human habitation cannot be made at a cost not exceeding fifty percent (50%) of the then current value of the structure, the ordinance shall require the owner to demolish and remove the dwelling within 90 days.

This Ordinance shall be recorded in the Duplin County Register of Deeds and shall be indexed in the name of the property owner in the grantor index. If the owner fails to comply with this Ordinance, the UDO Administrator shall effectuate the purpose of the Ordinance.

Section 13.19: Failure To Vacate

If any occupant fails to comply with a posted placard and order to vacate a structure, the UDO Administrator may file a civil action in the name of the Town of Warsaw to remove such occupant as authorized by G.S. 160D-1203(8).

Section 13.20: Liens

(A) The amount of the cost of repairs, alterations, or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which the cost was incurred, which lien shall be filed, have the same priority, and be collected as the lien for special assessment provided in Article 10 of Chapter 160A of the General Statutes.

(B) The amount of the cost is also a lien on any other real property of the owner located within the jurisdiction of the Town of Warsaw, or within one mile thereof except for the owner's primary residence. The additional lien provided in this subdivision is inferior to all prior liens and shall be collected as a money judgment.

(C) If the structure is removed or demolished by the UDO Administrator, the Town of Warsaw shall sell the materials of the structure, and any personal property, fixtures, or appurtenances found in or attached to the structure, and shall credit the proceeds of the sale against the cost of the removal or demolition, and any balance remaining shall be deposited in the superior court by the UDO Administrator, shall be secured in a manner directed by the court, and shall be disbursed by the court to the persons found to be entitled thereto by final order or decree of the court. Nothing in this section shall be construed to impair or limit in any way the power of the Town of Warsaw to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

Section 13.21: Additional Notice to Affordable Housing Organizations

Whenever a determination is made pursuant to this Article that a substandard dwelling, structure, or abandoned structure must be vacated and closed, or removed or demolished, under the provisions of this section, notice of the order shall be given by first-class mail to any organization involved in providing or restoring dwellings for affordable housing that has filed a written request for such notices. A minimum period of 45 days from the mailing of such notice shall be given before removal or demolition by action of the public officer, to allow the opportunity for any organization to negotiate with the owner to make repairs, lease, or purchase the property for the purpose of providing affordable housing. The public officer or clerk shall certify the mailing of the notices, and the certification shall be conclusive in the absence of fraud. Only an organization that has filed a written request for such notices may raise the issue of failure to mail such notices, and the sole remedy shall be an order requiring the public officer to wait 45 days before causing removal or demolition.

(This page intentionally left blank.)

ARTICLE 14: ZONING DISTRICTS, GENERAL ZONING PROVISIONS, PLANNED UNIT DEVELOPMENTS

Section 14.1: General

The zoning districts described within this Article and the specific provisions applicable to each district shall apply to all uses of land and proposed development of land. The dimensional requirements and setback requirements shall be applicable to all new construction and subdivision of land unless otherwise allowed by this UDO.

Section 14.2: Required Yard Area

The required yard areas, which include the areas in between the structure and the property line, or the setback area, shall not be encroached upon to the point of not meeting the setback requirements for the respective zoning district.

Section 14.3: Open Space

The required open space shall not be used to count towards the open space requirements of adjacent use. The open space requirements established by this Article are the minimum open space requirements and developers and property owners are encouraged to exceed these requirements. The UDO may allow for additional allowances related to density if more than 50% of the required open space is provided as long as the additional density does not exceed 20% of the maximum allowable density. Open space shall either be active or passive. At a minimum, 10% of all open space shall be passive.

Section 14.4: Natural Preservation

Regardless of the zoning district, natural features such as trees, ponds, and wetlands should be preserved and incorporated into the design when feasible. The UDO Administrator shall require developers to display efforts made to achieve this requirement.

Section 14.5: Required Landscaping, Buffers, & Parking

Unless otherwise allowed by the contents of Article 10 and permitted to re-establish itself under pre-existing nonconforming status, the new use of land and construction upon it or reuse of existing structures are required to comply with the landscaping and buffer requirements of Article 17. For example, if a new, permitted use is proposed within a pre-existing nonconforming structure, it may not be possible to meet some of the landscaping, buffering, or parking requirements due to physical limitations on the site. Efforts shall be made to comply as close as possible with the requirements of this Article. The requirements of this Article shall apply for a new permitted use when there is adequate space on the site of a nonconforming structure.

Section 14.6: Maintenance

Routine maintenance is expected and shall be required for uses and structures to maintain conformity with this UDO.

Section 14.7: Multiple Uses

Certain zoning districts shall allow for only one principal use or structure. Customarily there shall only be one principal structure or use upon one parcel of land except for instances of commercial planned developments and mixed-use developments which may incorporate multiple structures utilized for both residential and commercial use. In residential zoning districts, there shall only be one primary dwelling and there may be accessory structures, including but not limited to accessory dwelling units, allowed as provided by this Article and UDO.

Section 14.8: Principal Structure Required

A principal structure with a principal use is required to be located on a piece of property in order for an accessory structure to locate on it. For example, an owner of property cannot erect a storage shed or building or a garage on a parcel of land without a principal dwelling or structure located on the property. This also applies to adjacent parcels; for example, adjacent property in the same ownership in which the principal structure is located shall not have an accessory located on it without the parcels being recombined.

Section 14.9: Lot Access Required

Newly created lots must be provided access by an existing right-of-way or easement that meets the pavement and design standards of this UDO. In the instance where the right-of-way may exist, but it was never improved to meet the required pavement and design standards, the occupation and use of such lot shall not be permitted until the right-of-way has been improved to meet the requirements of this UDO. In planned commercial or mixed-use developments, lots may be accessed by internal rights-of-way or easements that were included in the original design of such development and intended to serve such lots. In no instance shall uses of lots be permitted where the street or road serving or accessing them are not in good, paved condition and have the adequate ability to allow emergency services to access the property. The responsibility for improving existing rights-of-way shall fall on the applicant unless evidence can be presented supporting that it is the responsibility of the Town of Warsaw to improve the right-of-way to the standards of this UDO.

Section 14.10: Public Health and Safety

All zoning districts and the uses permitted within them have been done in such a manner to promote the public health and safety of the citizens of Warsaw. The design of new buildings and structures and the reuse of existing should be done in a manner that takes into consideration public health and safety in its design and proposed format. Uses are encouraged to operate in a manner that promotes the safety and enjoyment of their users.

Section 14.11: NC Building Code

The use of structures shall meet the NC Building Code requirements for the use that it is intended to serve. For example, a structure formally utilized, built, and designed to meet NC Building Code for a residential structure cannot be permitted to be used for anything other than a residential structure unless the structure is upfit to meet NC Building Code requirements for such use.

Section 14.12: Uses Permitted by Right, Special Use, or Specific Requirements

Uses allowed within their respective zoning districts shall either be permitted by right, by right provided certain requirements outlined in this UDO are met or permitted through a Special Use Permit issued by the Board of Adjustment. The Town recognizes that new types of land uses will develop, and applicants may seek to locate land uses not anticipated in this UDO. When a use category or use type is proposed that is not specifically listed, the UDO Administrator shall make a determination as to the appropriate classification of any new or unlisted form of land use based on criteria including, but not limited to the types of activities that will occur in conjunction with the use, the types of equipment and processes to be used, the existence, number, and frequency of residents, customers, or employees, parking demands associated with the use, the impact on adjacent structures, uses, or lands created by the proposed use type, and other factors deemed relevant to a use determination.

Section 14.13: Prevention of Use and Permit

The UDO Administrator shall not deny an applicant a permit for a permitted use on a separate parcel of land provided no violations exist on the land that the zoning permit has been applied for, regardless of the fact the applicant may own a separate parcel of land within the jurisdiction of Warsaw in which violations exists. The UDO Administrator may deny a zoning permit to be issued on the same parcel of land in which violations of this UDO exist.

Section 14.14: Zoning Districts

To implement the intent of this UDO, the following zoning districts are hereby created:

(A) R-20 - Residential Agricultural District

(B) R-10 - Residential District

(C) R-8 - Residential District

(D) R-6 - Residential District

(E) MU - Mixed-Use District

(F) CB - Central Business District

(G) HB – Highway Business District

(H) I – Industrial District

(I) LI – Light Industrial District

14.14.1 Residential Agricultural (R-20)

The R-20 Zoning District is the district that has been primarily designed and is intended for agricultural use or low-density residential development. This zoning district should primarily be located in the ETJ of the Town of Warsaw. The R-20 district is primarily served by individual septic systems and well systems where water service is unavailable. The district is supportive of land uses that are not detrimental to agricultural use of land and of uses that support the agricultural use of land. The district only supports commercial and industrial use on a light-scale and intensity when it is directly related to or serves agriculture. Residential uses may be allowed at a higher density when water and sewer service is available and such development poses no significant impact to the transportation network. Multi-family uses, including townhomes and duplexes, shall develop at a density of no more than 5 units per acre.

14.14.2 Residential 10 (R-10)

The R-10 Zoning District is the district that has been primarily designed and is intended for medium-density residential purposes. The R-10 district is encouraged to be located in proximity to office and commercial uses to provide essential goods and services to the residents of the district. The R-10 district is not supportive of commercial or industrial development that is detrimental to residential use and the overall quality of life of the residents of the R-10 district. Multi-family development is prohibited with the exception of townhomes that have been subdivided and are individual pieces of real property, there shall be no more than 4.4 townhomes per acre.

14.14.3 Residential 8 (R-8)

The R-8 Zoning District is the district that has been primarily designed and is intended for high-density residential development to accommodate single-family, multi-family, and manufactured homes. The R-8 district is encouraged to be located in proximity to office and commercial uses to provide essential goods and services to the residents of the district. The R-8 district is not supportive of commercial or industrial development that is detrimental to residential use and the overall quality of life of the residents of the R-8 district. Multi-family development shall occur at a density that does not exceed 10 units per acre, this includes townhome and duplex type developments.

14.14.4 Residential 6 (R-6)

The R-6 Zoning District is the district that has been primarily designed and is intended for high-density residential development to accommodate single–family, multi-family, and manufactured homes. The R-6 district is encouraged to be located in proximity to office and mixed uses to provide essential goods and services to the residents of the district. The R-6 district is not supportive of commercial or industrial development that is detrimental to residential use and the overall quality of life of the residents of the R-6 district. Multi-family development shall occur at a density that does not exceed 13 units per acre, this includes townhome and duplex type developments.

14.14.5 Mixed-Use (MU)

The Mixed-Use Zoning District is the district that has been primarily designed and is intended for a combination of residential, commercial, light-industrial and office uses to occur in a planned development. Vertical mixed-use is encouraged to occur with commercial and office uses located

on the first floor and residential located on the second floor; however, horizontal mixed uses in a planned mixed-use development are allowed. Single-family development within the district may be considered when factors exist that prevent mixed-use from occurring. Multi-family development shall occur at a density that does not exceed 18 units per acre, this includes townhome and duplex type developments. This zoning district shall only be permitted within areas of the Town of Warsaw that fall in the Mixed-Use Future Land Use Designation.

(A) Commercial and office uses within mixed-use developments may utilize zero lot lines and exist as individual units within a planned commercial structure.

(B) Residential developments should generally occur as part of a Planned Unit Development.

(C) The Mixed-Use District encourages and prefers PUD developments.

14.14.6 Central Business (CB)

The Central Business Zoning District is the district that has been designed and primarily intended for commercial, and office uses. The district encourages downtown commercial use and the prohibition of intense commercial or industrial use that is detrimental or prohibits the orderly growth and operation of existing commercial uses or uses that significantly are an increase in scale. Residential use is permitted on the second floor when located above commercial or office use. Zero lot lines may be utilized when a unit is part of a planned commercial structure.

14.14.7 Highway Business (HB)

The Highway Business Zoning District is the district that has been designed and primarily intended for commercial retail use which provides goods and services to nearby residents and transient traffic. Zero lot lines may be utilized when a unit is part of a commercial structure. There is no minimum square footage when the unit is part of a planned commercial structure.

14.14.8 Office & Institutional (O&I)

The Office & Institutional Zoning District is the district that has been designed and primarily intended for public, professional, and private office uses. This district may serve as a transitional district between residential and commercial districts.

14.14.9 Industrial District (I)

The Industrial Zoning District is the district that has been designed and primarily intended for industrial scale operation and production, manufacturing operations, and warehousing. This district may include heavy industrial use or light industrial use, and all other types of use are prohibited.

14.14.10 Light Industrial District (L-I)

The Light Industrial Zoning District is established as a district in which the principal use of land is for industries which can be operated in an environmentally friendly manner which is not detrimental to adjacent residential or business districts. This district is designed for small scale manufacturing, warehousing, and wholesale facilities that have limited access to the public. This district is not designed for heavy industrial use.

Section 14.15: Table of Permitted Uses

RESIDENTIAL USES	R-20	R-10	R-8	R-6	MU	CB	HB	O&I	I	L-I	STANDARDS
Accessory Dwelling Unit	P	P	P	P							Sec. 15.5.1
Accessory Structure	P	P	P	P							Sec. 15.5.2
Bed & Breakfast (8 rooms or less)	P	P	P								Sec. 15.5.10
Bed & Breakfast (9-12 rooms)	S	S	S								Sec. 15.5.10
Boardinghouse (3 rooms or less)	P	P		P							Sec. 15.5.11
Boardinghouse (4 or more rooms)	S	S		S							Sec. 15.5.11
Duplex (Two-Family Dwelling)	P	P	P	P							
Family Care Home	P	P	P	P							Sec. 15.5.19
Family Child Care Home	P	P	P	P							Sec. 15.5.20
Fences (residential)	P	P	P	P							
Group Care Facility	S	S	S	S							Sec. 15.5.19
Halfway Home	S	S	S	S							Sec. 15.5.19
Home Occupations	P	P	P	P	P						Sec. 15.5.27
Manufactured Home	P			P							Sec. 15.5.30
Manufactured Home Park	P			P							Sec. 15.5.31
Multi-Family Dwelling (4 or more units)			P	P							
Planned Residential Development	P	P	P	P							Sec. 15.5.36
Performance Multifamily Development			P	P							Sec. 15.5.48
Planned Unit Development					P						Sec. 15.5.36
Second Floor Residential Apartment					P	P					
Single-Family Dwelling	P	P	P	P							
Solar Panels (roof mounted)	P	P	P	P	P						Sec. 15.5.41
Temporary Family Health Care Structure	P	P	P	P							Sec. 15.5.46
Temporary Home for Hardship	P	P	P	P							Sec. 15.5.45
Townhomes			P	P							
GOVERNMENT & COMMUNAL USES	**R-20**	**R-10**	**R-8**	**R-6**	**MU**	**CB**	**HB**	**O&I**	**I**	**L-I**	**STANDARDS**
Cemeteries	P										
Churches	P	P	P	P	P		P	P			
College								P			Sec. 15.5.12
Community Buildings	P	P	P	P	P	P					
Emergency Services	P					P	P	P			
Fire Department	P					P	P	P			
Government Office or Building	P				P	P	P	P	P	P	Sec. 15.5.23
Libraries					P	P		P			
Police Department	P					P	P	P			
Private Clubs (Civic, Charitable, Fraternal)	P			P				P			
Schools Public or Private	P	P	P	P	P			P			Sec. 15.5.39
US Post Office					P	P	P	P			

RECREATIONAL & AGRICULTURE USES	R-20	R-10	R-8	R-6	MU	CB	HB	O&I	I	L-I	STANDARDS
Athletic Fields & Facilities	P				P						Sec. 15.5.3
Batting Cage/Driving Range (Indoor)	P										
Bona Fide Farm (ETJ Only, G.S. 160D-903)	P	P	P	P		P	P	P	P	P	
Disc Golf Course	P				P						
Golf Course or Country Club	P										Sec. 15.5.25
Gun Range (Indoor)	S						S				Sec. 15.5.24
Gymnasiums/Fitness Facilities					P	P	P				
Mini-Golf Course	P						P				
Parks & Playgrounds	P	P	P	P	P	P		P			
Places of Entertainment (Pool Halls, Bowling Alleys, Arcades, etc.)					P	P	P				Sec. 15.5.37
Recreational Vehicle (RV) Parks									S	S	Sec. 15.5.47
Skating Rink					P		P				
COMMERCIAL, SERVICE, & OFFICE USES	**R-20**	**R-10**	**R-8**	**R-6**	**MU**	**CB**	**HB**	**O&I**	**I**	**L-I**	**STANDARDS**
Adult Businesses							S				Sec. 15.5.5
Adult Day Care							P	P			Sec. 15.5.4
Antique/Secondhand Store						P	P				
Appliance Repair						P	P				
Art Studio					P	P		P			
Auto Parts Sales							P			P	Sec. 15.5.6
Auto-Rentals							P				Sec. 15.5.6
Auto-Repair (Body & Engine)									P	P	Sec. 15.5.7
Auto-Sales							P				Sec. 15.5.6
Auto-Service Center							P			P	Sec. 15.5.7
Banks										P	Sec. 15.5.7
Barber Shop						P	P				
Car Wash							P			P	
Catering (Food)							P			P	
Child Day Care					P		P	P			Sec. 15.5.14
Chiropractic					P	P		P			
Contractors Office (with equipment)									P	P	
Convenience Store					P		P				
Doctor's Office					P	P		P			
Drinking Establishment					S	S	S				Sec. 15.5.15
Drive-Thru Restaurant							P				
Dry Cleaning						P	P			P	
Electronic Cigarette "Vape" Shop and other Tobacco Smoke Shops							P				Sec. 15.5.18
Electronic Gaming Operations									P		Sec. 15.5.49
Electronics & Computer Repair & Sales							P				
Event Venue (less than 300 people, fire code capacity)							P				Sec. 15.5.17

COMMERCIAL, SERVICE, & OFFICE USES (continued)	R-20	R-10	R-8	R-6	MU	CB	HB	O&I	I	L-I	STANDARDS
Event Venue (more than 300 people, fire code capacity)	S						S				Sec. 15.5.17
Farmers Market	P						P				
Florist	P					P	P				
Food Trucks					P	P	P	P			Sec. 15.5.21
Funeral Home							P	P			
Furniture Store						P	P				
Gas Station							P				
General Retail					P	P	P				
Grocery Store					P		P				
Gun Sales						S	S				Sec. 15.5.26
Gunsmith/Locksmith						P	P				
Hair Salon/Beautician Services						P	P				
Hardware Store						P	P				
Hospital	P	P		P			P				
Hotel							P				Sec. 15.5.28
Kennel	P						P				Sec. 15.5.16
Laundromat							P				
Licensed Massage Therapy					P	P	P	P			
Meat/Seafood Market							P				
Microbrewery					S	S	S				Sec. 15.5.34
Mini-Warehousing							P		P	P	Sec. 15.5.33
Motel							P				
Movie Theater							P				Sec. 15.5.32
Museums						P		P			
Nursery/Greenhouse	P								P	P	
Nursing Home							P	P			
Pawnshop						P	P				
Pet Store							P				
Pharmacy					P	P	P	P			
Printing and Publishing Establishments									P		
Professional Office					P	P		P			
Restaurant					P	P	P				
Self-Storage Facilities									P	P	
Shared Office					P			P			
Shopping Center					P		P				Sec. 15.5.40
Tattoo Parlor							P				Sec. 15.5.43
Towing Services										P	Sec. 15.5.42
Transit Terminal					P	P	P				
Upholstery/Alterations/General Repair							P				
Vehicle Storage							P			P	

COMMERCIAL, SERVICE, & OFFICE USES (continued)	R-20	R-10	R-8	R-6	MU	CB	HB	O&I	I	L-I	STANDARDS
Veterinarian					P			P			
INDUSTRIAL, MANUFACTURING, & OTHER USES	**R-20**	**R-10**	**R-8**	**R-6**	**MU**	**CB**	**HB**	**O&I**	**I**	**L-I**	**STANDARDS**
Agricultural Chemical, Seed, or Product Sales									P	P	
Animal Processing									S		Sec. 15.5.9
Automobile or General Junkyards and Wrecking Yards									S		Sec. 15.5.8
Billboard							S				
Building Materials Sales and Storage (Lumberyards)									P	P	Sec. 15.5.13
Commercial, Industrial, or Agricultural Implement Sales									P	P	
Electronic Data Processing									P		
Energy Generating Facility									S		
Equipment Repair, Heavy									P		
Fertilizer Manufacture or Sale									S		Sec. 15.5.22
General Manufacturing (no outside storage or manufacture)									P		
Industrial Park									P	P	Sec. 15.5.29
Industrial Research Offices and Laboratories								S	P	P	
Outdoor Storage Areas									P	P	Sec. 15.5.35
Pre-Fabricated Structures Sales										P	Sec. 15.5.38
Public Utility Storage or Service Yards									P	P	
Public Utility Substation	P	P	P	P	P						
Pump Station	P	P	P	P	P						
Slaughterhouse									S		
Solar Farms									S		
Telecommunication Towers and Devices							S		S	S	Sec. 15.5.44
Warehousing & Logistic Shipping Operations									P		
Welding									P	P	
Wholesale Operation Sales									P	P	

Section 14.16: Zoning District Dimensional Table

DISTRICT	MIN LOT AREA (Sq Feet)	MIN LOT WIDTH (Feet)	FRONT SETBACK (Feet)	SIDE SETBACK (Feet)	REAR SETBACK (Feet)	MAX DENSITY PER ACRE (Units)	MAX BLDG HEIGHT (Feet)
R-20	20,000	100	30	15	25	5	35
R-10	10,000	75	30	10	15	4.4	35
R-8	8,000	75	25	8	15	10	35
R-6	6,000	70	20	8	15	13	35
Mixed-Use	Single-Family Residential 6,000 sq. feet and PUD, Other uses no minimum	Single-Family Residential 60 and PUD	Single-Family Residential 20 and PUD	8	15	18 or 25 dependent on the type of residential development (this density may only be utilized when residential development is within a PUD).	45
CB	None	None	None	None, 10 when abutting residential	None, 15 when abutting residential	N/A	45
HB	10,000	60	20	15	20	N/A	35
O&I	8,000	60	20	15	20	N/A	35
I	50,000	100	40	20	20	N/A	50
L-I	30,000	100	40	20	20	N/A	50

14.16.1 Setbacks

The setback requirements listed above shall be complied with in all respects unless the lot proposed to be developed is located within an area where 50 percent or more of the lots within the block or the lots within 600 feet of both sides of the proposed structure, whichever is less, is composed of lots which have been developed with structures that do not meet the required front setback. In this instance, the front setback for the structure may be the average of the developed lots adjacent to the structure. In instances where it is possible to meet the minimum required setback this modification does not apply.

For pre-existing through lots, the required front setback shall be applicable to both street frontages of the lot. This UDO does not allow for the creation of new through lots.

14.16.2 Setback Encroachment

Architectural features such as open or enclosed fire escapes, steps, outside stairways, balconies and similar features, and uncovered porches may not project more than 4 feet into any required yard. Sills, cornices, eaves, gutters, buttresses, ornamental features, and similar items may not project into any required yard more than 30 inches.

14.16.3 Setback Relation to Required Buffer Yard

The structure may encroach into the required buffer yard provided that the setbacks are being met and all components of the buffer yard are still being installed.

14.16.4 Height Limit Exceptions

Church steeples, belfries, water tanks or towers, fire towers, flag poles, spires, wireless and broadcasting towers, monuments, cupolas, domes, antennas, and similar structures are not subject to the max height limitations in the zoning district dimensional table however in no instance shall one of these exceptions exceed 100 feet without approval from the Board of Adjustment unless provisions within this UDO allow for their construction.

Section 14.17: Planned Unit Development Conditional Zoning District

14.17.1 Planned Unit Development (PUD)

A Planned Unit Development is its own separate zoning district which is required to receive approval through the Conditional Rezoning process. A Planned Unit Development is permitted to occur by-right within the Mixed-Use Zoning District, provided that it complies with the minimum standards within this section and incorporates all of the indicated recommendations within this section. PUD's are required to have a development agreement executed between the Town of Warsaw Board of Commissioners and the applicant and developer. Each PUD will be unique and have certain characteristics, densities, dimensions, and standards that separate them from other PUDs, however all PUDs will be required to comply with the minimum requirements outlined in this section. PUDs may be developed in such a way that the parent tract is intended to be subdivided into individual parcels of record and they may also be designed in a manner in which all structures within the PUD are located on one parcel and not intended for further subdivision or sale.

14.17.2 Planned Unit Development Subdivision (Lots & Density)

When the PUD is intended to be subdivided, the PUD may be divided in a manner which allows for the residential lots within the PUD to be decreased by 30% with regard to the minimum lot square footage, setbacks, and dimensions. The overall density for the respective primary zoning district being utilized within the PUD shall not be allowed an increase. For PUDs being subdivided that elect to use the "Custom Residential" allowed by this section for density purposes, the lots must be divided in respect to dimensional standards based on R-10 district requirements. For example, a PUD whose residential area is being developed and subdivided based on R-10 district standards shall be permitted a 30% allowance on lot size, setbacks, and dimensions but will not be allowed to be developed and subdivided at a density that exceeds what would be allowed without the 30% allowance. The calculation for the amount of lots shall still be done based upon the consideration of needing a minimum of 10,000 square feet per lot, this is done to encourage clustering of development and ensure the provision of open space. PUDs that are designed and intended to be subdivided must utilize an existing primary zoning district for their design and subdivision layout, they may increase density under "Custom Residential" standards.

14.17.3 Applicable Standards: Permitted Zoning Districts, District Applicability, and Ordinance Applicability

Unless otherwise stated within this Section, the general standards for the primary zoning district shall apply to the PUD based on the method in which the PUD is developed, and which primary district is being utilized for development. In instances where a higher residential density is desired than what is permitted within the primary residential zoning district, the applicant may propose a PUD design displaying this density, the permitted uses shall be those of the closest existing residential primary zoning district, in relation to minimum lot size allowed. Uses permitted by-right within the primary zoning district shall also be permitted by-right within the PUD, based on the designation assigned to the PUD. Uses allowed as a Special Use in the primary zoning district shall also require that a Special Use Permit be issued in the PUD district. All other general buffering, landscaping, parking, signage, etc., requirements of the Town of Warsaw UDO shall apply to the PUD. All infrastructure shall be designed and installed in accordance with the requirements located in the UDO. Infrastructure and incomplete improvements may be guaranteed in a bond; however, the Town of Warsaw shall issue no certificate of occupancy for any structure within the PUD until such improvements have been completed. To be considered a PUD the development must include commercial, residential, and office uses, the failure to include all three types of uses eliminates the proposal's ability to be developed as a PUD.

Section 14.18: PUD Districts and Designations

The approval of a PUD Conditional Zoning District is an approval of the district and the concept plan. The approval includes the details, standards, and conditions in which the PUD shall be developed but the approval is not considered to be an approval of the engineered site plan, and subsequent review and approval shall be required prior to the issuance of building permits. PUDs permitted by right shall be required to receive approval of the engineered site plan and display evidence of an approved development agreement. The concept plan reviewed at PUD approval shall indicate the areas of the PUD in which primary zoning districts are intended to be the basis for uses and densities permitted. The concept plan should identify the areas intended to be developed and which district the design and permitted uses are to be based on.

14.18.1 Permitted Residential Districts

(A) R-10 Low-Density Residential.

(B) R-8 Medium-Density Residential.

(C) R-6 High-Density Residential.

(D) Custom Residential (The density shall not exceed more than 18 units per acre when the units are in duplex/townhouse structures or single-family type structures, or 25 units per acre when developed in multi-story apartment building type structures). The Town Commissioners may allow for a greater density than what is recommended when the applicant can display the necessity for a higher density and provide evidence from the Land Use Plan where the proposed higher density is necessary and beneficial for the citizens of Warsaw. There shall also be adequate infrastructure (water, sewer, transportation, etc.) to support such densities that exceed what is allowed.

14.18.2 Permitted Non-Residential Districts

(A) Central Business.

(B) Highway Business.

(C) Mixed-Use.

(D) L-I.

Section 14.19: PUD Design and Land Transfer

As a condition of the PUD approval, the ability of the PUD to be subdivided must be established at the time of PUD Conditional Zoning approval or approval provided the PUD is permitted by right and restrictive deeds preventing the subdivision of land shall be recorded with the Duplin County Register of Deeds. The PUD may be designed in a manner where the commercial, office, and industrial uses within them are designed and arranged in which they can be legally subdivided and the residential uses within the PUD remain in common ownership. All subdivisions within a PUD shall meet the requirements of this UDO, except for the lots created that are permitted to have smaller dimensions through the PUD process, they shall be permitted to be subdivided provided they meet the requirements of this section and all other applicable subdivision requirements.

Section 14.20: PUD Submission

PUD Conditional Rezoning submittals shall include the concept plan that delineates districts and designations as well as a plan in accordance with Section 14.22 through Section 14.29, excluding the requirements related to engineer design such as utilities and engineered calculations. If the PUD receives approval as a Conditional Zoning District, a site plan review will be required and a plan meeting all requirements of Section 14.22 through Section 14.29 will be required for review. The UDO Administrator may determine which elements of Site Plan Requirements are applicable for PUD review in a pre-application meeting with the applicant.

Section 14.21: Pre-Application Meeting

A pre-application meeting with the UDO Administrator is required prior to the submission of a PUD Conditional Zoning District or PUD that is permitted by-right.

Section 14.22: Minimum PUD Requirements

The following are the minimum requirements for eligibility to apply for a PUD. The election to provide 30% or more of one type of reserved housing does not require the developer to provide 15% of the other type. For example, if the developer provides 30% or more of housing for persons of low-moderate income, they shall not be required to provide a percentage of housing designated as workforce housing. However, the developer is encouraged to do so.

(A) Minimum parcel size of 10 acres.

(B) A Development Agreement constructed in accordance with Article 10 of G.S. 160D is required between the Town of Warsaw and the Developer/Applicant.

(C) A Traffic Impact Analysis is to be provided.

(D) At least 15% of the residential units or lots, dependent upon the type of PUD, shall be required to be reserved for affordable housing for persons who are considered by HUD to be of low-moderate income.

(E) At least 15% of the residential units or lots, dependent upon the type of PUD, shall be required to be reserved for workforce housing, households earning between 60-120 percent of the area median income as determined by the US Census Bureau.

(F) The applicant or successor shall prepare an annual monitoring report on the affordable and workforce housing within the PUD, which shall include a description of how the affordable and workforce housing deed restrictions or other covenants, or legal restrictions are being enforced on the sale or rental of structures or lots.

(G) Affordable and workforce housing shall not be isolated or segregated; it shall be integrated and dispersed throughout the PUD.

Section 14.23: Minimum PUD Design Standards

The following are the minimum requirements for design in all PUDs, some of the items listed below are encouraged but not required:

(A) Open Space. The PUD shall provide at a minimum 25% of the total developable area, minus rights-of-way and parking areas (10% of this shall be passive open space). The open space must be usable; usable open space consists of areas where passive or active recreation may take place. Open space should be landscaped and visually appealing and provide things such as playground equipment, multi-use pedestrian paths, greenways, splash pads, and ponds with equipment provided to use the pond such as canoes, kayaks, or piers. Open space should not be limited to open green space areas, only 5% of the total open space may be composed of this type of open space. Open space is not limited to be utilized by only the abovementioned items. Open space shall be of contiguous areas that are easily accessible by all residents of the PUD.

(B) A combination of sidewalks and multi-use paths designed to comply with NCDOT design standards at a minimum unless otherwise specified by this UDO.

(C) Grid system street design or pocket neighborhood design for residential uses within the PUD are encouraged. Blocks shall be no greater than 700 feet in length. The use of cul-de-sacs is discouraged as interconnectivity within the PUD is desired.

(D) Design that encourages the utilization of alleys to promote structures being located closer to the right-of-way and create a neighborhood feel.

(E) Design that encourages the incorporation of naturally occurring features such as ponds, rivers, or wetlands, into the PUD and open space design when feasible. Feasibility will ultimately be determined by the Town Commissioners, cost should not be the main deciding factor when determining feasibility, the benefit of the general public shall outweigh cost. For PUDs permitted by right, feasibility shall be determined by the UDO Administrator.

(F) PUDs shall have at least two points of access from external rights-of-way (rights-of-way not included in the PUD design) for PUD designs that have less than 200 residential lots or units and an additional point of access for every additional 100 units or lots. For example, a 220-unit or lot PUD requires only two points of access, a 300-unit or lot would require 3 points. Additional points of access will always be encouraged.

(G) Residential structures (PUDs not being subdivided), shall have a minimum of 20 feet separation from each other and shall be no closer than 15 feet to a right-of-way.

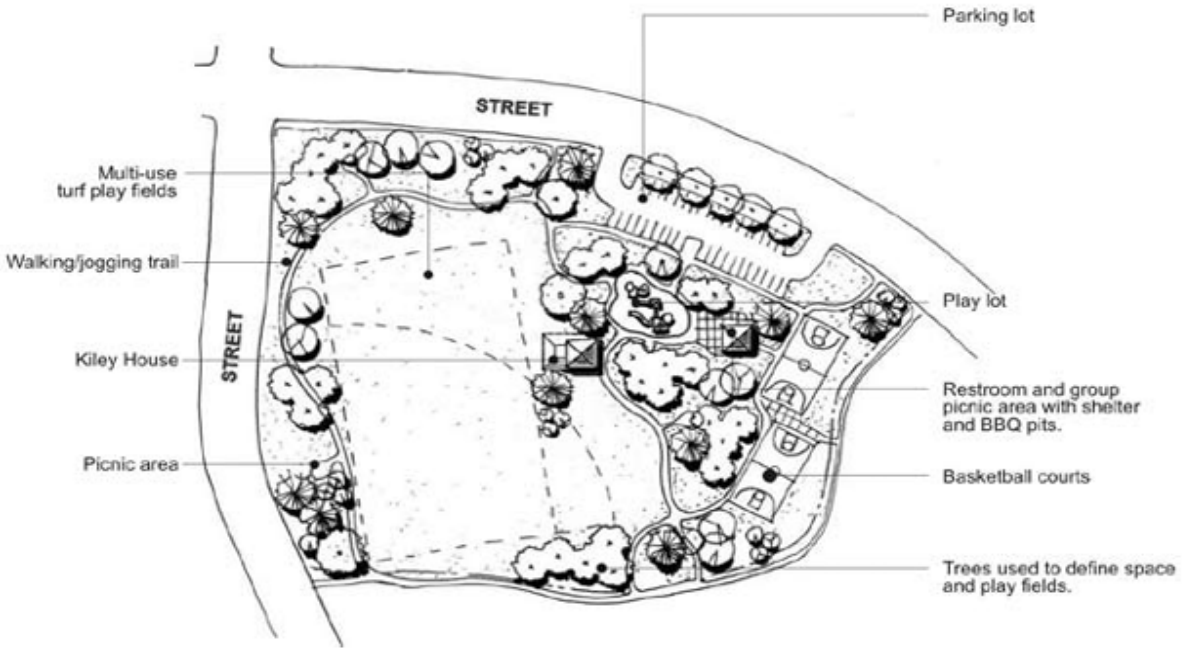
(H) Multi-family structures (multi-story apartment buildings with multiple units) shall have a minimum of 30 feet separation from each other and be no closer than 25 feet to a right-of-way. These structures shall observe a 25-foot separation from residential structures.

(I) PUDs are required to provide a landscape and buffer plans that meets or exceeds the general requirements of the UDO and displays how all uses within the PUD are satisfying the requirements of Article 17 based off of the proposed use/zone.

(J) Industrial uses within the PUD are encouraged to not be directly adjacent to residential use and in instances where they are located in close proximity to residential use, buffering and landscaping that exceeds the requirements of this UDO is encouraged to be provided.

Section 14.24: Open Space Example

Source: *PAS Report 545: Planned Unit Developments (American Planning Association)*



Section 14.25: Pocket Neighborhood Example

Source: *Ross Chapin Architects+*

Section 14.26: PUD Parking Requirements

Parking requirements for PUDs have the option to adhere to the general parking standards within the UDO or to propose an alternative parking plan to the Town Commissioners or the UDO Administrator in instances where the PUD is permitted by right. The alternative parking plan may reduce the number of required parking spaces for industrial and office uses by up to 20% when deemed appropriate and in harmony with the Land Use Plan. The following are minimum parking requirements and recommendations:

(A) 2 parking spaces shall be provided per residential unit, these may be provided adjacent to the unit or in a community parking lot area with sidewalk access from the parking lot to the unit.

(B) Parking areas are encouraged to be provided adjacent to open space.

(C) On-street parking is prohibited.

(D) Community and shared parking lots are encouraged to promote pedestrian transit and a walkable community.

Section 14.27: PUD Landscaping & Buffer Requirements

The PUD shall meet all landscaping and buffering requirements of the UDO but is encouraged to exceed the minimum requirements. The PUD may propose a landscaping and buffering plan that still achieves the minimum requirements of the UDO but incorporates flexibility and relocation of certain features for improved aesthetics and overall flexibility and general appearance in its design.

Section 14.28: Areas of Common Ownership

All areas within the PUD under common ownership which includes but is not limited to, open space, community facilities, recreation areas, parking facilities and rights-of-way shall be evidenced by a recorded deed clearly indicating the party or parties responsible for the ownership and maintenance of such common areas. These documents shall be provided to the UDO Administrator so that the Town of Warsaw may keep them on record.

Section 14.29: Storm Drainage

Surface or underground storm drainage facilities shall be provided for all streets, roads, drives, and parking/loading areas. All storm drainage shall be directed into established surface or underground storm drainage facilities. Stormwater retention basins shall be designed into landscaped areas as natural appearing ponds or as architectural design features. Dry detention ponds shall be designed into landscaped areas.

(This page intentionally left blank.)

ARTICLE 15: GENERAL DISTRICT STANDARDS AND USE SPECIFIC STANDARDS

Section 15.1: General

In general, all uses indicated as "P" or permitted by right within Article 14 shall be permitted to exist provided that they comply with the applicable provisions located within this UDO. Certain uses that are permitted to exist by right, have additional requirements and restrictions that they must comply with for the UDO Administrator to permit the existence of such use. These additional requirements for permitted uses are further described within this Article.

Section 15.2: Additional Requirements

Generally, all specific listed additional requirements should be complied with prior to the UDO Administrator issuing final zoning approval and either the certificate of occupancy or operation of such use being issued and approved. Circumstances may exist that warrant the posting of a Performance Guarantee so that the use may commence operation. The UDO Administrator shall only accept such guarantees in instances where constraints exist due to the time of year for planting not being optimal or other extenuating factors that are unique and out of the applicants control. Financial constraints or the applicant's unwillingness to immediately comply should not constitute a reason to accept a performance guarantee.

Section 15.3: Maintenance and Continued Compliance

Any additional requirements that are outlined within this Article as a requirement for a particular use are expected to be installed and continuously maintained for the entirety of the use's existence. Some requirements listed are not necessarily items that physically are required to be installed but are elements of the use that must be in compliance with the provisions of this Article and any additional Article of this UDO that determines the manner and condition in which the use should operate.

Section 15.4: Traffic Impact Analysis (TIA)

Certain types of development or subdivisions of land within the Town of Warsaw have the possibility of generating a traffic volume that the road and street network within the Town is not of sufficient capacity to handle. In these instances, the Town of Warsaw shall require that the developer or subdivider provide the Town with a Traffic Impact Analysis prior to any final approval and permit issuance or plat approval. Traffic Impact Analysis are not limited to development and subdivisions. Conditional Rezonings and Special Use applications may also be required to provide the results of a (TIA) prior to approval of the requested permit or zoning change.

A TIA shall be required when any of the following conditions are met:

(A) 2,000 daily trips (ADT) based of the Institute of Transportation Engineers Trip Generation Manual

(B) 200 AM peak hour trips (between 7AM – 9 AM)

(C) 200 PM peak hour trips (between 4PM – 6PM)

(D) A subdivision or development that is creating 50 or more individual lots or providing 50 or more units.

Section 15.5: Use Standards (General & Special)

The following are the minimum requirements for specific uses, the Board of Adjustment may require more restrictive requirements for specific uses in the even that stricter requirements are necessary to protect public health, safety, and welfare and the additional requirements are found to be in harmony with the Town of Warsaw Comprehensive Land Use Plan.

15.5.1 Accessory Dwelling Unit

(A) Each Single-Family Dwelling is permitted an accessory dwelling unit. The accessory dwelling unit shall be designed in a manner that it blends with the primary dwelling unit concerning appearance and construction materials (windows, siding, roofing, doors, etc.). The accessory dwelling unit shall not look materially different than the primary dwelling. Applications for the accessory dwelling unit shall include elevations and a proposed list of building materials so that the UDO Administrator may verify that the accessory dwelling unit is in harmony with the primary dwelling unit.

(B) Accessory dwelling units shall not exceed more than 50% of the total sq footage of the primary dwelling. Any porches, decks, lean to's, or attachments, etc. to the accessory dwelling unit shall be included in the sq footage calculation. In instances where the primary structure already has an existing detached accessory structure, the accessory dwelling unit may not be constructed of a size to where the calculation of the accessory dwelling and the accessory structure exceed 50% of the total sq footage of the home.

(C) The primary dwelling for the accessory dwelling unit must be occupied. Accessory dwelling units shall be located within the rear yard. Accessory dwelling units shall be setback a minimum of 10 feet from side and rear property lines.

(D) The accessory dwelling unit is required to comply with the NC Building code as applicable and is permitted to be located on the second floor of a detached garage.

(E) The driveway for the primary dwelling shall accommodate all vehicles associated with the accessory dwelling.

(F) RV's, Park Model Campers, and Manufactured Homes are not permitted to be utilized as accessory dwelling units. Prefabricated structures may be utilized as accessory dwelling units provided all requirements within this section are met as applicable (design elements and NC Building Code compliance).

15.5.2 Accessory Structure

(A) Each primary dwelling shall be permitted to have up to two accessory structures. The sq footage of the accessory structures shall not exceed 50% of the sq footage of the primary

structure. In instances where two accessory structures exist, the sq footage of both structures shall be added to determine that the 50% requirement is being met. The accessory structure shall be located in the side or rear yard and shall be setback a minimum of 5 feet from side and rear property lines.

(B) RV's, Park Model Campers, and Manufactured Homes are not permitted to be utilized as accessory structures. Trailers such as horse trailers, box trailers, etc but not limited to such are not permitted to be utilized as storage accessory structures.

(C) These same standards apply to swimming pools, pools shall be enclosed with a fence to meet the requirements of the NC Building Code.

(D) Solar panels shall not be permitted to be setup as a standalone accessory structure, they must be roof mounted.

15.5.3 Athletic Fields & Facilities

Athletic fields and facility complexes must be developed on a parcel of land that is a minimum of 5 acres. Fields shall be designed in a manner that reduces the potential of balls and other flying projectiles exiting the field of play and posing the potential for damage to property or public health and safety. Appropriate fencing and netting may be required by the UDO Administrator when necessary.

15.5.4 Adult Day Care

Require a valid license for operation of use from the North Carolina Division of Aging and Adult Services.

15.5.5 Adult Businesses (Special Use)

This applies to all types of Adult Businesses as described in G.S. 160D-902 and further defined in G.S. 14-202.10

(A) An initial fee for establishment of $1,000.00 and an annual renewal fee of $500.00 for the business must be paid by the end of the fiscal year to the Town of Warsaw.

(B) No adult business shall be within 1,000 feet of any Church or other Religious Use, School, Park, Playground, Library, Residential Zoning District, Child care center or any other legally existing Adult Business.

(C) Adult Business' shall only be permitted to operate between the hours of 6:00PM-11:00PM Monday-Friday and between 1:00 PM – 12:00 AM on Saturdays. No Adult Business shall be permitted to operate on Sundays.

(D) Adult Businesses shall have no display windows or advertisement other than a sign that identifies the name of the business. There shall be no visibility of the activities taking place inside the structure from the exterior of the structure.

15.5.6 Auto-Sales, Auto-Rentals, Auto-Parts Sales, Commercial, Industrial, or Agricultural Implement Sales

(A) Any vehicle, implement, machinery, or equipment for sale or rent shall be located at least 15 feet from the edge of the right-of-way.

(B) Vehicles, implements, machinery, and equipment for sale or rent shall be organized in a manner that allows for vehicular traffic to flow and does not prohibit the ability of an emergency services vehicle to access the structure in the event of an emergency. The permit application shall include a site plan that indicates display areas that are separate from customer parking areas and that demonstrates vehicular traffic flow.

(C) Minor repair areas and detailing areas shall be located within the structure or behind an opaque fence at least 8 feet in height.

(D) Display areas for vehicles for sale or rent shall be paved, commercial, industrial, and agricultural equipment and implements for sale or rent may be located upon a gravel surface.

15.5.7 Auto-Service Center, Auto-Repair (Body & Engine), Agricultural Chemical, Seed, or Product Sales

(A) Service and repair areas for vehicles shall occur entirely within an enclosed structure.

(B) Service and repair areas shall keep all vehicles that are not repairable or serviceable within one day within an enclosed structure or behind an opaque 8-foot fence.

(C) Wrecked vehicles or vehicles that have been determined beyond repair or to be abandoned by the owner shall be removed from the auto repair and service shop and relocated to a legally existing junkyard within 30 days of such determination being made. Auto-Service Centers and Auto-Repair Businesses shall not become automobile graveyards.

(D) Tires, spare parts, and other pieces of associated equipment shall be located out of public view, behind an 8-foot opaque fence or within the structure.

(E) Agricultural Chemicals, Seeds, and Products for sale shall be located behind a secure 8-foot fence or within a structure.

15.5.8 Automobile or General Junkyards and Wrecking Yards (Special Use)

(A) A minimum of 2 acres are required for the operation of such use.

(B) All junk, scrap, damaged, wrecked, or any other materials associated with the use (the materials being stored) shall be located in such a manner so that it is not visible to the general public.

(C) All storage areas shall be enclosed with a 10-foot opaque fence. Piles of junk, scrap, damaged, wrecked or any other materials shall not accumulate to a point in which they are extending above the 10-foot fence.

(D) The 10-foot fence shall be accompanied by plantings located along the exterior of the fence to consist of large trees every 30 feet and 2 small shrubs located in the distance between the required trees.

(E) No noxious fumes, odors, or noises shall be produced by the use.

(F) Noises above 90 decibels shall not be detectable upon the adjacent property outside of the hours of 8:00 AM- 5:00 PM.

(G) No Junkyard, General Junkyard or Wrecking Yard shall be within 1,000 feet of any Church or other Religious Use, School, Park, Playground, Library, Residential Zoning District, Child care center, or any other legally existing Junkyard, General Junkyard or Wrecking Yard.

(H) All vehicles or other junked objects that have fuel or gas tanks located within them shall be stored in a manner in which they do not have any gasoline, diesel fuel, or other liquid located within them that may be combustible and constitute a fire hazard.

(I) The Warsaw Fire Department may request to conduct annual or semi-annual inspections of the site to ensure that dangerous fire hazards are not in existence.

(J) The operator of such use shall be required to provide the Town of Warsaw with an Phase 1 Environmental Assessment of the property every 5 years to determine if adverse environmental impacts are being created by the existence of the use, in the event that the assessment determines that adverse environmental impacts are being created, the use will have a period of one year to mitigate and correct the impacts or shall be required to cease operation as such and restore the site to a condition in which the adverse impacts no longer exist.

15.5.9 Animal Processing (Special Use)

(A) No by-products of animals shall be stored outside of the structure used for processing at any time.

(B) All slaughtering, cleaning, processing, etc. shall occur within the structure.

(C) There shall be no storage or staging of animals dead or alive outside of the structure.

(D) The use shall not create any noxious fumes, odors, or noises outside of the structure used for processing.

(E) The use shall not be located within ½ mile of any residential zoning district or school.

15.5.10 Bed & Breakfast

(A) There shall be no service to the public (non-residents) of food or beverage that is provided for guests.

(B) The operator of the Bed and Breakfast shall permanently reside within the Bed and Breakfast.

(C) Guests shall not be permitted to stay more than 7 consecutive nights.

(D) The operator shall maintain a detailed log to verify the number of nights each guest has stayed at the Bed & Breakfast.

(E) Parking for the Bed and Breakfast must be located upon an improved surface that is in the rear of the property or side of the property. The improved surface may be gravel and is encouraged to be constructed of pervious parking pavers.

(F) Bed and Breakfast are not permitted to host events such as birthdays, weddings, reunions, etc.

(G) The total number of rooms for the Bed & Breakfast is cumulative, meaning that if there are 4 rooms in the primary house and 1 room in an accessory dwelling that the Bed and Breakfast has 5 rooms for rent. For example, there may not be 10 rooms in the primary dwelling and 4 rooms in the accessory dwelling as this would exceed the maximum allowable 12 rooms.

(H) There shall be a minimum of a ½ mile separation between Bed & Breakfast.

15.5.11 Boardinghouse

(A) At least one fully operable restroom facility including an operable lavatory (toilet/commode), sink, shower or bathing tub that is in good and working condition and connected properly to the structures plumbing system shall be provided for every 3 rooms within a boardinghouse.

(B) All parking spaces for the use shall be contained within the boundary of the property and located upon an improved driveway or other surface. There shall be no more vehicles than rooms, for example a 5-bedroom boardinghouse shall not have tenants that are in total ownership of more than 5 vehicles.

(C) The tenants of the boardinghouse are expected to maintain the home and property in a clean and sanitary manner.

(D) The boardinghouse is not to be used as a home for individuals in recovery from abuse nor individuals who seek to live in a group or congregational setting as a support system from recovery. Family Care Homes do not qualify as a boardinghouse.

(E) The intent of the boardinghouse is to provide an affordable housing option to individuals by allowing for the rental of an individual room.

(F) Boardinghouses shall comply with the NC Building Code as determined by the Town of Warsaw.

(G) Rooms shall be rented out for a minimum of 6 months at a time and no more than 2 years.

(H) Rooms shall not be rented out to more than two occupants.

15.5.12 College

(A) Parcel shall be a minimum of 2 acres.

15.5.13 Building Materials Sales and Storage (Lumberyards)

(A) Materials and lumber shall be located within an enclosed structure or a 6-foot opaque fence.

(B) The storage of C&D (construction and debris material) associated with construction shall not be permitted.

15.5.14 Child Day Care (Childcare Center) (Non-Residential Structure)

(A) Licensing from the State of North Carolina is required to be presented to the Town of Warsaw prior to the use being permitted for operation. Shall provide proof from the State of North Carolina that G.S. 110-91 "Mandatory Standards for a License" have been complied with.

(B) All outdoor child play areas shall be enclosed by a minimum of 4-foot fence. The play area shall be setback at least 30 feet from the edge of the right-of-way.

15.5.15 Drinking Establishment (Special Use)

(A) There shall be a minimum of 1,000 feet separation between a Church or other Religious Use, School, Park, Playground, Library, Residential Zoning District, Childcare center and 500 feet of another Drinking Establishment.

(B) Outdoor areas shall be enclosed by a 4-foot fence and include signage that alcohol is not to go beyond the boundary.

(C) There shall be no noise created by the establishment in excess of 100 decibels upon the adjacent properties after the hour of 10:00 PM.

(D) The establishment shall not be used for events such as weddings, reunions, parties, etc.

(E) The fact that the establishment may serve food does not qualify it to be a non-drinking establishment.

(F) A copy of the license permit from the NC ABC Commission is required to be presented to the Town of Warsaw prior to the issuance of the permit.

(G) An initial fee for establishment of $1,000.00 and an annual renewal fee of $500.00 for the business must be paid by the end of the fiscal year to the Town of Warsaw.

15.5.16 Kennel

(A) Outside areas for animals shall include a 6-foot fence.

(B) Fences must be constructed and designed to prevent the ability of an animal to exit by either jumping or digging.

(C) Animal waste shall not be left accumulated or exposed in a manner that is detrimental to the adjacent properties.

(D) The use shall not produce a level of noise that degrades the adjacent properties at uncommon hours outside of the normal 8:00-5:00 business day.

(E) The use does not include breeding of animals.

15.5.17 Event Venue (more than 300 people) (Special Use) & Event Venue (less than 300 people)

(A) Minimum parcel size of 5 acres, event venues more than 300 people. Minimum parcel size 3 acres, less than 300 people.

(B) All parking must be contained on-site or must have a legally recorded parking agreement for off-site parking. Off-site parking shall be no more than 500 feet from the use and shall have transportation provided to the event site from the off-site parking lot.

(C) The Town of Warsaw Police Department shall be notified at least 48 hours in advance of an event so that they may plan for any potential traffic impacts and prepare for safety measures.

(D) The use shall not produce more than 110 decibels upon adjacent properties after 10:00PM.

(E) A dedicated unobstructed easement and all-weather gravel access shall be provided for emergency services vehicles to access the structure, this access may be blocked with breakaway bollards or an emergency access gate.

(F) For event venues that have Law Enforcement respond to the site for acts of violence or assault more than 2 times in a calendar year, the Special Use Permit shall be terminated. In the event that Law Enforcement responds due to gun violence, the Special Use Permit shall immediately be terminated.

(G) The use shall provide the Town of Warsaw with a copy of the permit authorizing the sale of alcohol from the NC ABC Commission prior to any event taking place that includes alcohol.

15.5.18 Electronic Cigarette "Vape" Shop and Tobacco Smoke Shops

(A) There shall be a minimum of 1,000 feet separation between a School, Park, Playground, Library, Residential Zoning District, Childcare center and 500 feet of another Electronic Cigarette "Vape" Shop and Tobacco Smoke Shops.

15.5.19 Family Care Home, Group Care Facilities, Halfway Homes

(A) There shall be a minimum ½ mile separation between Family Care Homes, Group Care Facilities, Halfway Homes and any new proposed facilities or homes.

(B) Halfway Homes shall not be within 1 mile of a school.

15.5.20 Family Childcare Home (Residence)

(A) Licensing from the State of North Carolina is required to be presented to the Town of Warsaw prior to the use being permitted for operation. Shall provide proof from the State of North Carolina that Article 7 of Chapter 110 "Childcare Facilities" have been complied with.

(B) All outdoor congregational areas for children shall be enclosed with a 4-foot safety fence and be set-back 30 feet from the edge of the right-of way.

(C) Shall be no less than three children and no more than 9 children.

15.5.21 Food Trucks

(A) Must provide the Town of Warsaw with written consent from the property owner upon the property which they are located to conduct business.

(B) Must annually register with the Town of Warsaw and pay $250 fee for operation.

(C) There shall be no more than two food trucks located upon a piece of property (does not apply to food trucks being used for a special event or in association with an event venue or organized athletic event at a school, park, ballfield, etc.)

(D) Must provide a valid permit from Duplin County Environmental Health for their permitted operation.

(E) Must be located within a truck, trailer, or combination of that is self-propelling.

(F) Food trucks may not locate upon the same parcel for more than 3 consecutive days and shall not locate upon the same parcel more than 45 days within one calendar year.

(G) When locating upon parcels with an existing primary use, the food truck shall provide the Town of Warsaw with a concept plan so that they may verify the temporary location of the food truck will not put public health and safety in jeopardy and that the parking for the use and the food truck will be adequate.

(H) Food trucks shall not park within the right-of-way and set up for business.

(I) Food trucks shall be responsible for disposal of all waste and maintaining their operation in an orderly manner.

15.5.22 Fertilizer Manufacture or Sale (Special Use)

(A) Must provide the Town of Warsaw with a valid license for operation from the North Carolina Department of Agriculture & Consumer Services.

(B) There shall be no materials or by-products of the use left in a condition which has the potential to negatively affect or degrade the adjacent properties.

(C) All products and materials shall be kept within an enclosed structure or located within a 8-foot fenced & secured area.

15.5.23 Government Office or Building

(A) Limited to offices of the Town of Warsaw Government, Duplin County Government, State of North Carolina, and the United States Federal Government.

15.5.24 Gun Range Indoor (Special Use)

(A) Must provide proof of compliance with National Range Association Indoor Range Requirements.

(B) Must provide proof of approval from the North Carolina Department of Public Safety.

(C) Must provide evidence of a meeting with the Town of Warsaw Police Department to address concerns and the nature of the operation.

(D) An initial fee for establishment of $1,000.00 and an annual renewal fee of $500.00 for the business must be paid by the end of the fiscal year to the Town of Warsaw.

(E) The range shall not sale ammunition nor firearms.

(F) Only legal firearms shall be permitted to be used within the range, the Gun Range shall keep a detailed log of all range users as well as proof of firearm registration. This log shall be provided to the Town of Warsaw Police Department within 48 hours of their request for such log.

(G) Incidences involving violence of any sort that require Law Enforcement response at the gun range shall result in the Special Use Permit expiring.

(H) There shall be no sale of food or beverages at the gun range nor consumption of alcohol on the premises.

(I) Shall not be within 1,000 feet of a School.

(J) Shall not produce noise in excess of 80 decibels upon adjacent properties.

15.5.25 Golf Course

(A) Minimum parcel size of 40 acres.

15.5.26 Gun Sales (Special Use)

(A) Must provide the Town of Warsaw with a copy of permits and documents that verify compliance with the Bureau of Alcohol Tobacco and Firearms.

(B) No use shall be located within 1,000 feet of a School.

15.5.27 Home Occupations

(A) No display of products for sale or rent shall be visible from the public right-of-way. All items associated with the home occupation shall be either stored in an enclosed accessory structure or out of public view from a public right-of-way.

(B) Home Occupations that are not completely conducted within the interior portion of a structure shall only occur between the hours of 7:00AM-8:00PM.

(C) Home Occupations shall not detract from the residential nature of the area in which they are located.

(D) Home Occupations are permitted to have a maximum of one employee who is not a resident of the home.

(E) Home Occupations are permitted to have one work vehicle, trailer, or combination of associated with the business.

(F) All vehicles associated with home occupations shall be parked within the driveway or upon an improved gravel surface located upon the property.

(G) The home occupation shall not generate a level of traffic that detracts from the neighborhood, no more than 10 vehicles per day shall make trips to the home occupation.

(H) The home occupation shall not require more than 50% of the total sq footage of the home for the use. This includes any accessory structures used for the home occupation.

(I) Home occupations that are designed for personal services such as barbershops, tattooing, therapy, etc. require the occupant to provide the Town of Warsaw with valid permits from the State of North Carolina related to such use as well as from the Duplin County Health Department.

(J) All home occupations that involve the general public entering the structure, including just for scheduled pick ups require the structure to be permitted for such commercial activity by Duplin County Building Inspections, certifying the portion of the home used for the occupation meets commercial building code.

(K) Home occupations that involve the care of children shall be for no more than 2 children, outside play areas must be enclosed by a 4-foot fence.

(L) Sexually oriented businesses do not qualify for home occupations.

(M) Home occupations shall not bring any debris or materials from off-site job areas back to the home that the occupation is associated with.

(N) Home occupations shall be responsible for conducting business in a neat and organized manner that does not detract from the residential setting of its location.

(O) In the event that the person conducting the home occupation is not the property owner, the occupant must provide the Town of Warsaw with acknowledgement and written consent from the property owner that an occupation is taking place within the home.

15.5.28 Hotel

(A) A minimum area of 2 acres needed.

15.5.29 Industrial Park

(A) A minimum of 40 acres is needed.

15.5.30 Manufactured Home

(A) Must meet Department of Housing and Urban Design Standards and have been assembled after July 1, 1976.

(B) Must utilize masonry underpinning.

(C) Must have a pitched roof with shingles.

15.5.31 Manufactured Home Park

(A) Parcel must be a minimum of 2 acres.

(B) Manufactured home park plans must be prepared by a licensed NC Engineer & Professional Land Surveyor.

(C) Homes within the park must have been assembled after July 1, 1976.

(D) No manufactured home space shall have direct vehicular access to streets located outside of the manufactured home park.

(E) Each manufactured home space shall provide 2 parking spaces. There shall be no more than 2 vehicles parked upon a manufactured home space at any time.

(F) The manufactured home park shall provide a guest parking lot that shall have a minimum of 5 spaces and no more than 10 spaces. Sidewalk access shall be provided to the guest parking area. Guest parking areas shall be landscaped in accordance with the provisions outlined within this UDO.

(G) Manufactured home parks shall provide appropriate turnarounds or cul-de-sacs for emergency services vehicles, school buses, trash collection trucks, etc.

(H) Manufactured home parks with more than 30 spaces shall provide separate access to the property.

(I) A minimum of 20% of the total sq footage of the parcel shall be provided for open space. Open space shall be active and include but not be limited to playgrounds, picnic areas, basketball courts, etc. Open space shall not be a green space with no amenity.

(J) Each manufactured homes space shall be a minimum of 4,000 sq feet. Manufactured homes shall be setback a minimum of 10 feet from all boundary lines of the space.

(K) Spaces shall be designed to be a minimum of 40x100 feet.

(L) Each manufactured home park shall provide a series of plantings around the entire perimeter of the property to include one large tree every 100 feet with one small tree located at the mid-point (50 feet) and shrubs every 10 feet. INSERT EXAMPLE PHOTO

(M) Each manufactured home park shall contain a screened dumpster location.

(N) A cluster box mail unit is required.

(O) Sidewalks at a minimum width of 4’ shall be installed within the park.

(P) Each manufactured home space shall have a 2x2 sign that identifies the lot/space number.

(Q) Manufactured home parks shall be connected to water & sewer.

(R) RV’s & park models along with pre 1976 mobile homes are not permitted to be setup within a manufactured home park.

(S) Streets must be constructed at a minimum to be a right-of-way width of 30 feet with an asphalt surface at least 2 inches in thickness including a base of at least 6 inches in thickness. The width of the improved asphalt street shall be a minimum of 20 feet. For manufactured home parks in excess of 10 manufactured homes, the streets shall be designed

15.5.32 Movie Theater

(A) Minimum parcel size of 3 acres needed.

15.5.33 Mini-Warehousing

(A) Minimum lot size of 1 acre.

(B) Warehousing units shall be located within a 6-foot security fence.

(C) The use shall include a buffer that consists of a series of plantings around the entire perimeter of the property to include one large tree every 50 feet with one small tree located at the mid-point (25 feet) and shrubs every 5 feet. The buffer shall be located on the exterior of the security fence.

(D) Business or commerce shall not be conducted directly out of the unit or upon the premises of the use.

(E) The use shall not include any outside storage of items, vehicles, or materials.

(F) There shall be at least 30 feet of spacing in between structures and a 12 feet improved travel lane in between the structures.

15.5.34 Microbrewery

(A) Required to provide the Town of Warsaw with all copies of NC ABC Commission permits for the establishment and operation of the use.

(B) All brewing activities must take place within the structure.

(C) Outside areas associated with the use, excluding areas that may have sidewalk frontage shall be enclosed with a 6-foot fence.

15.5.35 Outdoor Storage Areas & Vehicle Storage

(A) Items that are being stored shall be located within a 6-foot opaque fence.

(B) Items shall be in an operable and working condition.

15.5.36 Planned Residential Development

(A) Minimum parcel size of 3 acres required.

(B) See Planned Unit Development Conditional Zoning District for design requirements. Section 14.17

15.5.37 Pool Halls, Bowling Alleys, Arcades, Skating Rinks, etc. (Places of Entertainment)

(A) Minimum separation requirement of 500 feet between like uses.

15.5.38 Prefabricated Structures Sale

(A) Structures displayed for sale must be completely assembled.

(B) Structures may not be located within any designated parking spaces.

(C) Structures must be set back a minimum of 25 feet from the edge of the right-of-way and 10 feet from side and rear property lines.

15.5.39 Schools Public or Private

Shall comply with the current American Planning Association recommended square footage.

(A) 10 acres Elementary

(B) 20 acres Middle School

(C) 30 acres High School

(D) Private School – 10 acres plus 1 additional acre for every one hundred students in excess of 500.

15.5.40 Shopping Center

(A) A minimum of 10 acres required.

(B) A minimum of 4 units for occupancy within the largest structure within the center.

(C) Shopping Centers shall incorporate design standards to include a consistent architecture and façade, vertical & horizontal mass with differing articulations, and differing roof lines.

(D) Shopping centers shall include sidewalks along storefronts and a pedestrian network within the shopping center development.

(E) Facades and materials shall be designed with a consistent color and theme so that there is uniformity in the design.

(F) Building facades shall have a minimum transparency of 30%, this is to be based off the total sq footage of the building facade.

(G) Shopping centers shall not be designed to include unarticulated blank walls, false fronts, false entrances, lack of change in materials, faux stucco and faux windows.

15.5.41 Solar Panels (Roof Mounted)

(A) Shall not project more than 1 foot from the surface of the roof.

15.5.42 Towing Services

(A) Are permitted to keep towed vehicles upon the property for a period not to exceed 30 days. Towed vehicles shall be located within an 8-foot opaque fenced area.

(B) The operator of the towing business shall keep a detailed log of the day the vehicle was towed, the 30-day period shall begin from this date.

(C) Towing services shall not be permitted to become a junkyard or a long-term holding facility for wrecked or towed vehicles.

15.5.43 Tattoo Parlor

(A) Must be separated a minimum of 500 ft from identical uses.

(B) Must provide the Town of Warsaw with copies of licenses and permits from the NC Department of Public Health as well as any required permits from the Duplin County Health Department.

15.5.44 Telecommunication Towers & Devices

(A) General. All wireless telecommunication towers & devices within the Town of Warsaw Shall be in conformity with the Federal Communications Act, 47 U.S.C. § 332, as amended, section 6409 of the Middle-Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission.

(B) New Wireless Tower Facilities and Substantial Modification to Existing Structures. Applications shall provide evidence that proves no existing wireless support structure can reasonably be used for the wireless facility placement instead of the construction of a new wireless support structure that residential, historic, and designated scenic areas cannot be served from outside the area or that the proposed height of a new wireless support structure or initial wireless facility placement or a proposed height increase of a substantially modified wireless support structure or replacement wireless support structure is necessary to provide the applicant's designed service. Applications will provide an evaluation of the reasonable feasibility of collocating new antennas and equipment on an existing wireless support structure or structures within the applicant's search ring. Collocation on an existing wireless support structure is not reasonably feasible if collocation is technically or commercially impractical or the owner of the existing wireless support structure is unwilling to enter a contract for such use at fair market value. The application is required to provide information necessary to determine whether collocation on existing wireless support structures is reasonably feasible.

(C) Eligible Facilities Request. The Town of Warsaw shall provide the applicant with a decision within 45 days of their submission of the required materials to determine whether an eligible facility is in existence.

(D) Collocation Timeline. The Town of Warsaw shall have 45 days to approve or deny the request for collocation.

(E) Wireless Facilities Review. The Town of Warsaw may impose fees to hire technical consultation and the review of a collocation or eligible facilities application, but the fees shall not exceed $1,000. The fees shall not be used for travel expenses or reimbursement for the consultant based on contingent fee basis or result's-based arrangement.

(F) Tower Design. The tower design shall be a stealth monopole and be designed to blend into the natural environment in which the tower is being located, unless requested otherwise by the Federal Aviation Administration.

(G) Tower Capability for Collocation. Towers shall be designed to accommodate for collocation on the following scale:

(1) 50-100 feet: 1 collocation

(2) 101-150 feet: 2 collocation

(3) 151-200 feet: 3 collocation

(H) Maximum Tower Height. Towers shall be no taller than 200 feet.

(I) Fall Zone Design & Tower Setback. Towers shall be designed to fall within an engineer certified fall zone, the boundary of the fall zone shall be a minimum of 50 feet from all structures and property lines. Towers shall be a minimum of 100 feet from the edge of the right-of-way.

(J) Tower Distance Separation Requirements. No new tower may be located within 1,000 feet of an existing water tower, power transmission tower, or similar feature unless the applicant can demonstrate that collocation was pursued but rejected by the owner of the existing water tower, power transmission tower or similar feature. No tower may be located within 1,500 feet of an existing freestanding wireless communication facility unless the applicant can demonstrate that collocation is not a viable option.

(K) Tower Support Equipment. Accessory structures and ground level structures associated with the tower shall be permitted as an accessory to the tower and be located within an enclosed security fence that is a minimum of 10 feet.

(L) Tower Lighting. Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. The applicant must provide documentation that lighting required by the FAA is necessary.

(M) Special Use Specific Requirements. Before the issuance of a building permit, the following supplemental information shall be submitted:

(1) A copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) shall be submitted to the UDO Administrator.

(2) Proof of compliance with applicable Federal Communications Commission regulations; and,

(3) A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with structural and electrical standards.

(4) Approval of the Department of Commerce.

(5) Proof of the issuance of access permits may be required from other government jurisdictions.

15.5.45 Temporary RV for Hardship

(A) Only to be utilized in instances where the primary residence, that is currently inhabited is damaged by an act of God such as a fire, tornado, hurricane, flood event, to a degree that the continued occupancy of the home is detrimental to public health.

(B) Duplin County Building Inspections must officially determine that the home is non-inhabitable until repairs are made.

(C) The temporary RV permit shall be issued for a period not to exceed 6 months with language that the permit expires within a one-week period after Duplin County Building Inspections formally issues a certificate of occupancy for the residential structure that was damaged or for the new structure being built or placed upon the property.

(D) The temporary RV permit may be granted one 6-month extension upon a showing of a good faith effort and proof of extenuating circumstances that have prevented the repair or reconstruction within the initial 6-month period.

(E) In the event that 12 months have passed, and the structure is still not habitable, the property owner shall be required to apply for a special use permit for the continued temporary occupancy of the RV.

15.5.46 Temporary Family Health Care Structure

(A) Must comply with G.S. 160D-915.

(B) A temporary family healthcare structure shall be no more than 300 sq feet and is not permitted to be placed upon a permanent foundation.

(C) Care shall only be provided by a person who is a first or second degree relative of the person who is mentally or physically ill and requires care.

(D) In order to be considered mentally or physically impaired, the Town of Warsaw must be provided with documentation from a licensed North Carolina medical physician determining that the person requires assistance with two or more activities of daily living.

(E) The temporary family health care structure shall be occupied by the mentally or physically impaired person, not the caregiver.

(F) The temporary family health care structure shall be located upon the property of the caregiver or the parcel of land in which the caregiver resides.

(G) An initial fee of $100 is required to be paid to the Town of Warsaw for the establishment of the temporary family health care structure. An annual renewal fee of $50 shall be paid with the inclusion of updated documentation from a NC licensed medical physician that determines if the person still requires care and is eligible.

(H) Upon the point in time in which the mentally or physically disabled person no longer requires care, the temporary family health care structure shall be removed from the property of the caregiver within a 60-day period.

(I) In the event that the caregiver is not the property owner, the owner must provide written consent for the location of a temporary family health care structure.

15.5.47 Recreational Vehicle Parks

(A) Design Standards.

(1) Minimum size. A recreational vehicle park shall require a minimum gross land area of 25 acres.

(2) RV sites.

(a) Each recreational vehicle (RV), as defined in G.S. 20-4.01, shall be located on an individual area (RV site) within the RV park.

(b) RV sites shall be limited to seven per acre of the RV park.

(c) All RV sites shall have, at a minimum, 1,250 square feet with average width of 25 feet.

(d) No more than one RV may be parked on any one RV site. RVs shall not be permitted on parcels, lots, or spaces other than the designated RV sites.

(e) All RVs must be placed individually on approved RV sites where all design standards and utility connections have been completed.

(f) All RV sites shall be graded to prevent standing or ponding of water. RV sites shall be graded to obtain a reasonably flat area and to provide adequate drainage. This requirement is not intended to circumvent FEMA regulations.

(g) RV sites along public road frontages shall be located at least 30 feet from the edge of the road right-of-way and 20 feet from the perimeter and shall remain free of encroachment by RV site(s), accessory structures, and impervious coverage.

(h) RV sites shall be located outside of utility, drainage, and access easements.

(i) RV sites shall be at least 20 feet apart.

(j) Accessory structures shall not be constructed on an RV site.

(k) No RV site shall have direct vehicular access to a publicly maintained road.

(l) A number identifying each RV site shall be placed on a concrete, wood or metal post, conspicuously located at each RV site.

(m) RV sites shall have an additional parking area for ancillary vehicles or boats.

(3) Streetyards and vegetative buffers.

(a) Streetyards shall meet the following requirements.

i. Street yard landscaping shall be required along all street frontages. For sites with two or more street frontages, only the primary street frontage shall be required to contain the full amount of street yard as determined in subsection (A)(2). Secondary street frontages are required to contain 50 percent of the required street yard area.

ii. For every linear foot of street yard frontage along a right-of-way, 25 square feet of street yard area is required. The minimum street yard width shall be five feet and the maximum street yard width shall be 30 feet. Street yard widths shall be measured along a perpendicular line from the right-of-way line. Driveway widths (measured at the right-of-way line) shall not be counted in the linear footage of street yard frontage.

iii. For every 600 square feet of street yard area, the following landscaping shall be provided:

A. One canopy tree a minimum of six feet in height at time of planting, or, if overhead utilities are located above the street yard, three understory trees a minimum of six feet in height at time of planting.

B. Six shrubs a minimum of 12 inches in height at time of planting.

iv. If there are existing trees of a minimum two inches caliper size in the proposed street yard, the planning and inspections director or their designee may grant credit toward meeting tree planting requirements in subsection (A)(3).

v. Walkways, sidewalks, or other bicycle and pedestrian facilities, fountains, walls or fences, and transit amenities shall be permitted within the street yard; however, parking areas shall not be permitted. The area of any bicycle, pedestrian, or transit facilities that are existing or to be provided with the development of the subject parcel may be subtracted from the base street yard area required per subsection (A)(3) to get the total required street yard area.

(b) All other perimeter areas shall be vegetated with a Type C buffer per Section 17.20.

(4) Accessory uses and structures for the RV park.

(a) RV parks shall have a structure or structures that provide separate toilet facilities.

(b) RV parks may contain structures for retail sales, coin operated vending machines, or laundry facilities for the use of RV park customers and their guests.

(c) RV parks may contain a structure or structures which provide indoor amenities and recreation activities for use of the RV park customers and their guests.

(d) RV parks may contain a structure or structures for RV park offices, operation, and management staff.

(e) RV parks may contain up to two structures for storage of maintenance equipment.

(f) All structures shall be constructed in accordance with the International Building Code with North Carolina Amendments, and be for use only by staff and users of the RV park.

(5) Recreation and open space. RV Parks shall provide recreation areas in the total amount of ten percent of the gross acreage of the development.

(a) Fifty percent of the required recreation area shall be designated for passive recreation and fifty percent of the required recreation area shall be designated for active recreation.

(6) Parking and streets.

(a) Parking within the RV park shall only be in designated parking areas.

(b) Parking areas for employees of the RV park and for accessory structures shall be provided as listed in Article 16.

(c) All access to RV sites and accessory structures shall be made using internal streets.

(d) Internal street standards.

i. Throughout the RV park, one or two-way streets shall be used, kept well maintained and clearly identified. Each RV site shall abut an internal street within the park.

ii. All internal streets shall have a minimum travelway width of 12 feet for one-way streets and 24 feet for two-way streets, with a minimum vertical clearance of 18 feet.

iii. A minimum radius of 40 feet, shall be maintained on any dead-end internal street for emergency vehicles and shall be approved by the fire chief.

iv. All internal streets shall have paved or asphalt surfaces capable of supporting a minimum of 75,000 pounds in accordance with the International Fire Code.

v. RV parks shall maintain all internal streets and drainage facilities. Such streets shall be maintained in such a manner to be free from

potholes, breaks in the pavement, rough surfaces, ponding of water and any other associated issues which would impede or cause hazards to motor vehicles.

vi. Internal streets shall have a speed limit of no greater than 15 miles per hour.

(7) Utilities. Each RV site shall have potable water, wastewater disposal, and electrical connections.

(8) Signs. Signs shall be regulated by Article 18 of this chapter.

(9) Refuse disposal.

(a) The RV park shall be responsible for collection of refuse.

(b) All trash receptacles shall be enclosed on three sides by masonry or wood fencing.

(c) The storage, collection and disposal of refuse shall be managed as to not create health hazards, insect breeding area(s), rodent harborage, fire hazards or air pollution.

(d) The RV park shall provide at a minimum one trash receptacle such as a dumpster or trash compactor.

(10) Swimming pools and bathing areas. Any swimming pools or bathing areas shall be installed, altered, improved and used in compliance with applicable local and state regulations.

(B) General Conditions and Requirements.

(1) Unlicensed or unregistered vehicles shall be prohibited in an RV park.

(2) RV sites shall not be subdivided into individual lots.

(3) RV sites shall not be sold, conveyed, or subleased.

(4) The RV park shall only be for transient use.

(5) Any individual recreational vehicles ("RV") shall be limited to 180 days of occupancy within the park within a 12-month period. The 12-month period for each individual RV occupancy shall be calculated from the first day of occupancy by that RV within the RV park.

(6) RV parks shall be required to maintain a registry or logbook identifying, at a minimum, the recreation vehicle license plate number and vehicle identification number for recreation RV sites which may be subject to inspection by the town.

(C) Inspections. The Duplin County Health Department and town planning and inspections and public services staff are hereby authorized to make inspections as necessary to determine satisfactory compliance with applicable ordinances and regulations.

15.5.48 Performance multi-family developments

(A) In General. Performance multifamily developments are not subject to the minimum lot size, minimum lot width, or the front, rear, and side setback requirements specified Section 14.16. Performance multifamily developments shall comply with the standards in this section and with all other applicable standards in this chapter.

(B) Wetland and Floodplain Avoidance.

(1) Buildings, parking lots, roads, driveways, and other impervious surfaces shall not be located in jurisdictional wetlands.

(2) Buildings, parking lots, roads, driveways, and other impervious surfaces shall not be located in the 100-year or 500-year floodplain.

(C) Tree Preservation and Protection.

(1) A tree survey shall be required in conjunction with the development site plan. The tree survey shall indicate the diameter at breast height (DBH), species, and location of significant trees, as defined in Article 2, on site prior to any land disturbance.

(2) Either prior to development activities or anytime thereafter for a performance multifamily development, significant trees as defined in Article 2 may only be removed upon a determination by the planning and inspections director or their designee that any of the following conditions exist:

(a) That essential site improvements cannot be accommodated on the site without the removal of significant trees;

(b) The significant tree is dead, severely diseased, injured, or in danger of falling close to existing or proposed structures;

(c) The significant tree is causing disruption of existing utility service or causing passage problems upon the right-of-way;

(d) The significant tree is posing an identifiable threat to pedestrian or vehicular safety;

(e) The significant tree violates state and local safety standards;

(f) Removal of the significant tree is necessary to enhance or benefit the health or condition of adjacent trees or property.

(3) The removal of any significant tree as defined in Article 2 must be mitigated in accordance with the following standards unless the tree is determined to have died or is significantly damaged as a result of a natural disaster, then no mitigation will be required unless the tree is needed to meet the minimum number required on the site.

(a) The total caliper inches of all significant trees proposed for removal shall be totaled and doubled. The resultant number of caliper inches must be planted back on the site with 2-3" caliper trees as a minimum.

(b) Trees planted on site to mitigate for the removal of any significant trees shall be species from the landscape species list in the administrative manual.

(4) Protection of significant trees during development.

(a) Physical protection required for tree protection areas. Fences or other equally protective barriers as determined by the planning and inspections director or their designee shall be used to protect significant trees by limiting access to the protected area and prevent the compaction of soil and the destruction or damage of the trees. Prior to any development activity, the installation of the protective barrier is required around significant trees. The protective barriers shall not be relocated or moved temporarily without the written approval of the planning and inspections director or their designee, and shall remain in place until all development activity is completed and approved. Tree protection procedures must follow the specifications written in accordance with standards in the current ANSI A300 Standards for Tree Care Operations, ANSI Z133 Safety Standards, industry best management practices and administrative standards developed by the town.

(b) Restrictions within the protected areas. The following activities are prohibited within the fenced significant tree protection area: parking of vehicles or equipment; storage of building materials, refuse, or excavated soil; use of tree trunks as a backstop, winch support, anchorage, power pole, sign post, or other similar function.

(D) Buffering and Screening. A landscaped buffer shall be installed around the periphery of the development and meet all of the following requirements:

(1) The buffer shall have a minimum width of 12 feet.

(2) The buffer shall contain three canopy trees, three understory trees, and 20 shrubs, per 100 linear feet. Canopy and understory tree species shall be from the landscape species list in the administrative manual.

(3) Any planting which is proposed to be placed in a general drainage easement, utility easement, or in a street right-of-way must be approved by the public services director or their designee.

(4) All trees shall be placed in the most feasible manner so as not to interfere with roadways, sidewalks or streetlights and shall not be planted closer than eight feet to a fire hydrant.

(E) Building Separation. Building separation shall be a minimum of ten feet between structures.

(F) Density.

(1) Density shall be calculated per the definition of Density of Development in Article 2.

(2) Accessory apartments-detached and accessory apartments-attached shall be included in the density calculation.

(G) Building Height.

(1) The maximum building height shall be 55 feet.

(2) Buildings over 40 feet tall shall meet the following setback requirements:

Building Height	Setback from the property line
Greater than 40 feet, up to 45 feet	17.5 feet
Greater than 45 feet, up to 50 feet	22.5 feet
Greater than 50 feet, up to 55 feet	27.5 feet

(H) Recreation Areas.

(1) Performance multifamily developments shall include land, as set forth herein, for active and passive recreation areas to serve the residents of the immediate neighborhood.

(a) Amount required.

i. Performance multifamily developments shall provide recreation areas in the total amount ten percent of the gross acreage of the development.

A. Fifty percent of the required recreation area shall be designated for passive recreation and 50 percent of the required recreation area shall be designated for active recreation.

B. Open space required by other Sections of this ordinance may be used to meet the required amount of recreation area specified herein. In order to be counted towards the required amount of recreation area, such open space shall meet all requirements specified in the Section relevant to the amount required.

(b) Design standards.

i. Stormwater facilities. Stormwater facilities shall not be accepted to fulfill the requirements set forth by this section.

ii. Unity. To the maximum extent practicable, required recreation areas shall be connected as to form contiguous areas of land, whether the project is developed in phases or sections.

iii. Usability.

A. Narrow strips of land that separate lots or buildings within a development, from streets, or from adjoining tracts shall not be regarded as a recreation area unless such areas (1) have a minimum dimension, length and width, of 20 feet, and (2)

meet the requirements for active recreation areas or contain a multi-use path of not less than ten feet wide.

B. Pedestrian facilities less than ten feet wide shall not be counted towards the amount of required recreation areas.

C. Pedestrian corridors and travelways, shall not be counted towards the amount of required recreation areas.

iv. Access. Access to required recreation areas sha be provided by an access easement or frontage along a dedicated right-of-way and shall be ADA compliant.

v. Control and maintenance. Required recreation areas shall be controlled and permanently maintained by the owner of the property or by a homeowners or property owners association.

vi. Passive recreation. Buffering and screening as required by Section 15.5.48(D) shall not be counted towards the required passive recreation area.

vii. Active recreation. Active recreation areas must be located outside of wetland areas under the jurisdiction of federal and state agencies.

(I) Parking.

(1) Parking and associated facilities shall comply with Article 16.

(2) Parking facilities are not permitted within the buffer area required by Section 15.5.48(D).

(3) Public and private streets will be permitted in performance multifamily developments, provided they are designed and constructed according to the North Carolina Department of Transportation's Traditional Neighborhood Development Manual or the criteria for Local Residential Subdivision Roads in the North Carolina Department of Transportation's Subdivision Roads Manual.

(4) Street lighting shall be provided within the development.

(J) Connectivity.

(1) Number and type of connection required.

(a) A minimum of one connection to the existing public network if the development includes 90 units or less or, a minimum of two connections to the existing public network if the development includes more than 90 units; and

(b) A minimum of one connection in each direction (north, south, east, and west).

i. Connections to developed properties shall be made when an existing stub-out abuts the proposed development.

(2) A stub-out to adjacent properties shall be provided if the adjacent properties are undeveloped. The stub-out shall be installed so that once the connection is complete there shall be no disturbance to wetlands.

(3) The connection or stub-out required by this subsection shall not be required when the entire width of the adjacent property contains jurisdictional wetlands.

(4) In order to promote projects that have high levels of internal connectivity and are well connected to the community at large, gates or other obstructions may not be utilized on roads, driveways, or internal circulation travelways entering, exiting, or within the development.

(K) Internal Circulation Travelways. Internal circulation travelways shall be designed and constructed according to the North Carolina Department of Transportation's Traditional Neighborhood Development Manual or the criteria for Local Residential Subdivision Roads in the North Carolina Department of Transportation's Subdivision Roads Manual.

(L) Pedestrian and Bicycle Amenities.

(1) Sidewalks with a minimum width of five feet are required on each side of public and private streets within the development.

(2) Sidewalks shall be designed to allow pedestrians to safely move from within the development to existing or future pedestrian facilities located within the public rights-of-way. This shall be achieved by providing a sidewalk to the edge of the development boundary that is closest to the public right-of-way.

(M) Utilities. All electric, cable television and telephone utilities, fire alarm conduits, streetlight wiring and other wiring conduits and similar utilities shall be placed underground by the developer or the appropriate utility company.

(N) Accessory Uses and Structures. Accessory uses and structures shall be prohibited within the required buffer area per Section 15.5.48(D).

(O) Development Review Process. An application for a performance multifamily development shall be submitted and reviewed in accordance with the requirements of Article 3.

15.5.49 Electronic Gaming Operations

Electronic gaming operations shall be subject to the following:

(A) Electronic gaming operations shall be located a minimum of 1,500 feet measured in any direction, from:

(1) A place of worship or other religious institution;

(2) A day care center, public or private school;

(3) A public park, playground, public library, or cemetery;

(4) A skating rink, video arcade, or motion picture theater which shows G- or PG-rated movies to the general public on a regular basis; or

(5) Electronic gaming operations, tattoo or body piercing establishments or adult and sexually oriented businesses.

(B) Hours of operation shall be limited to 8:00 a.m. through 12:00 midnight, seven days per week. No playing on any computer subject to this chapter shall be allowed from 12:00 midnight to 8:00 a.m.

(C) No minor (17 years of age or younger) shall be allowed to operate a gaming machine subject to this chapter.

(D) All electronic gaming operations shall comply with North Carolina General Statutes.

(E) The maximum number of gaming machines for any electronic gaming operation business is 15.

(F) Electronic gaming operations must be visible and open to the store front of the building or structure. Shading or tinting of store front windows shall not exceed 35 percent.

(G) There shall be an adult manager, 18 years of age or older, on the premises during the hours of operation.

(This page intentionally left blank.)

ARTICLE 16: PARKING

Section 16.1: Purpose

The purpose of this Article is to set forth minimum and maximum requirements for off-street parking for uses of land. The parking requirements outlined within this Article shall be complied with by all new uses and occupancies of structures within the Town of Warsaw unless the occupancy or change of use fits within the provisions of Article 10 for Non-conforming parking. The intent of this Article is to not require excessive parking and these parking requirements have been designed with a goal of eliminating large areas of underutilized asphalt that have been dedicated for parking in which there are instances that the demand doesn't exist.

Section 16.2: Maintenance

All off-street parking areas shall be maintained and kept in good condition. Parking lots shall be free of weeds, destroyed or deteriorating parking blocks/stops, destroyed or deteriorating parking bollards, potholes, debris, and major imperfections or failures in asphalt surface areas. Parking areas shall be graded in a manner that prevents the accumulation of water. For new uses or the re-establishment of uses within existing structures, the parking area shall be in good condition prior to the occupancy and enactment of such use, regardless of any nonconforming clause that determines the parking area is of adequate size. Parking landscape requirements shall also be installed and the existing parking lot shall be upfit as best possible to comply with the requirements of this Article and UDO. These requirements exist to preserve the public health, safety and welfare of the Town of Warsaw and its citizens.

Section 16.3: Shared Parking Areas

To prevent an excess of parking spaces that are widely underutilized and unnecessary, for parcels that contain multiple uses the parking areas may be shared. The shared parking spaces must be evidenced by an agreement amongst the tenants and the property owners. The shared parking area may reduce the required number of spaces by 20% for total amount of required spaces under 50 and 10% for total number of spaces more than 50. For example, if Use A requires 15 parking spaces and a vacant unit or structure located upon the property is occupied and Use B requires 26 parking spaces, the parking lot supporting both uses shall only be required to provide for 33 spaces (41 spaces for two uses, 20% reduction allows for 33). If Use A requires 45 spaces and Use B required 17 spaces, the lot shall be required to provide 56 spaces. Parking agreements for Churches may also be established between adjacent properties which allow for 30% of the required parking to be accommodated for upon the adjacent property provided that the adjacent use is not in operation during traditional peak times for Church's which includes Sunday and limited hours on Wednesdays. Copies of this agreement including operational hours must be provided.

Section 16.4: Shopping/Commercial Center Parking

For Shopping Centers or other commercial centers that have been developed under the standards of this UDO, the uses occupying the structure may exceed the total number of provided parking spaces by 20% before any parking expansion shall be required. For example, if the sum total of the number of spaces required for all uses within the commercial development requires 226 spaces and the shopping commercial center was built and constructed with 190 spaces, additional parking will not be required. For the purposes of this section shopping/commercial centers are structures developed and designed with 2 or more units to be upfit within a single or multiple commercial structures.

Section 16.5: Pavement Exemption

Temporary establishments of uses off-site from the primary location of where the use will ultimately be located at are exempt from the paving and parking lot requirements of this UDO provided that the temporary use of the property doesn't exceed a one-year period and the Warsaw Board of Commissioners approve such temporary use and exemption.

Section 16.6: Off-Street Parking Lot Requirements

Each off-street parking lot in excess of 4 parking spaces shall be paved with bituminous asphalt that includes a minimum of 6 inches of an aggregate base and 2 inches of asphalt. Parking lots shall include landscaping in accordance with the standards set forth in Article 17 Landscaping and shall have interior landscaped parking islands for each 15 spaces, there shall be no more than 15 consecutive parking spaces without a landscaped island separating the spaces. Required parking spaces in excess of 20 shall not be organized in a manner in which they are adjacent to or facing one another without interior separation in the form of a continuously landscaped island. All off-street parking lots shall be designed to promote interconnection. All off-street parking lots shall be designed to include sidewalks providing pedestrian access from the parking area to the use that the parking serves. Off-street parking lots that have an excess of 40 spaces shall provide speed humps within the parking lot.

Section 16.7: Off-Street Loading Requirements

For uses that customarily have industrial & commercial deliveries, an off-street loading area shall be designated upon the parcel for such activity or upon an adjacent parcel that is not separated by a right-of-way provided an agreement exists for the shared loading area. The designated off-street loading area shall not inhibit the flow of traffic nor interfere with the required parking spaces. The off-street area shall be a space that is 16x60 and shall allow for a height clearance of 20 feet above the grade of finished asphalt. The off-street loading area shall be indicated with signage as well as markings upon the asphalt designating the area as such.

Section 16.8: Prohibited Off-Street Parking Lot Activities

Off-street parking areas shall be prohibited from the permitted activities taking place.

(A) Retail sales or the use of designated parking areas being utilized for retail areas. For example, the use may not occupy portions of the parking lot for temporary sales, tent sales or instructional use.

(B) Non-permitted food trucks.

(C) Repair work.

(D) Extended vehicle storage. Uses shall provide the Town of Warsaw with evidence of a contract for towing services to ensure that vehicles will not be left or abandoned in parking lots for extended periods of time.

(E) Parking spaces shall not be utilized for loading or unloading, this shall take place in a designated area.

Section 16.9: Alternative Materials

Alternative paving & parking materials may be utilized to reduce stormwater runoff and to encourage development to occur in a manner that is more environmentally friendly. Alternative materials must be approved by the Board of Commissioners. The request for approval must include justification as to why the alternative materials are necessary. Alternative materials include but are not limited to permeable pavers, pervious concrete, porous asphalt. Any other materials proposed to be used must demonstrate the environmental benefits as well as accomplish the appearance of an improved and maintained hard parking surface.

Section 16.10: Parking Lot Location

Parking lots shall be located at a minimum of 25' from the edge of the right-of-way. When the parking lot can feasibly locate behind the structure or at the rear of the parcel and by doing such the visual aesthetics of the corridor are improved by the creation of a continuous storefront/business front, the UDO Administrator may require for the parking to be located in the rear yard of the property.

Section 16.11: Parking Lot Lighting

Parking areas shall be illuminated and the systems for lighting shall be designed in accordance with Illuminating Engineering Society of North America (IESNA) requirements. Lighting shall be designed in a manner that it does not cast light upon adjacent properties nor create a negative effect or a condition that threatens public health safety and welfare.

Section 16.12: Parking Lot Design Standards

Parking lots shall be designed for safe ingress and egress onto existing streets that have been designed, constructed and maintained by either the Town of Warsaw or the North Carolina Department of Transportation. Parking lots shall not have points of access to NCDOT rights-of-way nor Town of Warsaw streets that have not received approval for such points of access. Parking lots shall be designed to include landscaping, the landscaping shall not interfere with the safe motion of vehicles or encroach upon the required parking spaces. Parking lots shall be designed to accommodate for either 45-degree spaces or 90-degree spaces, lots shall not have a combination of different space arrangement types. Parking lots shall be designed to allow for either a two-way or

one-way directional flow of traffic and be shown on the site plan. Parking lots shall be designed so that all parking spaces are within 60 feet of a required landscaping tree. Parking lots shall be designed in compliance with the American Disabilities Act so that all ADA requirements are met. Parking lots shall be designed so that vehicles do not encroach upon property lines, rights-of-way, sidewalks or landscaped areas. Where practical as determined by the UDO Administrator or required by the Board of Commissioners, parking lots shall be designed to provide for interconnection to adjacent properties and parking lots.

(A) Aisle Widths One-Way Directional Flow: 16 feet

(B) Aisle Widths Two-Way Directional Flow: 24 feet

(C) Parking Space Dimension 90 degrees: 9x18'

(D) Parking Space Dimension 45 degrees: 10x20'

(E) Pedestrian Sidewalks: Minimum of 4" concrete, 5' width

(F) Asphalt Parking Surface: 6" aggregate base and 2" bituminous asphalt

(G) Wheel Stops: 6" in height, 6" in width, 6' in length. Shall be prefabricated concrete barriers, must be permanently anchored to the asphalt or parking material.

Section 16.13: Central Business District Parking Requirements

Uses that contain less than 3,000 sq feet are not required to provide off-street parking. Residential uses shall be required to provide 1 off-street parking space. The space shall be designated and evidenced by a deed.

Section 16.14: Tractor Trailer Parking

Uses are permitted to provide parking for tractor trailers. The spaces shall be 12X80 and be in an area that is separate from the traditional vehicle parking spaces. Tractor trailer parking spaces shall not be counted as the number of total parking spaces however there shall be no more than 5 tractor trailer spaces provided for uses that do not sale diesel fuel and no more than 25 spaces provided for uses that do provide diesel fuel. Tractor Trailer trucks shall not be parked within a space for more than a continuous period of 24 hours.

Section 16.15: Minimum Parking Requirements

The number of parking spaces, by use, is specified in the following table:

Use	Spaces Required
Adult Uses	1 per 200 sq feet
Arcades	1 space for every 4 gaming machines
Athletic & Recreation Fields	50 spaces per field (football, baseball, soccer, etc.)
Banks & Financial Institutions	1 per 400 sq feet plus 1 per employee
Boarding House	1 per room of residence
Bed & Breakfast	1 per guest room plus 1 per employee/owner

Use	Spaces Required
Pool Hall	1 parking space per table plus 1 space per 600 sq feet
Child Day Care	1 per 350 sq feet
Church, Place of Worship	1 per 4 seats in sanctuary, seats calculated based off permitted fire capacity
Club or Lodge	1 per 250 sq feet
Community Center	1 per 250 sq feet
Dwelling (Attached Townhome)	2 per dwelling unit (garage space qualifies as a parking space if of adequate size)
Family Care Home	2 plus 1 per 3 residents
Funeral Home	1 per employee plus 1 per 4 seats in largest assembly area
Museum	1 per employee plus 1 per 400 sq feet
Government Facilities & Offices	1 per 400 sq feet
Nursery (Greenhouse)	1 per employee, 3 per greenhouse (greenhouse greater than 30x90 dimensions) all other greenhouses require 1 space per greenhouse
Health Facilities, Gyms, Dance Studios	1 space per 200 sq feet
Medical Facility	1 per 300 sq feet plus 1 per employee
Hotel/Motel	1 per sleeping unit plus 1 per 500 sq feet of common area
Junkyard	1 per employee
Kennel/Veterinarian	1 per 500 sq feet plus 1 per employee
Library	1 per 300 sq feet
Manufacturing Warehouse	1 per employee plus 1 per 1,500 sq feet
Manufactured Home Park	2 spaces per manufactured home, guest parking shall be 10 percent of the total homes within the park
Auto Repair/Garage	1 per 600 sq feet plus 1 per employee
Auto Vehicle Rentals	1 per 500 sq feet plus 1 per employee
Auto Vehicle Sales	1 per 800 sq feet plus 1 per employee
Drinking Establishment (Bars)	1 per 50 sq feet
Event Venue (more than 300 people, fire code capacity)	minimum of 125 parking spaces required, maximum of 175 parking spaces allowed
Event Venue (less than 300 people, fire code capacity)	1 parking space for every 3 persons, to be determined based off venue capacity allowance per fire code
Professional Office	1 per employee plus 1 space every 500 sq feet
Parks	5 parking spaces for every 2 acres plus 10 spaces per playground (park amenities such as recreational fields and facilities require separate parking in addition)
Restaurants (no seating, takeout only)	5 parking spaces plus 1 per every 3 employees on largest shift
Restaurants	1 per 125 sq feet, 1 per every 3 employees on largest shift
Shopping Centers (multiple leasable units)	1 per 200 sq feet

Use	Spaces Required
General Retail & Grocery (more than 10,000 sf)	1 per 550 sq feet
General Retail (less than 10,000 sf)	1 per 450 sq feet
Schools (Elementary, Middle, High)	1 per employee plus 1 per every 5 driving age student (does not satisfy parking requirements for athletic facilities on campus)
College	1 per 3 students plus 1 per employee
Trade Schools	1 per instructor and 1 space per 400 sq feet
Storage Warehousing (mini storage or bulk storage)	1 parking space for every 20 storage units, 1 per on-site employee
Telecommunication Tower	1 gravel parking space per site
Mutli-Family Development (apartments)	1 space per 1 & 2 bedroom units, 2 spaces for 3 bedroom units and greater, 2 spaces for every 10 total units.
Accessory Dwelling Unit	1 per unit
Single-Family Dwelling	1 per 1,000 sf, less than 1,000 sf requires 1 space
Mixed-Use Development	2 per 3 bedroom units or more, 1 for 1 & 2 bedroom residential units, 1 per 300 sf of non-residential building sq footage

ARTICLE 17: LANDSCAPING AND BUFFERING

Section 17.1: Purpose

In order to contribute to the overall aesthetic and general appearance of the Town of Warsaw, the following requirements are applicable to uses within the jurisdiction of Warsaw to enhance quality of life and to mitigate the visual impacts of uses. The requirements of this Article do not apply to single and two-family residential use, nor do they apply to uses that are not required to have paved parking.

Section 17.2: Requirements

17.2.1 General Requirements.

(A) Residential, Commercial, and Industrial uses all have certain landscaping and buffering standards that must be adhered to. The maintenance of required landscaping areas shall take place on a regular basis and the owners/operators of the use shall not allow for the required landscaping or buffer to deteriorate to a point or condition in which it no longer complies with the requirements of this Article. The owner/operator shall be subject to the enforcement procedures outlined within this UDO in the event that they allow the required buffer or landscaping to become non complaint.

(B) Certain uses within the Central Business District will not be subject to the requirements of this Article due to the geographic composition of the parcel and the location of the structure.

(C) All installed landscaping and required buffering shall not interfere with any structural component nor safe travel within a right-of-way. Landscaping and buffers shall be planted or located within a designated area and not encroach upon a property line. All required plantings installed shall be nursery grown stock that is free from disease or growth problems, shall be indigenous to North Carolina, and shall comply with the latest edition of the *American Standards for Nursery Stock*, published by the American Nurserymen's Association and be consistent with the standards set forth by the Duplin County, North Carolina Cooperative Extension Service.

(D) Trees shall not be planted in a way they will interfere with any overhead utility lines. There shall be no trees, or any other required landscaping planted within a utility easement or be in a way they have the potential to encroach upon the easement when fully grown.

(E) In instances where the UDO Administrator or Town of Warsaw Police or Fire Chief deem a tree or any other required landscaping to be a hazard or have a high potential of creating a life safety issue, they may order the owner/operator to remove the object that is creating the hazard and relocate it upon the property to a location that does not pose threat to life or property.

(F) Required buffers and landscaping are to extend the entire length of the property line or to the extent of the impact of the use, whichever is greater. Situations may exist due to wetlands or

other natural features preventing development that eliminate the need for the required buffer or landscape to extend to this certain point.

(G) No portion of any landscaping or buffering shall be located within any required or recorded site triangle nor prevent access to a fire hydrant or any other utility.

17.2.2 Installation Requirements

(A) All required buffering and landscaping are required to be installed prior to the certificate of occupancy and zoning compliance is issued for the use. In certain instances, due to the time of the year or other acts of God which make it not ideal for the planting of the required landscaping or buffering to be installed, a performance bond may be posted to guarantee the installation of the landscaping or buffer. Financial constraints are not considered an act of God.

(B) In the event that the landscaping or buffering is installed and due to lack of maintenance the landscaping or buffering perishes, it shall be reinstalled within a 6-month period.

Section 17.3: Existing Vegetation Incorporation

There may be instances in which naturally occurring trees and plants exist upon a property and their incorporation into the landscaping or buffering would contribute to the overall aesthetic and enjoyment of the property. In these instances, the UDO Administrator may approve their inclusion and allow for a 20% reduction in the number of required landscaping or buffer plantings.

Section 17.4: Adjacent Property Wooded/Undeveloped

Instances may occur where the adjacent property is undeveloped or in a naturally wooded state. In these circumstances the required buffer or landscaping may be waived provided that a performance guarantee has been provided to the Town of Warsaw to guarantee the installation of the required buffer at the time the property is developed.

Section 17.5: Tree Preservation and Protection

Trees that exist upon a property and are estimated to be an age of 75 years shall be preserved. All applications for permits of both commercial, residential, and industrial nature shall identify the number of trees estimated to be in excess of 75 years of age.

Section 17.6: Street Trees

All commercial and industrial development shall provide street trees at increments of 40 feet. Street trees shall be set back a minimum of 10 feet from the edge of the right-of way and no more than 15 feet. At mature height the tree shall not exceed 20 feet and the trees shall be planted with a minimum 1.5-inch trunk diameter. Street trees are located within the street yard. Street trees shall include mulch at the base of the tree.

Section 17.7: Parking Lot Trees

All parking spaces shall be within a 60' radius of a tree. A street tree may satisfy this requirement, or a tree located in a landscaped island within the parking lot.

Section 17.8: Open Space Trees

Trees shall be planted within required open space areas. At least one tree planted within open space area shall be able to reach a capable mature height of 50 feet or greater with the other trees being required to be a height between 35-50 feet. The required number of trees is 5 per acre. Trees are to be organized and distributed in an equidistant manner throughout space and not be planted in a linear fashion or manner.

Section 17.9: Subdivision Trees

Single-family subdivisions shall include a planted tree upon each recorded lot. The tree shall be planted at a minimum diameter of 1.5 inches and shall not exceed a grown height of 20 feet. The tree may be planted after a certificate of occupancy is achieved for the property provided that a performance guarantee has been posted with the Town of Warsaw to guarantee the installation of the tree.

Section 17.10: Street Yard Landscaping

The area located between the portion of the parking lot and the edge of the right-of-way shall be known as the street yard. The street yard shall consist of at least one ornamental flower bed a size of a minimum of 400 sq feet. The street yard shall incorporate small and medium sized bushes at intervals of 5 feet in between the required street tree plantings. The width of the street yard shall be a minimum of 10 feet and a maximum of 20 feet. The spacing and location of the plantings may be done in a staggered manner to enhance the appearance and flexibility of the design.

All shrubbery shall be installed at a minimum of 3-gallon size and all ornamental flowers shall be planted annually. Ornamental flowers shall be those identified as acceptable by the Duplin County North Carolina Cooperative Extension Office. Landscaped street yards shall not include any statues, gnomes, or other decorative or advertising materials. Permitted signs may be located within the street yard landscaped area.

Section 17.11: Vehicular Surface Area Buffer

The area of the parking lot that is facing the right-of-way shall include a buffer that consists of a continuous vegetative hedge or bushes that do not exceed 3 feet in height.

The vehicular surface areas that do not directly face a right-of-way shall include a buffer that consists of the following and be installed at a width of 10 feet with plantings staggered:

(A) Small trees every 25 feet, trees not to exceed 15 feet in height.

(B) Medium sized bushes not to exceed 3 feet in height every 5 feet.

Section 17.12: Landscaped Parking Island

Landscaped islands shall be protected by a curb and be a minimum of 200 sq feet with a minimum width of 10 feet. Landscaped islands shall include medium sized bushes and shrubs not to exceed 5 feet in height and small trees that do not exceed 15 feet in height. The arrangement of plantings within the island is at the discretion of the developer provided that the plants are located in an organized manner and as equidistant as possible from like species in order to allow for flexibility and creative design.

Landscaped islands shall separate parking areas within a parking lot in instances where there are more than 20 required spaces. These landscaped islands shall be designed in linear strips.

Small, landscaped islands shall be located at the ends of the parking aisles. Small, landscaped islands shall be a minimum of 5 feet in width and are only required to include small and medium-sized bushes that do not exceed 3 feet in height.

Landscaped islands shall include mulch that is replaced on an annual basis or be composed of ornamental stones or rock with a combination of mulch.

The landscaping required shall not impede safe vehicular and pedestrian movement within the parking lot.

Section 17.13: Structural Landscaping

The areas adjacent to the portion of the structure that fronts upon a right-of-way and all sides of multi-family dwellings shall be landscaped. The areas required to be landscaped shall consist of small shrubs not to exceed 3 feet in height every 20 feet and ornamental flowers within the areas between the shrubs. The required structural landscaping shall be located within 5 feet of the wall of the structure. The required structural landscaping shall account for 40% of the building frontage (non-residential)

Structural landscaping does not apply to uses that traditionally contain drive through service such as banks, pharmacies, drive thru restaurant, etc. nor does structural landscaping apply to recreational uses, facilities, or accessories to them. Structural landscaping shall not impede the ability of pedestrians to safely utilize storefront sidewalks.

Section 17.14: Buffers Required

(A) Buffers shall be required between use types and are to be installed or guaranteed with a performance guarantee prior to the approval of a certificate of occupancy or zoning compliance. Buffer yards shall be designated and shown upon the site plan and shall only be permitted to allow for the required plant materials to be located within them. Parking shall not occur within any required buffer area. Buffers may be allowed to have gaps provided that the gap is for the purpose of emergency services, right-of-way, or utility easement. Stormwater areas may be located within the required buffer yard.

(B) When a parcel is zoned or intended to be used for residential purposes and it is adjacent to a railroad right-of-way or Interstate 40, there shall be a minimum of a 100’ buffer.

Section 17.15: Adjacent Buffer and Reduction of Required Buffer

The existence of a buffer upon an adjacent parcel may allow for the reduction in the required buffer provided that the adjacent owners are able to produce a written agreement that has been recorded, such as an easement or deed restriction, that restricts the use of the existing buffer yard and that the existing buffer yard would satisfy the minimum width requirements for the proposed use. For example, if a 20' buffer exists on the adjacent property and the new use is required to provide a 10' buffer, the existing buffer satisfies the minimum requirements.

Section 17.16: Utilization of Existing Vegetation

In instances where a wooded lot is being developed, the developer may elect to leave a 20-foot undisturbed area that is adjacent to the side and rear property line to serve as the buffer, provided that the area consist of mature bushes and trees and achieves the intent of the buffer that would be required if the vegetation did not exist.

Section 17.17: Fencing as Buffer

The developer may elect to provide a fence as an alternative to the buffer. The provision of the fence will not eliminate planting requirements as trees will still be required to be planted at intervals of 50' to not exceed a full-grown height of 20'. Trees shall be a minimum of 2 inches in diameter at planting. The trees shall be located between the fence and the property line. If a fence is utilized it shall be a minimum height of 6 feet and be completely opaque unless a more stringent height is required by this UDO. Fences shall be composed of brick, wood, or vinyl and shall be of uniform material and composition.

Section 17.18: Type A Buffer

(A) Shall be a minimum of 15' in width and consist of the following:

(1) Small trees every 50' not to exceed 25 feet in height fully grown.

(2) 3 large shrubs every 50'

(3) 10 small shrubs every 50'

(B) The shrubs may be arranged in a flexible manner provided that the minimum required amount is met. The purpose of the Type A buffer is to provide a landscaped transition between certain uses and their intensities. The UDO Administrator may require more or less plantings to achieve this.

Section 17.19: Type B Buffer

(A) Shall be a minimum of 25' in width and consist of the following:

(1) Small trees every 30' not to exceed 25 feet in height fully grown.

(2) 5 large shrubs every 30'

(3) 15 small shrubs every 30'

(B) The shrubs may be arranged in a flexible manner provided that the minimum required amount is met. The purpose of the Type B buffer is to provide a landscaped transition with some visual opacity between certain uses and their intensities. The UDO Administrator may require plantings to achieve this.

Section 17.20: Type C Buffer

(A) Shall be a minimum of 45' in width and consist of the following:

(1) Small trees every 30' not to exceed 30 feet in height fully grown.

(2) Large trees every 50' that are a minimum of 40 feet in height when fully grown.

(3) Large shrubs organized and arranged in a manner that creates a continuous opaque barrier between uses and that is at a height of 6 feet at full growth.

(B) The purpose of the Type C buffer is to provide complete visual opacity between certain uses and their intensities. The UDO Administrator may require plantings to achieve this.

Section 17.21: Minimum Buffer Requirements

APPLICANT ZONING	ADJACENT ZONING									
	R-20	R-10	R-8	R-6	MIXED -USE	CB	HB	O&I	I	L-I
R-20					B	A	B	A	C	C
R-10					A	A	B	A	C	C
R-8					A	A	B	A	C	C
R-6					A	A	B	A	C	C
MIXED-USE	B	A	A	A		A	A	A	C	C
CB	A	A	A	A	A		A		C	C
HB	B	B	B	B	A	A		A	C	C
O&I	A	A	A	A	A	A	A		C	C
I	C	C	C	C	C	C	C	C		
L-I	C	C	C	C	C	C	C	C		

Section 17.22: Screening

Screening shall be installed for all commercial and industrial uses. Items that are required to be screened include but are not limited to the following:

(A) Dumpsters

(B) HVAC Units

(C) Air handling equipment

(D) Supplementary Power (Generators)

(E) Electric utilities and transformers

(F) Phone, cable and other utility services

(G) Hot boxes and sprinkler connections

(H) Satellites and antennas

Screening shall be achieved through the use of an opaque fence of whichever height is necessary to make the obstruction that requires the screening to be considered out of public view.

(This page intentionally left blank.)

ARTICLE 18: SIGNS AND LIGHTING

Section 18.1: General

The contents of this Article are intended to regulate signs and lighting within the Town of Warsaw and to ensure that they do not threaten public health or safety, nor do they place potential threats, hazards, or detract upon quality of life upon properties or adjacent properties as well as to ensure that they exist in a manner that does not distract or inhibit motor vehicles within the right-of-way.

Section 18.2: Maintenance

Signs are expected and required to be maintained in a sound condition and operate in the way they were originally constructed. Proper maintenance includes ensuring that the sign is structurally sound, does not have deteriorating members, and that it is not faded or not legible. Signs shall not pose a threat to public health or safety and shall not create electrical or fire hazards or pose a risk of collapsing.

Section 18.3: Tethering Prohibited

Permitted signs and the structures that support them shall not be used for the tethering or use of other signs. For example, banners and temporary signs shall not be attached to existing signs. Banners and other advertising materials shall not be attached or tethered to other structures such as structural support beams, trees, utility poles, flag poles, etc.

Section 18.4: Electronic Signs

Signs that include electronic messaging and display types of communication shall only be permitted in non-residential zoning districts. Users may only utilize electronic message signing for one of their allowed signs, for example you shall not have an electronic freestanding, window, and wall sign. Electronic message signage shall not scroll text or flash. Electronic message board signs shall have a maximum change rate of 5 seconds and no electronic sign or message board sign shall exceed 36 square feet (freestanding) and 16 sq feet for all other sign types. Electronic signs shall not pose any threat to health or safety or present threats to safe travel within the right-of-way. For electronic or lighted signs located within windows and utilized as a window sign, the text (letters) shall be no larger than 36”. Electronic signs shall not display motion videos of any type, electronic signs may display motionless images for periods of a minimum of 5 seconds before a new image is displayed by the electronic sign/message board.

Section 18.5: Sign Area Computation

This is the manner in which sign area sq footage is to be determined. For double-sided signs, the sq footage is determined based off of one sign face and not the total of both faces. For uses or districts that are permitted to have multiple signs of different types, the sq footage shall be calculated and apply only to that certain type. There shall be no transfer of sq footage allocation, for example you may not only use 60% of the allowed wall sign sq footage with the intent of transferring the remaining unused 40% sq footage to be used in addition to the permitted free standing sq footage.

The surface area of the sign shall be computed by including the entire area of the sign within a single, continuous, rectilinear perimeter of not more than 8 straight lines or a circle or an ellipse, enclosing the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, this does not include the supporting framework or bracing that is incidental to the display itself.

Section 18.6: Multi-Use Parcel Signs

For parcels that have mixed-use or multiple tenants operating upon the parcel, the free-standing sign that represents the parcel shall not be specific to one specific use or business. It shall identify the name of the development or center and indicate the occupants of the property in a cabinet style sign.

Section 18.7: Exempt Signs

All signs within the jurisdiction of the Town of Warsaw shall be required to receive a sign permit except for those explicitly identified as being exempt. The following signs are exempt from the requirements of this Article, the fact that these signs are exempt from receiving a permit does not mean that they are exempt from being maintained:

(A) Non-illuminated signs not exceeding two (2) per lot and 6 (six) square feet each in area, bearing only property identification numbers and names, post office box numbers, and names of occupants of the premises.

(B) Signs two (2) square feet in area posted on private property relating to private parking, warning the public against trespass or danger from animals, signs shall not extend more than 3 feet in height from the grade of the property.

(C) Flags or insignias of any unit of North Carolina government or non-profit organization when not displayed in connection with commercial activity or promotion. One flag of the United States and of North Carolina no larger than 100 square feet may be displayed in connection with a commercial activity without being subject to the permit requirements of this Article. Residences are permitted a 5x8 United States and North Carolina flag.

(D) Legal notices, identification and informational signs installed by governmental agencies authorized by the Town of Warsaw.

(E) Local traffic directional signs erected in the travel right-of-way by or on behalf of a governmental entity provided such signs are consistent with the Manual of Uniform Transportation Control Devices.

(F) Memorial signs or tablets that have been approved by the Town of Warsaw Board of Commissioners, and names and construction dates of governmental buildings or buildings of historical significance when cut into a masonry surface or when placed on a cast iron plaque that is affixed to the building structure.

(G) Signs not exceeding 4 square feet and bearing no advertising matter directing and guiding traffic on multi-family or non-residential property. Shall not exceed a height of more than 3' from grade.

(H) One identification sign for a home occupation, the sign shall be located a minimum of 10 feet from the edge of the right-of-way and all other property lines and be no larger than 4 sq feet in area and shall not extend more than 3 feet in height from the grade of the property. The sign is not permitted to be illuminated.

(I) Awning signs, provided they comply with the requirements for Awning Signs indicated in this Article. Awnings require a building permit, building permits for awnings shall not be approved until the Town of Warsaw verifies that any signage located upon the sign complies with this Article.

(J) Board signs/sidewalk signs provided they comply with the requirements of this Article.

Section 18.8: Temporary Signs

The following signs are permitted to exist on a temporary basis without receiving permit approval. Temporary signs shall not be attached to a utility pole, tree, or to another existing permitted sign. All signs soliciting for business shall identify the name of the business sponsoring the sign and be professionally printed. Temporary signs shall not be painted or written with a marking device. Temporary signs shall remain temporary, and the UDO Administrator may determine that a sign is no

longer being utilized as a temporary sign when it has extended upon a property for more than 45 days unless a shorter time period is required by this Article.

(A) Temporary real estate signs. The sign shall not exceed 4 square feet and may contain a message related to the lot being for sale, rent, or lease and shall include the name and phone number of the listing agent. Lots larger than 2 acres are permitted a 32 square foot sign.

(B) Temporary real estate off-site pointer signs are permitted to provide directions. These signs shall only display the phrase “for sale” “for rent” or “for lease” and shall be no larger than 4 sq feet. The real estate agency responsible for the sign shall have no more than 2 signs located off-site at one time.

(C) Construction site identification signs identifying the project, the architect, engineer, contractor, funding sources and or individuals involved with the construction, the intended use or name of the building and the expected completion date. Not more than one sign per site. The sign shall be no greater than 32 square feet for multi-family and non-residential construction and 4 feet for residential or duplex construction. The sign may not be established prior to the issuance of a building permit and the sign shall be removed within 7 days after the certificate of occupancy for the structure has been issued. This also applies to renovation or maintenance work of existing structures.

(D) Yard or garage sale signs. Provided that the sign does not exceed 4 square feet and is located upon the property in which the sale is taking place. Signs shall not be displayed more than 7 days before the event and must be taken down within 24 hours of the conclusion of the event.

(E) Temporary signs or banners announcing grand openings of new businesses and re-openings of businesses that have been closed for a period of more than 6 months. The banner or sign shall be up for a period not to exceed 30 days. There shall be no more than one sign and it shall not exceed 32 square feet nor extend beyond the roofline of the structure associated with the sign. Banners shall be attached to the structure that they are associated with.

(F) Temporary political signs advertising candidates or issues, provided such signs do not exceed nine square feet in area per display surface, are mounted on stakes, do not exceed three feet in total height, are not erected more than 45 days before the date designated as election day, and are removed within seven days after the election (in cases of run-off election, the political signs of the run-off candidates may remain until seven days after the run-off election). Political signs may be located within the public right-of-way and setbacks if they do not intrude on the sight preservation triangle.

(G) Banners or flags that are decorative or seasonal in nature or that are displayed in connection with the observance of holidays.

(H) Directional pointer signs for events. Any event may have up to two off-site signs not exceeding two square feet each. The signs may be displayed for no longer the one 24-hour period only that coincides with the event.

(I) Temporary signs advertising school events or religious events.

Section 18.9: Temporary Signs Permit Required

Signs announcing temporary events. For example, a sign announcing a quarterly sale, or signs that announce seasonal special offers, or signs that announce events that happen on occasion throughout the year. The sign shall be no larger than 100 sq feet, shall be posted on the site that the event is to take place, and shall only be permitted for a period of no more than 20 days before the event is to take place. The sign shall be removed within 7 days after the conclusion of the event. The temporary event is permitted to locate 6 off-site signs within the Town of Warsaw provided the signs are no larger than 10 sq feet and that off-site written consent is given for the location of the sign. Off-site signs must be of a construction material and not a banner.

Section 18.10: Prohibited Signs

The following types of signs and structures used for signage are prohibited within the Town of Warsaw.

(A) Inflatable signs, including signs that inflate as tubes, ballons, animals, creatures, etc. to advertise products or attract customers.

(B) Devices consisting of flags, feathers, banners, streamers, pennants, windblown propellers, ballons, strung light bulbs, flashing lights, rotating lights, strobe lights, fluorescent lights, rotating or other moving or apparently moving installations, are prohibited.

(C) Decals, stickers, or lighting that cover the entire store front or its windows which limit or eliminate the transparency and designed function of the store front.

(D) Any sign placed on the curb, sidewalk, post pole, utility pole, hydrant, bridge, tree, or other surface located on or over, or across any public street, right-of-way, property or thoroughfare, unless authorized by the Town of Warsaw.

(E) Any sign which pertains to a business, profession, commodity, or service which is vacant, unoccupied, or discontinued for a portion of 180 days or more. These signs are abandoned and are to be removed by the owner of the sign, the property owner or the tenant.

(F) Mobile marquee signs.

(G) Any sign unlawfully erected or maintained.

(H) Signs advertising obscenity, pornography, defamatory speech, false advertising, threats, and speech directed to incite violence.

(I) Signs that are within a sight distance triangle.

(J) Any sign in which the UDO Administrator, Police Chief or Fire Chief deems to pose a threat and be an obstruction to pedestrians, bicyclists, or motorists.

(K) Any sign which interferes with the ability or effectiveness of traffic signs, devices, or signals.

(L) Privately owned signs which use the phrases “stop” “slow” “danger” or “caution” in a manner in which they could be confused with traffic directional signs or government signs.

(M) Signs attached to the roof of a structure.

Section 18.11: Types of Signs

(A) Wall Sign – an on-premises sign attached to the structural wall of use. A wall sign shall not extend more than 16 inches from the wall of the structure. Wall signs shall not extend beyond the roof line of the structure. Uses that are located upon corner lots that are in a standalone structure are permitted to have 2 wall signs, one for the front façade of the structure and the other for the side of the structure facing the adjacent right-of-way. Wall signs are permitted to be 1.5 sq feet for each linear foot of structural frontage upon the right of way (storefront) footage. In no instance shall wall signs exceed 32 sq feet for structures that contain multiple units such as within a shopping center development. Wall signs for use in standalone structures shall not exceed more than 10% of the total sq footage of the front façade. For example, a structure that is 20 feet in height and 100 feet in length would be permitted to have a wall sign that does not exceed 200 sq feet. Wall signs shall be centered upon the façade in which they are located.

(B) Board Signs (Sidewalk Signs) – Folding board signs, or "sidewalk signs" are typically of A frame construction and are located outside of a use, commonly within a sidewalk during business hours only. The sign is to not exceed 9 square feet or 4 feet in height, nor Is it to prohibit safe movement along a sidewalk or right-of-way. These signs shall not be located within any designated parking area, or block any exit. A sign permit is not required.

(C) Awning Signs - an on-premises sign that is attached to an awning. The attachment is achieved through the inclusion of the text or image in the fabric of the awning or through other means of attachment. Awning signs are not to extend above or below the awning and for all intents and purposes are to appear as being part of the awning structure itself. Text on awning signs shall be no larger than 18" in height and images located upon awnings shall be no larger than 2x2'. Awning signs may display an image or text but shall not display a combination of both. Awnings shall not extend more than 5 feet from the structure wall.

(D) Projecting Sign – an on-premises sign that is directly attached to the exterior structural wall, extending at a 90-degree angle. Projecting signs shall be no higher than 12 feet from the grade of the structure and extend no more than 3 feet from the structure. Projecting signs shall be no larger than 5 feet in any dimension. No projecting sign shall be permitted to extend beyond the roofline or parapet wall of the structure. Projecting signs shall not interfere with the safe and normal movement of traffic upon a right-of-way or pedestrian movement upon a sidewalk. Projecting signs shall not create a fire or safety hazard and the UDO Administrator may request for the Town of Warsaw Fire & Police Chief perform review of proposed projecting signs to definitively determine threats they may pose. Projecting signs that are attached in a manner that allows them to move with the wind (swing) shall not exceed 3 feet in any dimension.

(E) Window Signs – A window sign is an on-premises sign that is attached to the window of the structure either externally or internally. Window signs are to occupy no more than 20% of the total sq footage of the window space located upon the front of the structure.

(F) Freestanding Signs (at grade) – a sign that may be located on-premises or off-premises that extends from grade and is not attached to a pole, mast, monopole, or any other structural component. These signs shall extend no more than 8' from grade and shall not exceed 100 sf. These signs shall be located a minimum of 10' from the edge of the right-of-way and not pose any threats to health or safety due to their location and effect on sightlines and visibility. No more than one per parcel, regardless of the amount of uses located upon the parcel. A parcel shall not utilize a freestanding at grade and freestanding sign, only one may exist.

(G) Freestanding Sign – an on-premises or off premise sign that is suspended by a monopole or structure that does not exceed 20 feet in height. The height shall be measured from grade to the highest point of the sign. Freestanding signs shall not exceed 100 sf for signage for a singular use or 200 sf when required to be utilized as a cabinet when being used as signage for multiple uses upon a property. No more than one per parcel, regardless of the amount of uses located upon the parcel. A parcel shall not utilize a freestanding at grade and freestanding sign, only one may exist. Freestanding signs may have reader board type signs located below the main sign and attached to the structure that the sign is located upon. An example of this is a grocery store that may have the identification sign for the sign and a reader board sign with interchangeable letters that displays weekly specials. Both signs count towards the total allowable sq footage.

(H) Outdoor Advertising/Billboards – shall be regulated pursuant to G.S. 136 Article 11. A special use permit from the Board of Adjustment shall also be required for the establishment of any outdoor advertising/billboards.

Section 18.12: Signs Permitted Per Zoning District

Sign Type	R-20	R-10	R-6	Mixed-Use	CB	HB	O&I	I	L-I
Wall				P	P	P	P	P	P
Board				P	P				
Awning				P	P		P		
Projecting				P	P		P		
Window						P			
Freestanding (at grade)				P		P	P	P	P
Freestanding				P		P		P	P
Outdoor/Billboard						S			

For uses that are permitted within residential zoning districts that require signage due to the nature of the use, the most restrictive zoning standards for sign allowance shall apply based on the nature and intent of the use, as determined by the UDO Administrator.

Section 18.13: Lighting

The following standards outlined within this section shall be observed by all uses with the Town of Warsaw with respect to the types of lighting fixtures used and the intensity of the light that emits from

the fixtures. The failure to adhere to the requirements of this section has the potential of creating situations or circumstances where the light produced upon one use or property creates a detriment to public health, safety, welfare and the enjoyable use of one's property. Also, the failure to adhere to these standards poses the threat of creating distractions to travelers within the right-of-way. Adequate lighting is necessary to achieve safety and security within the Town of Warsaw. In the event that the Chief of Police, UDO Administrator, or Fire Chief determines that the lighting required by this Article still does not satisfy a level of satisfaction in the intent of this UDO being upheld, they may petition to the Board of Commissioners to require for additional lighting to be installed upon the property. All bulbs shall be housed by a weathertight casing system and there shall be no openly exposed bulbs.

Section 18.14: Areas Requiring Illumination

The following areas that require or will generally benefit from the inclusion of lighting in their design include but are not limited to rights-of-way, sidewalks, travel paths, common areas, open spaces, parks, playgrounds, and parking lots.

Section 18.15: Lighting Plan

Proposed uses of land within the Town of Warsaw that includes areas that require or benefit from illumination shall provide a lighting plan for review at the time they submit their site plan for review. The lighting plan shall be developed by a NC licensed engineer or other professional who specializes in lighting design and can adequately display the level of footcandles that emits from each light fixture. The lighting plan shall include and address the following elements.

(A) Location and layout of all lighting fixtures intended to improve visibility in areas requiring illumination (wall mounted lights, ground mounted lights, illuminated signs, floodlights)

(B) Foot candle data demonstrating the intensity and uniformity and its compliance

(C) Description of equipment used

(D) Glare control devices

(E) Lamps

(F) Mounting height of means

(G) Maintenance schedule proposed

(H) Illumination intensities may be shown on a separate plan sheet

Section 18.16: Minimum Light Level

The following are the minimum levels of light determined to be needed to achieve public, health, safety and allow for safe transit and navigation within the Town of Warsaw while providing adequate visibility for all persons.

(A) All parking areas shall maintain a minimum level of 1.0 footcandles.

(B) All sidewalks and other rights-of-way or easements that have been designated and dedicated for pedestrian use, enjoyment, and transit shall maintain a minimum level of 0.5 footcandles.

Section 18.17: Maximum Light Level

The following are the maximum levels of light that may be produced up to the extent of the property line of the use that requires the utilization of light.

(A) The illumination shall not exceed 0.2-foot candles measured at ground level at the property line.

(B) There shall be no portion of the property utilizing the lighting that has a location that measures more than 15 footcandles.

Section 18.18: Installation

(A) Light fixtures that are ground mounted and commonly used for parking lot illumination shall not exceed 25 feet in height.

(B) Light fixtures used for athletic fields, parks and other recreational areas shall not exceed 50 feet in height, a special use permit may be applied for in instances where light fixtures more than 50 feet are a necessity.

(C) Electrical feeds to light fixtures shall be located underground.

(D) Light fixtures located within parking areas shall not be located In a manner that deters safe pedestrian and vehicular traffic and should be protected with a barrier or collar type of fitting, light fixtures should be located within landscaped areas when possible.

(E) Directional lighting shall be done in a way the light is directed downward and not towards any adjacent property line or right-of-way. Freestanding (at grade) signs and structures are permitted to be illuminated by at grade directional lighting. Residential floodlights shall not be directed at anything other than the primary structure located upon the property and any accessory structures, provided that the direction does not interfere with the adjacent properties. Directional lighting shall not exceed 10 footcandles at the surface of the sign or structure being illuminated.

(F) Light fixtures shall be a sharp cut-off type of fixture. No portion of the fixture bulb may extend below the fixture housing. Non-cutoff type fixtures may be used if approved by the UDO Administrator, provided that good cause is shown and the necessity for such is valid, Land all other components comply with the requirements of this Article.

(G) Unshielded wall fixtures shall not be used in a manner to achieve general lighting or security lighting adjacent to residential uses or to a public right-of-way.

(H) Lighting fixtures shall not be blocked by required landscaped plantings, the landscaping shall not deter the lightings ability to illuminate the required area.

(I) Light fixtures should be located in a manner that contributes to the direction in which traffic is to flow and contributes to pedestrian safety.

Section 18.19: Lighting Nuisance

All lighting shall be designed, installed, and maintained in a manner that does not contribute to or create a nuisance.

(A) Athletic and recreational facility light fixtures shall be designed so that the primary illumination is directed upon the field or area used for competition or play and is not to be directed towards any bleachers, stands, or parking areas to create a condition with excess light that creates a glare or a condition that inhibits visibility. Acceptable glare control features include but are not limited to louvers and shields.

(B) Lighting not used for security shall be turned off when the use is not in operation.

(C) Lighting fixtures and all associated components shall be maintained to always remain in good and safe working condition.

ARTICLE 19: STORMWATER

Section 19.1: Authority

Pursuant to the authority granted by G.S. 160D-925, the Town of Warsaw will enforce stormwater control regulations over all areas under its jurisdiction, including the ETJ. Federal, State of North Carolina, and Duplin County or Town of Warsaw projects shall be required to comply with the contents of this Article for projects that they are involved with unless they have received a National Pollutant Discharge Elimination System (NPDES) stormwater permit.

Section 19.2: Precedence and Conflict

If the contents of this Article are found to conflict with regulations adopted and enforced by the State of North Carolina, or if the State of North Carolina adopts legislation that is more restrictive than the contents of this Article then the standards of the State of North Carolina shall take precedence over the conflicts that exist due to the language located within this Article. In the even the contents of this Article are more stringent than State of North Carolina standards, the contents of this Article shall apply provided they are in harmony with the intent of State statutes.

Section 19.3: Stormwater Design Manual

The North Carolina Department of Environmental Quality (NCDEQ), Stormwater Design Manual, 2017, and all amendments thereto, is hereby adopted by reference as fully as though set forth herein. If any standard, requirement, or procedure as set forth in the manual conflicts with any standard, requirement, or procedure as set forth in this ordinance then the most stringent shall prevail. A copy of this manual shall be available for public review in the office of the UDO Administrator.

Section 19.4: General Applicability

The contents of this Article shall be applicable to all development and expansion of development throughout the planning jurisdiction of the Town of Warsaw, including, but not limited to, site plan applications, subdivision applications, and grading applications, unless exempt pursuant to this Article.

Section 19.5: Exemptions

(A) Single family and duplex residential and related recreational development and expansion of development that disturbs less than one acre;

(B) Commercial, industrial, institutional, multifamily residential or local government development that disturbs less than one half acre and does not expand existing structures on a parcel;

(C) Commercial, industrial, institutional, multifamily residential or local government development that disturbs less than one half acre and expands existing structures on a parcel and, but does not result in a cumulative built-upon area for the parcel exceeding twenty-four (24) percent;

(D) Development of an individual single-family or duplex residential lot that is not part of a larger common plan of development or sale and does not result in greater than five (5) percent built-upon area on the lot;

(E) Existing development or redevelopment pursuant to G.S. 143-214.7(b3);

(F) Development or expansion of development with a vested right per the standards of G.S. 160D-108;

(G) Development or expansion of development for which the permit application was submitted prior to adoption of this UDO

Section 19.6: Permit Required

All development and expansions of existing development shall comply with the requirements of this Article and obtain a permit unless exempted. The UDO Administrator shall be responsible for all decisions concerning application of this Article, programs, and policies and any matters related to the program.

Section 19.7: Stormwater Management Permit

(A) A stormwater management permit is required for all development and expansion of development unless exempt pursuant to this Article. A permit may only be issued after a properly submitted and reviewed permit application, pursuant to this section.

(B) A stormwater management permit shall govern the design, installation, construction, operation, and maintenance of stormwater management and control practices on the site, including stormwater control measures and elements of site design for stormwater management other than stormwater control measures.

(C) The permit is intended to provide a mechanism for the review, approval, and inspection of the approach to be used for the management and control of stormwater for the development site consistent with the requirements of this ordinance, whether the approach consists of stormwater control measures or other techniques such as low-impact or low-density design. The permit continues in existence indefinitely for the life of development. Expansion or redevelopment of a permitted development may require amendment to the stormwater management permit. Continued compliance after project construction is assured by the maintenance provisions of this ordinance.

Section 19.8: Application Requirements

(A) The UDO Administrator shall establish requirements for the content and form of all applications and shall amend and update those requirements from time to time. The UDO Administrator shall establish a checklist of minimum required information to constitute a complete application. At a minimum, the stormwater permit application shall describe in detail how post-*development* stormwater runoff will be controlled and managed, the design of all stormwater facilities and practices, and how the proposed *project* will meet the requirements of this Article.

(B) All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the North Carolina Stormwater Design Manual, and that the designs and plans ensure compliance with this Article.

(C) Unless otherwise excepted by this Article, a permit application must be accompanied by the following in order for the permit application to be considered:

(1) Three paper copies of a stormwater management plan and all required items necessary to complete a review;

(2) Two copies of an operation and maintenance agreement;

(3) Digital submission of the plan in PDF format.

(4) A non-refundable permit review fee.

Section 19.9: Application Procedure

(A) Applications for a stormwater permit shall be filed with the UDO Administrator during regular business hours at the same time of site plan submittal for the proposed development.

(B) Any applicant claiming a variance to one or more requirements of this Article shall have received approval for such variance request from the Boad of Adjustment prior to the time of permit application.

Section 19.10: Stormwater Management Plan Requirements

(A) All such plans shall be prepared by a qualified registered North Carolina professional engineer, surveyor, soil scientist or landscape architect, and the engineer, surveyor, soil scientist or landscape architect shall perform services only in their area of competence, and shall verify that the design of all stormwater management facilities and practices meets the submittal requirements for complete applications, that the designs and plans are sufficient to comply with applicable standards and policies found in the North Carolina Stormwater Design Manual, and that the designs and plans ensure compliance with this ordinance.

(B) All plans shall include a site plan, which at a minimum, clearly indicates the following features unless the UDO Administrator determines that certain elements are not appropriate or are unnecessary for a particular application:

(1) Title, scale, north arrow, date, and name of person preparing the plan;

(2) The entire area of development and existing built-upon area on the site;

(3) Existing and proposed structures and impervious surfaces;

(4) The location of any watercourses or surface water bodies;

(5) The location, extent and dimensions of all existing and proposed stormwater conveyances on and immediately adjacent to the development site;

(6) Existing and proposed buffer areas;

(7) Existing and proposed open space;

(8) Existing and proposed topography using two-foot contours;

(9) Existing and proposed structural BMPs;

(10) The extent of existing vegetation;

(11) Acreages of the various proposed land covers (e.g. pervious, impervious, managed open space, etc.);

(12) Parcel number (s) of proposed project;

(13) Any other information that the UDO Administrator needs in order to determine compliance with these regulations; and

(14) Ownership and use of the proposed site and all surrounding properties.

(C) All plans shall clearly demonstrate protection of and diffuse flow through buffer areas.

(D) All plans shall include nutrient calculation worksheets and peak flow calculations. Forms and formulas for calculating nutrient load and peak flow are available at the office of the UDO Administrator.

(E) All plans shall include data, site plans, and information necessary to support a proposed offsite approach, if applicable.

(F) All plans shall include a landscaping plan which clearly shows the extent of undisturbed vegetation and the location, species, number, and planting characteristics (including height at time of planting, spacing, etc.) of proposed vegetation. The plan must also describe the vegetative stabilization and management techniques to be used at the site after construction is completed, who will be responsible for the maintenance of vegetation, and what practices will be employed to ensure that adequate vegetative cover is preserved.

(G) All plans shall include engineering detail for each structural stormwater control measure, including calculations, sufficient to determine compliance with this Article.

Section 19.11: Permit Review and Approval Procedure

(A) A copy of the permit application, plan and other documentation necessary to complete the plan review shall be forwarded to the UDO Administrator for review. The UDO Administrator shall have 45 working days to review the application from the date of submittal. In instances where site plan submittals require associated stormwater review, the review period for the site plan shall also be 45 days. Review of all applications that require stormwater SCMs shall involve a qualified professional capable of designing the SCMs under review. The Town of

Warsaw may elect to contract with a third party for the review of stormwater permit applications.

(B) Within the review schedule the UDO Administrator shall review the application and determine whether the application complies with the standards of this Article.

(C) At the appointed date, on or before 45 working days from the completed submittal, the UDO Administrator shall approve, approve with conditions, or deny the permit application.

(D) If the permit application is denied, the UDO Administrator shall provide written comments to the applicant explaining the reason(s) for denial.

(E) If the permit application is approved by the UDO Administrator, a stormwater permit shall be issued.

(F) A previously denied permit application may not be resubmitted for consideration unless the UDO Administrator determines that material facts, either in the Article or the application, have changed significantly enough to warrant reconsideration.

(G) Approval and issuance of the Stormwater Management Permit authorizes the applicant to go forward with only the specific plans and activities authorized in the permit. The approval shall not be construed to exempt the applicant from obtaining other applicable approvals from local, state, and federal authorities, including other required permits from the Town of Warsaw.

(H) Pursuant to G.S. 160D-108 an approved permit shall become null and void if the applicant fails to make substantial progress on the site within the applicable vesting period of 1 year

Section 19.12: As-Built Plans and Final Approval

(A) Upon completion of a *project*, and before a certificate of occupancy shall be granted, the applicant shall certify that the completed *project* is in accordance with the approved stormwater management plans and designs and shall submit actual "as built" plans for all stormwater control measures or detention facilities after final construction is completed.

(B) The designer of the stormwater management measures and plans shall certify, under seal, that the stormwater measures, controls, and devices are constructed and in compliance with the approved stormwater management plans and designs and with the requirements of this Article.

(C) No certificate of compliance or occupancy shall be issued without "as-built" drawings and a letter from the designer certifying that stormwater measures, controls, and devices comply with this Article, except where financial sureties have been submitted to and approved by the UDO Administrator to ensure compliance with this UDO.

(D) The Town of Warsaw may elect for a third-party licensed NC engineer to conduct a field inspection prior to the issuance of final approval.

Section 19.13: Permit Duration

Permits issued under this section shall be valid for a period of two years from the date of issuance unless a valid building permit has been issued and maintained for the site or the permit has been revoked by the Town of Warsaw. If after two years the permitted activity has not begun nor a valid building permit secured, the stormwater permit shall expire.

Section 19.14: Permit Amendments

Once an applicant has received a stormwater permit, any minor change or alteration to the site, as determined by the UDO Administrator, that is inconsistent with the approved permit shall require an amendment to the approved permit. Any major change or alteration to the site, as determined by the UDO Administrator, shall require the owner to submit a new stormwater permit application to the UDO Administrator for review and approval. Until such an amendment or new permit have been approved, no work inconsistent with the original permit shall be commenced.

Section 19.15: Standards

All *projects* to which this Article applies shall comply with the standards of this section. The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as a recorded deed restriction or protective covenants, to ensure that future *development* and expansion of *development* maintains the site consistent with the approved *project* plans. The deed shall be recorded at the time of final approval, final approval shall not be granted without evidence of the deed being recorded with the Duplin County Register of Deeds.

Section 19.16: Nitrogen Loading Rate Targets

(A) The project area used for nutrient calculation and stormwater requirements includes the site area less any existing built-upon area. The project density used for determining stormwater requirements is the amount of built-upon area subject to this Article at project completion divided by the project area.

(B) The developer shall determine the nitrogen loading generated from the project area without engineered stormwater controls and determine the needed nitrogen or phosphorus reduction by using the approved accounting tool.

(C) The nitrogen loading standards in this UDO are supplemental to, not replacements for, stormwater standards otherwise required by federal, state or local law, including without limitation any riparian buffer requirements applicable to the location of the development. This includes, without limitation, the riparian buffer protection requirements of 15A NCAC 02B .0714.

Section 19.17: Peak Runoff Control Requirements

(A) All new development is required to control peak discharge rate from the site for the 1-year, 24-hour storm to predevelopment levels to avoid contributing to erosion to the stream channel.

(B) Peak flow shall be calculated according to the Rational Method for calculation (NCDEQ Stormwater BMP Manual).

(C) Peak flow control is not required for developments that meet one or more of the following requirements

(1) The increase in peak flow between pre- and post-development conditions does not exceed ten percent, or

(2) The proposed new development meets all of the following criteria: overall impervious surface is less than fifteen percent and the remaining pervious portions of the site are utilized to the maximum extent practical to convey and control the stormwater runoff.

(3) The Town of Warsaw may exempt development in specific locations if such locations are prone to flooding and controlling peak flow will aggravate the flooding problems.

(D) All projects shall meet the stormwater system design requirements set forth in 15A NCAC 02H .1003. Projects shall use a project density threshold of twenty-four (24) percent built-upon area or greater, whereupon high-density stormwater design is required. All engineered stormwater controls will meet the standards set in the Design Manual and the State's Minimum Design Criteria, 15A NCAC 02H .1050 through .1062.

(E) Where high-density stormwater design is required, stormwater systems shall meet the standards set forth in 15A NCAC 02H .1003(3) and be designed to control and treat the runoff generated from all built-upon area by one inch of rainfall in one or more Primary SCMs. These projects may utilize offsite Primary SCMs dedicated to treating an area encompassing the project. Any off-site SCM should have a dedicated easement provided for access and maintenance of such areas.

(F) Where high-density stormwater design is not required, stormwater systems shall meet the low-density stormwater design standards set forth in 15A NCAC 02H .1003(2).

(G) Phased projects may have a combination of low-density and high-density phases.

(H) Low density projects or phases may be expanded and redeveloped to increase to high-density at which time the high-density requirements in part B of this section shall apply to the project or phase.

Section 19.18: Impervious Surface Averaging

Impervious surface averaging allows development plans for two or more noncontiguous parcels to be submitted together and treated as a single project for density calculations to meet the requirements of this Article.

(A) Application to use the impervious surface averaging option shall be included with the submittal of the stormwater management permit application. Application for impervious surface averaging shall include a plat showing the 2 (or more) properties and a binding legal agreement to be reviewed and approved by the UDO Administrator and recorded prior to the issuance of a building permit. The UDO Administrator has the power to authorize, in specific

cases, impervious surface averaging for projects that meet the criteria outlined below. The Town of Warsaw, in its sole discretion, may accept or reject a proposed paired-parcel, averaged- impervious surface development.

(B) The total amount of development (built-upon area) allowed for the paired parcels taken together cannot exceed the amount of built-upon area that would be allowed if the parcels were developed separately.

(C) Parcels being submitted for approval under this provision shall be submitted for development approval as a single proposal and shall be located in the same watershed basin.

(D) Parcels to be used in pairs can be located throughout the Town of Warsaw, unless specifically prohibited herein, according to the following standards:

(1) If one of the parcels is located in a water supply watershed critical area and one is located in a protected area, the critical area parcel shall not be developed.

(2) Impervious surface averaging is not allowed between parcels when both are in the critical area of a protected watershed.

(E) Applicants shall agree to bind themselves and their successors in title, individually and collectively, to maintain the pattern of development proposed for so long as the requirements of this section are applicable. Parties to the enforcement of such agreement shall include the Town of Warsaw. No such agreement shall be accepted without approval of the Town attorney as to the legal sufficiency of the documents involved.

(1) A conservation easement must be recorded with the plat for the parcel to which it applies.

Section 19.19: Stormwater Control Measures

The following performance criteria shall be addressed for stormwater management at all sites:

(A) Stormwater Control Measures in any new development shall be the entire and sole responsibility of the landowner except those drainage laterals for which the drainage district (where applicable) has accepted the responsibility for continuous maintenance.

(B) All detention facilities, SCMs, and drainage systems required under this UDO shall be evaluated by the UDO Administrator according to the policies, criteria, and information, including technical specifications and standards and the specific design criteria for each stormwater practice in the NCDEQ Stormwater Design Manual and the state's Minimum Design Criteria (MDC), 15A NCAC 02H .1050 through .1062. The UDO Administrator and Town Engineer or contracted Engineer shall determine whether proposed engineered stormwater controls will be adequate to meet the requirements of this ordinance.

(C) Stormwater Control Measures that are designed, constructed, and maintained in accordance with the criteria and specifications in the NCDEQ Stormwater Design Manual and MDC will be presumed to meet the minimum water quality and quantity performance standards of this ordinance. Whenever an applicant proposes to utilize a practice or

practices not designed and constructed in accordance with the criteria and specifications in the MDC, the applicant shall have the burden of demonstrating that the practice(s) will satisfy the minimum water quality and quantity performance standards of this ordinance. The UDO Administrator may require the applicant to provide the documentation, calculations, and examples necessary for the UDO Administrator to determine whether such an affirmative showing is made.

(1) Disconnected Impervious Surface as defined in Chapter C-10 of the NCDEQ Stormwater Design Manual and MDC defined in 15A NCAC 02H .1060 are prohibited for use as an approved SCM for single-family developments. For other than single-family developments these SCMs must meet all required MDC in 15A NCAC 02H .1050 and .1060 as well as the following:

(2) A recorded easement on the vegetated area and maintenance access to a public right-of-way,

(3) Drawings that show any roof ridgelines and the drainage area to each SCM vegetated area,

(4) Easements and inspections shall not include the area of building gutters and downspouts,

(5) No other landscaping, equipment, fences, or improvements, with exception of subsurface utilities, are allowed within the SCM easement, and

(6) The design engineer shall certify on record drawing, that the drainage area for each SCM vegetated area is per design.

(7) The UDO Administrator shall have the authority to disallow, limit, or include additional necessary design criteria for any type of detention facility or SCM that he/she has determined to be ineffective, unmaintainable, or unenforceable in the Town of Warsaw.

(8) Prior to site design, applicants are encouraged to consult with the UDO Administrator to determine if their project is subject to additional stormwater or land development design requirements.

Section 19.20: Inspection and Maintenance of Stormwater Control Measures

(A) Each detention facility or SCM shall have a maintenance plan and agreement on file in the office of the UDO Administrator. Maintenance plans must be on file prior to construction and shall contain the following information:

(1) Owner’s name or names;

(2) Owner’s mailing address;

(3) Deed book, page number or other recording information for the land containing the detention facility or SCM’s;

(4) Any easement for maintenance, ingress, egress and regress to the detention facility or SCM;

(5) A description of the detention facility or SCM;

(6) Maintenance recommended for the detention facility or SCM to achieve the maximum effect; and

(7) Notarized signature of the owner of the detention facility or SCM and statement that the owner understands the requirements of the rules and regulations for the detention facility or SCM.

(B) Each detention facility or SCM shall be maintained as required in the maintenance plan as to allow the detention facility or SCM to achieve its maximum effect. Maintenance is to be performed as needed or specified by the UDO Administrator.

(C) Maintenance of the detention facility or SCM includes maintaining access for the stormwater to reach and leave the detention facility or SCM, maintenance of the detention facility or SCM structure itself, and maintaining access to the detention facility or SCM for the purpose of inspections, maintenance and repairs.

(D) An annual maintenance and inspection report completed by a qualified professional shall be maintained by the owner for each detention facility or SCM in accordance with the operation and maintenance agreement submitted in the initial plan submittal. The annual report will describe the maintenance and repair activities of the subject year, including copies of inspection and repair logs, and note any needed modifications to the repair plan for the following year. Annual reports shall be provided to the UDO Administrator annually upon completion and kept on record for a minimum of five years. Records of annual and any other inspections required by the Operation and Maintenance agreement shall be made available to the Town of Warsaw upon request.

(E) Single-Family Residential

(1) For residential development, the developer shall maintain, per the requirements of the operation and maintenance plan/agreement, permanent nutrient control best management practices for two years following plat approval.

(2) For long term maintenance of required stormwater detention facility or SCM's and improvements per the requirements of the operation and maintenance plan/agreement, a homeowner's association shall be incorporated in accordance with G.S. 55. Appropriate bylaws shall be prepared, and proposed covenants or deed restrictions which address maintenance, apportionment of financial responsibility, and enforcement shall be provided. These materials shall be recorded at the same time as the final plat and shall be appropriately cross-referenced in the Duplin County Register of Deeds office.

(F) Commercial, Industrial and Multi-Family. For commercial, industrial or developments other than residential developments that require the installation of permanent detention facility or SCM's, the landowner shall be responsible for maintenance of such improvements per the requirements of the operation and maintenance plan/agreement.

(G) The process for BMP maintenance enforcement shall be as follows:

(1) The Town of Warsaw will annually inspect the detention facility or SCM's and send an inspection report to the appropriate party; if maintenance is needed, a deadline for corrective actions would be cited on the inspection report

(2) If the requirements of the inspection report are not met, the Town of Warsaw may pursue legal action to bring the site into compliance, including civil and criminal penalties as provided for by this UDO.

Section 19.21: Qualified Professional Status

(A) All detention facilities or SCM(s) shall be inspected by the Town of Warsaw annually in addition to the inspections performed by the owner's qualified professional. This inspection by the Town will be to verify consistency with inspections performed by qualified professionals.

(B) The Town of Warsaw will provide the owner and his/her qualified professional engineer with the inspection report and detail any required repairs or maintenance. Where there are differences in the inspection report from the qualified professional's inspection and the Town of Warsaw's inspection, the Town's inspection and list of required repairs and maintenance shall take precedence.

(C) If the UDO Administrator determines there to be significant and major errors or omissions in one or more annual inspection reports provided by a qualified professional, the UDO Administrator shall:

(1) Notify the SCM owner and the qualified professional in writing of the errors or omissions; and

(2) Offer on-site consultation.

(D) If the UDO Administrator determines there to be significant and major errors or omissions in three or more annual inspection reports provided by a qualified professional, regardless of the detention facility or SCM inspected or the time frame of the inspections, the UDO Administrator shall:

(1) Notify the professional that the Town of Warsaw shall no longer accept inspections prepared by him/her. This does not exempt the inspection from taking place, the owner shall contract with a new professional with the capability of providing the Town of Warsaw with an acceptable inspection report.

(2) The Town of Warsaw shall provide notice in writing that inspections shall not be accepted for a period of one year, after a period of one year the professional may inspect and resubmit to the Town of Warsaw.

(E) For repeated, fraudulent, or egregious errors or omissions submitted by a qualified professional, the UDO Administrator shall have the authority to permanently refuse submitted inspections and/or file a report with any applicable licensing or certifying board or agency.

Section 19.22: As-Built Plan Required

(A) Prior to release of a certificate of stormwater compliance, an as-built plan prepared and sealed by a qualified professional shall be filed with the UDO Administrator for each detention facility or SCM's.

(B) Prior to release of certificate of stormwater compliance, as-built plans shall be required as follows:

(1) The survey shall include the entire legal lot of record showing all impervious surfaces, building footprints, required buffers and any encroachments therein. Such survey shall include an information block totaling the percent of impervious coverage, the amount of impervious coverage on site in square feet, building footprints, required buffers and any encroachments therein, and all constructed BMP's . Such survey shall include topography at two-foot contours.

(2) The survey shall compare acreages of the various land covers as constructed to those permitted. If substantially different, the survey shall provide calculations demonstrating compliance with nutrient export requirements. If this is not the case, the owner shall amend the permit and make on-site or offsite adjustments accordingly to achieve the required export.

(3) Stormwater conveyances. Any development that results in the construction or alteration of stormwater conveyance shall submit an as-built survey showing the location, extent, dimension and type of each conveyance.

(4) Submission of the plan shall be in PDF format.

Section 19.23: Issuance of Building Permits

No building permits shall be issued for lots or sites where the detention facility or SCM's are required until an as-built plan for the detention facility or SCM's are approved, or an approved financial surety is provided to the Town of Warsaw as described in the performance bond section of this UDO and as allowed by G.S..

Section 19.24: Maintenance Easement Required

Prior to release of a certificate of stormwater compliance for any project that has a structural BMP as one of the requirements of the permit, the applicant or owner of the site must execute a maintenance easement agreement that shall be binding on all subsequent owners of land served by the detention facility or SCM's. The agreement shall provide for access to the facility at reasonable times for periodic inspection by The Town of Warsaw or their agent, and for regular inspection and review by property owners served by the BMP or their agents to ensure that the facility is maintained in proper working conditions to meet design standards and any other provisions established by this ordinance. The easement agreement shall be recorded with the Duplin County Register of Deeds.

Section 19.25: Financial Sureties Required

To provide reasonable assurance that detention facility or SCM's are constructed and installed based on the approved plan, an acceptable financial surety shall be required from the applicant to be held by the Town of Warsaw until all constructed detention facility or SCM's have received final approval by the Town. The surety shall be posted in accordance with the requirements of Article 9 of this UDO.

(This page intentionally left blank.)

ARTICLE 20: SUBDIVISION & INFRASTRUCTURE DESIGN STANDARDS

Section 20.1: Purpose

The purpose of this article is to ensure that land division within the Town of Warsaw is occurring in a manner that is compliant with the requirement of G.S. 160D and that lots are created and being provided with adequate access, utilities, and other infrastructure that contributes to the health and safety of the citizens of Warsaw. Subdivisions of land are to comply with all requirements of this Article unless identified as an exemption.

Section 20.2: Application

Prior to the division of land within the jurisdiction of the Town of Warsaw, a subdivision application shall be submitted to the UDO Administrator. Applications shall be submitted in accordance with the submittal requirements outlined in Article 3 of this UDO.

Section 20.3: Authority to Approve

Subdivisions shall not be approved, and the final plat shall not be signed until the proper review has taken place and the deciding authority has been given the opportunity to examine the final plat and determine that all requirements have been met for recordation. Exemptions shall be approved administratively by the UDO Administrator. Minor and Major Subdivisions shall be approved by the Planning Board.

Section 20.4: Effect of Plat Approval on Dedications

Per G.S. 160D-806, the approval of a plat does not constitute acceptance by the Town of Warsaw of any street, utilities, or other improvements shown on the plat. However, the Town of Warsaw may by resolution accept any dedication made to the public of lands or facilities for streets, parks, public utility lines, or other public purposes, when the lands or facilities are located within its municipal jurisdiction or ETJ.

Section 20.5: Lot Transfer in Unapproved Subdivisions

Any person who, being the owner or agent of the owner of any land located within the planning and development regulation jurisdiction of the Town of Warsaw, thereafter, subdivides his land in violation of the regulation or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under such regulation and recorded in the office of the Duplin County Register of Deeds, shall be guilty of a Class 1 misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town of Warsaw may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulations. Building permits required pursuant to G.S. 160D-1108 may be denied for lots that have been illegally subdivided. In

addition to other remedies, the Town of Warsaw may institute any appropriate action or proceedings to prevent the unlawful subdivision of land, to restrain, correct, or abate the violation, or to prevent any illegal act or conduct.

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been properly approved under the subdivision regulation or recorded with the Duplin County Register of Deeds, provided the contract does all of the following:

(A) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance; and

(B) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that the Town of Warsaw will not incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the preliminary and final plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat; and

(C) Provides that if the approved and recorded final plat does to differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than five days after the delivery of a copy of the final recorded plat; and

(D) Provides that if the approved and recorded final plat differs in any material respect from the preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest money or prepaid purchase price.

The provisions of this section shall not prohibit any owner or its agent from entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has not been properly approved under the subdivision regulation or recorded with the Duplin County Register of Deeds where the buyer or lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of construction of residential, commercial, or industrial buildings on the land, or for the purpose of resale or lease of the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no contract to lease it may become effective until after the final plat has been properly approved under the subdivision regulation and recorded with the Duplin County Register of Deeds.

Section 20.6: Sidewalks Required (Residential & Non-Residential)

For all subdivisions that involve the creation of a new right-of-way or the extension of an existing or previously platted right-of-way. Sidewalks shall be required on either side of the right-of-way. Sidewalks shall be designed and certified by a NC licensed engineer to comply with NCDOT and American Disabilities Act requirements at a minimum. Sidewalk maintenance may be the responsibility of a Homeowners Association, or they may be dedicated to the Town of Warsaw for

ownership and maintenance. Sidewalks may be located within the right-of-way or within an easement.

Non-Residential users shall provide a sidewalk along the entirety of its road frontage and connect to other existing sidewalk networks. Exemptions to this requirement include:

(A) Industrial Uses

(B) Proposed non-residential uses that are not within 5,000 feet of an existing sidewalk or property under a non-residential zoning designation.

Developers have the option of paying a fee in lieu of sidewalk installation to the Town of Warsaw. The Town shall only utilize these funds to provide sidewalks, multi-use paths and other pedestrian networks within the Town of Warsaw. The funds shall be used for no other purposes. The fee shall be determined based upon a cost estimate for sidewalk construction prepared by a licensed NC Engineer for the cost of what sidewalk installation would be upon the property.

Sidewalks shall be constructed to a minimum width of 5' and a minimum thickness of 5" of concrete unless explicitly indicated otherwise in this UDO.

Section 20.7: Open Space Requirement, Dedication, & Preservation

All major subdivisions shall provide a minimum of 20% open space, minus rights-of-way. Open space shall incorporate both active and passive areas as well as recreational amenities such as basketball courts, soccer fields, playground areas, etc. Once Open Space has been recorded upon a plat and dedicated as such, it shall remain as Open Space in perpetuity. The Open Space shall be maintained by a property owners association the developer or dedicated to the Town of Warsaw.

Section 20.8: Multi-Use Paths Required

For subdivisions of more than 5 acres, multi-use paths are required. The multi-use path should be incorporated into the natural landscape as well as the open space areas and be navigable for multimodal use. Multi-use paths are required to interconnect, when possible, with other multi-use networks and sidewalk networks as applicable.

Section 20.9: Cluster Box Mail Unit Required

Cluster Box Mail Units are required for all major subdivisions and shall be located within a designated easement. Maintenance shall be the responsibility of the developer or homeowners' association.

Section 20.10: Through Lots Prohibited

Through lots also known as double frontage lots are prohibited.

Section 20.11: Transportation Plans

Proposed subdivisions shall incorporate recommended rights-of-way improvements or bike, and pedestrian recommendations as identified in any officially adopted Comprehensive Transportation Plan or other related transportation plan that has been reviewed by the Warsaw Planning Board,

adopted by the Town of Warsaw Board of Commissioners and adopted or endorsed by the NCDOT Board of Transportation.

Section 20.12: Multi-Phase Development and Public Street Maintenance

There are certain types of development or subdivisions which may occur in multiple phases. Due to the nature of these developments, the infrastructure within the development may be subject to excessive amounts of traffic or vehicle weight that may damage the integrity of the infrastructure as it was originally installed. For these types of development, the Town of Warsaw shall not accept maintenance of such facilities until all phases of development have been completed and the developer and his engineer are able to provide detailed reports to the Town of Warsaw that shows the infrastructure is in a condition that meets the minimum requirements of the UDO, as it was originally designed and installed. The Town of Warsaw Board of Commissioners shall review the presented materials from the developer and engineer and if the applicable infrastructure within the subdivision or development meets or exceeds the requirements of this UDO then the Town of Warsaw shall accept maintenance of such facilities.

Section 20.13: New Developments and Subdivision, Water and Sewer Connection Requirements and Exemptions

(A) Water connections shall be required when all of the following criteria have been met:

(1) Property is within the municipal limits of the Town of Warsaw

(2) The development or subdivision provides one or more residential or commercial units

(3) The property is within 300 feet of a water line owned, leased, or operated by the Town of Warsaw or on behalf of the Town of Warsaw

(4) Property does not have a valid well permit

(5) Adequate water pressure is achieved. To establish adequacy or inadequacy, the developer shall submit to the Town of Warsaw a determination prepared by a professional engineer licensed in accordance with the provisions of Chapter 89C of the General Statutes. GS 160A-317.

G.S. 160A-317 shall determine development and subdivisions that are exempt from connection to the Town of Warsaw water system.

(B) Sewer connections shall be required when all of the following criteria have been met:

(1) Property is within the municipal limits of the Town of Warsaw

(2) The development or subdivision provides one or more residential or commercial units

(3) The property is within 300 feet of a sewer line owned, leased, or operated by the Town of Warsaw or on behalf of the Town of Warsaw

(4) The municipality has or will have adequate capacity to transport and treat proposed new wastewater from the premises at the time of connection; and

(5) The costs of connection including underground piping and connections to the local unit do not exceed the costs of installing an on-site sewer system. Comparative costs must be done by either a NC licensed soil scientist, on-site wastewater contractor certified under Article 5 of Chapter 90A of the General Statutes, or plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes.

Section 20.14: Subdivision Types

The following subdivisions are allowed to take place within the jurisdiction of the Town of Warsaw:

20.14.1 Exemptions

The following types of division shall not be subject to the requirements of this Article and shall only be subject to what is specifically required by the individual exemption type. These exemptions shall be administratively approved by the UDO Administrator. Prior to bringing a plat for recordation of a proposed exemption, the subdivider is encouraged to provide a PDF copy to the UDO Administrator for preliminary review and confirmation that the exemption is accurate.

(A) Combination/Recombination Exemption - The combination or recombination of portions of previously subdivided, recorded, and legally existing lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of Warsaw UDO, specifically related to access, lot size, and setback but not limited to such standards.

(B) 10 Acre Exemption – The division of land into parcels greater than 10-acres where no street right-of-way dedication is involved.

(C) Public Acquisition Exemption – The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.

(D) Single Ownership (2 to 3 Exemption) – The division of a tract in single-ownership whose entire area is no greater than 2 acres into not more than 3 lots, where no street right-of-way dedication Is involved and where the resultant lots are equal to or exceed the standards of this UDO specifically related to access, lot size, and setback but not limited to such standards.

(E) Probated Will Exemption – The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the G.S..

20.14.2 Type A Expedited Minor Subdivision

Per G.S. 160D-802, the Town of Warsaw will allow for expedited review for Type A expedited minor subdivisions if all requirements are met. Only a plat for recordation is required for these types of minor subdivisions if all criteria listed below is met. Prior to bringing a plat for recordation of a proposed Type A Minor exemption, the subdivider is encouraged to provide a PDF copy to the UDO Administrator for preliminary review and confirmation that the exemption is accurate. These types of divisions are reviewed administratively and approved by the UDO Administrator.

(A) The tract or parcel to be divided is not considered to be one of the 5 identified exemptions in this Article.

(B) No part of the tract or parcel to be divided has been divided under this subsection in the past 10 years.

(C) The entire area of the tract or parcel to be divided is greater than 5 acres.

(D) After division, no more than three lots

(E) After division, all resultant lots comply with all of the following:

(1) Lots must meet the lot size requirements, and all other applicable dimensional requirements set forth in this Article as well as applicable zoning related requirements of this UDO.

(2) A permanent means of ingress and egress is recorded for each lot. An Easement Maintenance agreement must be recorded with the Duplin County Register of Deeds.

Lots divided under this exemption are still required to meet all access requirements in order to be utilized for residential or commercial use, and this exemption shall not be used to circumvent the requirements of this Article or UDO.

20.14.3 Commercial Division

For structures that have been built to comply with the NC Commercial Building code and that are legally permitted by Duplin County Building Inspections, individual units within the commercial structure may be subdivided for individual ownership. Individually divided units shall be provided with a recorded minimum 25-foot easement (alley) for access across the entire rear line of the structure. The structure shall have road frontage upon an existing NCDOT or Town of Warsaw right-of-way that meets all construction requirements and is part of a maintenance system. The structure may also have frontage upon a common parking lot or parking area shared amongst the other units within the structure, typically found in a commercial and office setting. There is no minimum lot size for commercial units being subdivided. These divisions are approved by the UDO Administrator.

20.14.4 Minor Subdivision

A subdivision that includes fewer than 10 lots and does not include any new roads or streets, extensions of roads or streets, utility extension or installation, or the provision of infrastructure. Minor Subdivisions shall be approved by the Planning Board.

20.14.5 Major Subdivision

A subdivision that does not meet the requirements of an Exemption of Minor Subdivision. Major Subdivisions shall be approved by the Planning Board.

Section 20.15: Subdivision Review

All Minor and Major Subdivisions are required to undergo review prior to recordation of a final plat. Exempt subdivisions are encouraged to undergo a preliminary PDF review as indicated previously in this Article.

Section 20.16: UDO Administrator Review

Prior to the submission of a Major Subdivision, the subdivider is required to have a meeting with the UDO Administrator to discuss the nature of the subdivision and concept design ideas. At this meeting the subdivider will be encouraged to incorporate elements of the Town of Warsaw Land Use Plan and any adopted transportation plans or other relevant adopted plans into the design of the subdivision as well as innovative design that contributes to a sense of community, walkability, and safety. The UDO Administrator may also determine at this meeting that the subdivider may bypass the Sketch Plan stage if the concept is deemed ready and appropriate for preliminary design.

Section 20.17: Pre-Requisite for By-passing Sketch Plan

The UDO Administrator must determine at least one of the following statements is factual to bypass the sketch plan stage.

(A) The subdivider, developer, engineer firm, or surveyor have legally executed at least 3 major subdivisions within the Town of Warsaw in the last 5 years.

(B) The proposed concept reviewed initially by the UDO Administrator provides the required open space, sidewalks, and is designed in a manner that is consistent with this UDO.

(C) Based on initial review there doesn't appear to be any concerns for public health, or safety and that there doesn't appear to be any negative traffic impacts from the proposed development.

Section 20.18: Sketch Plan Review & Required Elements

Sketch Plan review is required when a Major Subdivision creates more than 20 lots unless the UDO Administrator determines in the initial meeting that the subdivider may bypass the sketch plan stage. For all other Major Subdivisions, a sketch plan is optional but encouraged. Sketch plans shall be approved by the Planning Board.

Sketch plans are required to include the following information:

(A) Sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, heavy industrial use, roads, and bodies of water;

(1) The boundaries of the tract and the portion of the tract to be subdivided.

(2) The total acreage to be subdivided;

(3) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;

(4) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;

(5) The name, address, and telephone number of the owner;

(6) The name, if any, of the proposed subdivision;

(7) Streets and lots of adjacent developed or platted properties;

(8) A zoning classification of the tract and of adjacent properties; Notation of any adjacent zoning districts and overlay districts;

(9) The ETJ should be delineated if the subdivision is occurring upon parcels that are divided by the ETJ and Municipal boundary;

(10) Topographic information with contours on at least 2' interval showing existing and proposed surface and subsurface drainage, ditches, ponds, wooded areas, wetlands, etc;

(11) Proposed/Required Open Space areas including active, and passive uses as well as proposed sidewalk and multi-use path networks; and,

(12) Area of 100 years flood and areas of environmental concern.

Section 20.19: Preliminary Plan Review & Required Elements

(A) Preliminary Plan review and approval is required to the recordation of any final plat for a major subdivision. The preliminary plan should not experience any deviation from the layout and structure of the proposed subdivision. Changes or deviations that do not qualify as minor modifications may be required to undergo preliminary review again and potentially undergo sketch plan review again. Preliminary Plans shall be approved by the Planning Board.

(B) Preliminary plans are required to include all of the following information:

(1) Notation which includes the following: zoning district, land use designation, property owner, developer, surveyor including the name, address, and registration number with State of North Carolina and Professional Engineer information.

(2) Total number of lots

(3) Total acres and sq feet of open space

(4) Largest lot size

(5) Smallest lot size

(6) Average lot size

(7) Required setbacks

(8) Proposed setbacks

(9) Boundary of the subdivision with all bearings and distances shown

(10) Proposed phasing if applicable

(11) The registration number and seal of the professional engineers

(12) Vicinity map on a scale of 1” = 200’

(13) Bar graph

(14) North arrow

(15) The exact boundary lines of the tract to be subdivided, fully dimensioned by lengths and bearings, and the location of existing boundary lines of adjoining lands.

(16) Topography of the land being subdivided including elevation

(17) The names of owners of adjoining property

(18) The names of any adjoining subdivisions of record or proposed subdivisions

(19) Adjacent zoning districts

(20) Existing buildings or other structures, water courses, railroads, bridges, culverts, storm drains on the land proposed to be subdivided, include indication to remove if removal is proposed

(21) Lots within the subdivision numbered consecutively

(22) Wooded areas, marshes, swamps, rock outcrops, ponds or lakes, streams, or streambeds, wetlands areas, and other natural areas in existence upon the site or that effect the site

(23) The location of Special Flood Hazard Areas as indicated by the Flood Insurance Rate Map determined by FEMA and indicated on NCFRIS

(24) Proposed public streets to include pavement widths, grade, engineering data for all corners and curves, typical street cross-sections.

(25) Utility plans to include sanitary sewer, storm sewer, other drainage facilities, water distribution lines, natural gas lines, telephone lines, electric lines, line sizes, fire hydrant locations, blowoffs, manholes, force mains, gate valves, backflow prevention devices

(26) Plans for water supply.

(27) Existing and platted streets on adjoining properties and within the proposed subdivision

(28) Rights-of-way locations and dimensions

(29) Where land disturbing activity is an acre or more in size, a copy of the erosion control plan submitted to the appropriate office of NCDENR, which complies with G.S. 113A, Article 4. Evidence of approval must be provided prior to final plat approval.

(30) Stormwater requirements must be shown to have been met and include details of all engineered SCM.

(31) Topographic maps with contour intervals of no greater than 5 feet at a scale of no less than 1-inch equals 400 feet.

Section 20.20: Final Plat Review & Required Elements

Final Plat approval is required prior to the issuance of any building permits. All infrastructure and other outstanding development requirements must be satisfied through installation and evidence of approval from certifications provided by the State of North Carolina or certification and acceptance of the infrastructure by the Town of Warsaw. Incomplete infrastructure or outstanding requirements must be guaranteed in accordance with Article 9 for the final plat to be recorded. The final plat should not experience any deviation from the layout and structure of the approved preliminary plan. Changes or deviations that do not qualify as minor modifications may be required to undergo preliminary review again and potentially undergo sketch plan review again.

Final Plat's are required to include all of the following information (the UDO Administrator may determine certain elements are not required for Minor Subdivisions on a case by case basis):

(A) Title Block containing the following: owner name, zoning district, land use designation, location, date or dates surveyed and when plat was prepared, scale of 1" equals 200', name, address, registration number of the Registered Land Surveyor & Professional Engineer.

(B) Subdivider name

(C) Town limits as applicable

(D) Vicinity map at a scale of 1" equals 200'

(E) Names, address, and contact information for all parties involved in the development of the subdivision including the planning stages.

(F) North Arrow

(G) The exact boundary lines including bearings and distances of all parcels created within the division including the bearing and distance of the boundaries of adjoining lands.

(H) Minimum building setback line

(I) Total number of lots

(J) Average lot size

(K) Smallest lot size

(L) Total acres in open space

(M) Minimum dimensional requirements based upon the zoning district

(N) Setbacks listed

(O) Lots numbered consecutively throughout the subdivision

(P) Address' for each lot

(Q) The exact location of SFHA

(R) Proposed streets including street names including dimensions and indication of public or private

(S) Existing streets including street names with dimensions

(T) Sight triangles as required

(U) Notation that the maintenance of public streets that are created for the purpose of NCDOT or Town of Warsaw ownership and maintenance shall be maintained by the developer until such infrastructure has met the specific requirements to be accepted for maintenance by the responsible entity, either through residency requirements being met or through structural deficiencies being addressed.

(V) Notation related to maintenance of open space, common areas, sidewalks and multi-use paths

(W) Engineering data to determine every straight or curved line, street line, lot line, right-of-way line, easement line, and setback line, including dimensions, bearings, or deflection angles, radii, center angles and tangent distance for the center line of curved property lines.

(X) The accurate locations and descriptions of all monuments, markers, and control points.

(Y) Copies of proposed deed restrictions, covenants, or homeowners' association documents.

(Z) 404 Wetlands shall be delineated

(AA) Applicable final plat certifications

(BB) Other information as deemed necessary by the UDO Administrator or the Planning Board

(CC) Final plats shall comply with G.S. 47-30

Section 20.21: Required Certificates

The following certificates and signature blocks shall be on all final plats as applicable. The UDO Administrator or Planning Board may determine that certain certificates are not necessary due to the nature of the division.

20.21.1 Minor Subdivision - Type A, Exemptions, Commercial

(A) Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Warsaw and that I hereby adopt this plan of subdivision with my free consent and install and construct all improvements in this subdivision in compliance with the minimum design requirements as established by the Town of Warsaw Unified Development Ordinance. I also accept responsibility for maintenance, ownership, or dedication of any easements created by this plat unless responsibility of such is deeded to a new party. INSERT OWNER SIGNATURE LINE

(B) Certificate of Survey and Accuracy

INSERT SIGNATURE LINE, certify that this map was drawn under my direction (or by me) and supervision (or by my supervision) from an actual survey of land (deed description in book, page, etc), that the error of closure as calculated by latitudes and departures is 1: INSERT LINE; that the boundaries not surveyed are shown as broken lines plotted from information found in Book INSERT LINE Page INSERT LINE; that this plat was prepared in accordance with GS 47-30 as amended. Witness my hand and seal this DATE AND YEAR. INSERT SURVEYOR SIGNATURE LINE

(C) Certificate of Approval for Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with INSERT APPLICABLE SECTION OF REFERENCE TO UDO (DETERMINED BY UDO ADMINISTRATOR) and is hereby approved for recording in the Office of the Register of Deeds of Duplin County. INSERT SUBDIVISION ADMINISTRATOR SIGNATURE LINE

(D) Certificate of Approval for Recording (Exemptions)

I hereby certify that the subdivision plat shown hereon has been found to be exempt from the Town of Warsaw Unified Development Ordinance per section INSERT APPLICABLE SECTION OF REFERENCE TO UDO (DETERMINED BY UDO ADMINISTRATOR) and is hereby approved for recording in the Office of the Register of Deeds of Duplin County. INSERT SUBDIVISION ADMINISTRATOR SIGNATURE LINE

1. Recombination Note: In order for this recombination to be complete, a deed of recombination must be recorded with the Duplin County Register of Deeds.
2. Easement Note: Property owners are responsible for maintenance and upkeep of any easements created by this plat, the Town of Warsaw is not responsible or liable for any easements show upon this plat unless expressly accepted by the Town and a written agreement is recorded to evidence this.
3. Approval Notes: Note that dates of approval from Planning Board, Board of County Commissioners as applicable to the plat.

20.21.2 Major Subdivision Final Plat

(A) Certificate of Ownership and Dedication

I hereby certify that I am the owner of the property shown and described hereon, which is located in the subdivision jurisdiction of the Town of Warsaw and that I hereby adopt this plan of subdivision with my free consent and install and construct all improvements in this subdivision in compliance with the minimum design requirements as established by the Town of Warsaw Unified Development Ordinance. I also accept responsibility for maintenance, ownership, or dedication of any easements created by this plat unless responsibility of such is deeded to a new party or accepted by the Town of Warsaw. INSERT OWNER SIGNATURE LINE

(B) Certificate of Survey and Accuracy

INSERT SIGNATURE LINE, certify that this map was drawn under my direction (or by me) and supervision (or by my supervision) from an actual survey of land (deed description in book, page, etc), that the error of closure as calculated by latitudes and departures is 1: INSERT LINE; that the boundaries not surveyed are shown as broken lines plotted from information found in Book INSERT LINE Page INSERT LINE; that this plat was prepared in accordance with GS 47-30 as amended. Witness my hand and seal this DATE AND YEAR. INSERT SURVEYOR SIGNATURE LINE

(C) NCDOT Street Disclosure Statement

All streets depicted in this subdivision have been offered to the State of North Carolina for dedication to public use, but these streets have not been accepted into the NCDOT road maintenance system. The streets in this subdivision must meet NCDOT residency requirements to be included in the NCDOT road maintenance system. Following the construction of the streets shown in this subdivision, the developer is responsible for petitioning NCDOT for the addition and acceptance of streets shown upon this plat. I certify the streets shown upon this plat have been designed in an acceptable manner according to the current NCDOT Minimum Construction Standards for Subdivision Roads. INSERT NCDOT DISTRICT ENGINEER SIGNATURE LINE.

(D) Private Street Statement

All streets shown hereon are intended for private use and have been identified for conveyance to a homeowners or property owners association for the subdivision. The developer shall be responsible for maintenance until such streets are conveyed to the homeowners or property owners association in a recorded deed. In the event that the homeowners or property owners association becomes inactive or dissolves, the Town of Warsaw nor NCDOT assumes no responsibility or ownership of the private streets shown in this subdivision. INSERT OWNER/DEVELOPER SIGNATURE LINE

(E) Public Street Statement

All streets or a portion of streets shown hereon are intended for public use and have been constructed to the minimum acceptable standards for street for the Town of Warsaw as required by the UDO. The developer shall be responsible for maintenance of such streets until they are accepted for maintenance by the Town of Warsaw Board of Commissioners (only applicable to multi-phase development). For developments of single phase, the Town of Warsaw shall become responsible for maintenance at the time of plat recordation. INSERT OWNER/DEVELOPER SIGNATURE LINE, INSERT TOWN OF WARSAW SIGNATURE LINE. ADDITIONAL ACKNOWLEDGEMENT OF MULTI-PHASE DEVELOPMENT INCLUDE AS APPLICABLE.

The developer acknowledges that this is a multi-phase development and that he is required to petition the Board of Commissioners for maintenance acceptance at the time of development completion.

(F) Certificate of Approval of the Design and Installation of Streets, Utilities, Stormwater Control Measures, and Other Required Improvements

I hereby certify that I have inspected and find that the streets, utilities, stormwater control measures and other required improvements and infrastructure shown upon this plat have been designed and installed or have been designed and financially guaranteed to the Town of Warsaw to be installed to meet the requirements outlined for such infrastructure in the Town of Warsaw UDO. INSERT LICENSED NC ENGINEER SIGNATURE AND PROFESSIONAL REGISTRATION NUMBER AND SEAL.

(G) Town of Warsaw Water & Sewer Approval

I hereby certify that the water and sewer infrastructure for this subdivision has been designed and inspected to meet or exceed the requirements of the Town of Warsaw and that I have been provided with evidence of such from a NC Licensed Engineer OR that I have been provided with evidence of plans from a NC Licensed Engineer that displays the water and sewer infrastructure will meet or exceed the requirements of the Town of Warsaw and that a financial guarantee has been provided to the Town of Warsaw for the purpose of ensuring the infrastructure is installed in the required manner. INSERT SIGNATURE FOR TOWN OF WARSAW PUBLIC WORKS

(H) Town of Warsaw Approval of Public Roads

I hereby certify that these streets as installed, or as designed and financially guaranteed, are in accordance with the minimum requirements of the Town of Warsaw UDO and that these streets are fully accepted into the maintenance system OR these streets are members of a multi-phase development and will be re-evaluated at the completion of all phases of development for maintenance acceptance.

(I) Certificate of Approval of On-Site Sewage Disposal Systems

I hereby certify that the lot(s) on this Final Plat have been evaluated under the current provisions of Title 15A NCAC 18A. 1900 et. Sew., and found that it/they has/have acceptable soils for an on-site subsurface sewage treatment and disposal system., INSERT SIGNATURE FOR DUPLIN COUNTY ENVIRONMENTAL HEALTH

(J) Certificate of Approval for Recording

I hereby certify that this subdivision plat shown hereon has been found to comply with the Major Subdivision Regulations in the Town of Warsaw Unified Development Ordinance (REFERENCE SECTION OF UDO) and that this plat has been approved by the Town of Warsaw Planning Board (INSERT APPROVAL DATE) for recording in the Office of the Register of Deeds of Duplin County. INSERT SUBDIVISION ADMINISTRATOR SIGNATURE LINE

(K) Approval Notes: Note the dates of approval from the Planning Board as applicable to the plat, and the types of approval given.

Section 20.22: Design Standards for Subdivision and Other Development

The following shall be considered the minimum standards of design for all new development or subdivision that includes the provision of but is not limited to streets, utilities, and other common infrastructure associated with development.

20.22.1 Streets

(A) All streets must be designated as either Public or Private. All streets are encouraged to be dedicated as public rights-of-way to be under the ownership and maintenance of either NCDOT or the Town of Warsaw. The dedication of streets as public does not guarantee that NCDOT or the Town of Warsaw will immediately assume maintenance. Streets shall conform to any officially adopted Thoroughfare Plan as well as NCDOT Transportation Plan as applicable.

(B) Streets must be constructed to meet the minimum requirements for construction as outlined in the most current version of the *NCDOT Roadway Design Manual*, when the manual references a separate document to use as guidance for construction, the developer shall defer to NCDOT's instruction and recommendation.

(C) The Town of Warsaw will not accept streets within the ETJ unless the property is annexed into the municipal limits and a development agreement as provided for in Article 9 has been established between the developer and the Town of Warsaw.

20.22.2 Widths

Streets shall have the following minimum right-of-way widths, unless the *NCDOT Roadway Design Manual* requires a greater width.

(A) Arterial Streets – 100 feet

(B) Collector Streets – 70 feet

(C) Local Streets – 60 feet

(D) Cul-de-sacs – 50 feet (100 feet turnaround diameter

(E) Frontage Road – 60 feet

The Planning Board or UDO Administrator may require additional right-of-way widths when it is necessary to accommodate for emergency services, utilities, or sidewalks.

20.22.3 Block & Street Layout

Streets & Block shall be arranged in the following manner:

(A) Streets should align with each other when possible so that the creation of offsets is eliminated. In any event where an offset occurs due to the avoidance of the offset is not physically possible, the distance between the centerlines of the intersecting streets shall be no more than 150 feet.

(B) Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at an angle less than 60 degrees.

(C) Streets should be designed in a grid system that promotes interconnectivity and access.

(D) Stub streets to adjacent properties shall be provided unless the Planning Board or UDO Administrator determines that the stub is not necessary due to potential threats in safety. A request for the stub to be eliminated because the developer does not wish for an adjacent development to have access to their development shall not be permitted. A stub should be dedicated and is not required to be constructed, unless required by Emergency Services to be used as a temporary turnaround, construction of the stub connection point shall be made by the adjacent developer at the time of development.

(E) Cul-de-sacs shall not be used to avoid connection with an existing street or to avoid the extension of a street. Subdivisions shall be permitted to only have 1 (one) cul-de-sac.

(F) Cul-de-sacs shall not exceed 800 feet in distance from the centerline of the intersection to the centerpoint of the cul-de-sac.

(G) The Town of Warsaw Emergency Services to include Warsaw Fire Department & Police Department should be consulted and involved In the preliminary development of street layout to address safety concerns.

(H) To maximize connectivity for public safety and avoid the requirement for additional right-of-way width improvement and dedication, block lengths shall not exceed 500 feet and there should be two points of access for any development that has 30 or more lots or units.

(I) Blocks shall have sufficient width to provide for two tiers of lots of appropriate depth except.

(J) Double frontage lots within blocks shall not be allowed. Recombination's shall not be permitted that blatantly circumvent this UDO to create a double frontage lot.

(K) Proposed street layouts shall be coordinated with the existing street system of the surrounding area, where possible proposed streets shall be the extension of existing streets.

(L) Except when no other alternative is practical or legally possible, no two streets may intersect with any other street on the same side at less than 500 feet measured from centerline to centerline of the intersecting street. When the intersected street is an arterial, the distance shall be at least 1,000 feet.

20.22.4 Private Streets

(A) Private streets shall be designed to meet the same layout and construction requirements as public streets. Private streets will only be permitted in developments that create 50 or more lots or units. Private streets must be deeded to and maintained by a property owner or homeowners association and evidence of such ownership and maintenance shall be provided to the Town of Warsaw at the time of development approval or plat recordation. Any private streets that include gates shall provide an alternative means of access for emergency vehicles and services to the development with breakaway bollards. The Town of Warsaw

Police Department and Fire Department shall also be provided with any gate key or code to have access to the development for emergency services purposes.

(B) Private streets may be petitioned for acceptance by the Town of Warsaw or NCDOT, in the event this takes place, the streets shall be evaluated by a NC Licensed Engineer to determine that they are currently meeting the requirements of this UDO.

20.22.5 Alleys

(A) Alleys shall be required for proposed commercial subdivisions in which there is a zero-lot line, where the party wall serves as the property line. Alleys shall be maintained by a property owners association unless the Town of Warsaw accepts maintenance in a formal agreement between the developer and the Town of Warsaw. Alleys shall be constructed to meet the following standards:

(1) 25' right-of-way

(2) Minimum 14' pavement width

(3) Pavement construction shall consist of 2" asphalt with a base course of 4" crushed rock compacted to 95% density

(B) Residential use of alleys is encouraged. Alleys should be incorporated into both single-family and multi-family developments. When alleys are utilized within residential subdivisions and development, alleys shall not satisfy the road frontage requirements for divisions purposes, however the utilization of alleys allows for the developer to reduce front setbacks by 20%. The front setback is measured from the public or private right-of-way, not an alley.

(C) There shall be no parking within alleys.

Section 20.23: Street Documentation

At the time of plat approval or post plat approval to request release of the performance guarantee, the developer shall provide the UDO Administrator with evidence of all documentation that displays streets have been constructed in accordance with the requirements of this UDO. These documents may include but are not limited to engineer reports, NCDOT Built-to-standards letter, pavement conditions and testing results, etc. The Town of Warsaw Public Works Director shall also evaluate streets post construction to determine there are no visible deficiencies or issues that should be addressed prior to release of funds and acceptance of streets.

Section 20.24: Street Names & Signs

Street names shall not duplicate or be constructed in a manner that they are confused with the names of any other existing streets within the Town of Warsaw. Proposed street names are required to receive approval from Duplin County E-911 Addressing.

(A) Extensions of existing streets shall retain the same name.

(B) Approved street signs indicating the street name shall be installed by the applicant at the intersection of the streets and shall not be installed in a manner that obstructs visibility.

Installation and location shall be approved by the Town of Warsaw Public Works. Street name signs are considered infrastructure in the development or subdivision. Performance Guarantees shall not be released nor shall final plats be approved until the UDO Administrator is able to confirm that the signs have been installed.

(C) Street signs shall be of reflective green material with white lettering.

(D) The developer shall provide traffic control signs that meet the Manual on Uniform Traffic Control Devices (MUTCD) standards in locations designated by the Town.

Section 20.25: Lots

(A) Flag lots are prohibited

(B) Lots must have the minimum required frontage (minimum lot width) upon a public or private street that meets or exceeds the requirements of this UDO.

(C) There shall be no more than 10% of lots within a subdivision recorded within the Special Flood Hazard Area.

(D) Lots shall meet the minimum lot size requirements as established by this UDO.

(E) Lot lines shall be substantially at right angles or radial to street lines.

(F) Corner lots shall only have one point of access.

(G) Lots shall access interior streets within the subdivision and not have direct access to existing streets that serve the subdivision.

Section 20.26: Easements

(A) Utility easements shall be a minimum of 15’ in width and centered along rear and side lot lines. The Town of Warsaw Public Works may require a wider easement width in certain situations where the topography of the land or nature of utilities located within the easement requires a greater width but in no instance shall the width exceed 30’.

(B) No structure shall be located within any recorded easement that is not associated with the easement or necessary. Structures located within easements are subject to removal by the authority holding the easement.

Section 20.27: Buffer Strips

Subdivisions shall include no buffer strip or “spite strip” that is reserved by the owner for the purpose of preventing access to adjacent properties or designed in a manner to deter interconnectivity.

ARTICLE 21: FLOOD DAMAGE PREVENTION ORDINANCE

Section 21.1: Statutory Authorization, Findings of Fact, Purpose, and Objectives

21.1.1 Statutory Authorization

The legislature of the State of North Carolina has, in Part 6, Article 21 of G.S. Chapter 143; Part 2, Article 9, G.S. Chapter 160D; and Article 8 of G.S. Chapter 160A, delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.

21.1.2 Findings of Fact

(A) The flood prone areas within the jurisdiction of the Town of Warsaw are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.

(B) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

21.1.3 Statement of Purpose

It is the purpose of this ordinance to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

(A) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;

(B) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

21.1.4 Objectives

The objectives of this ordinance are to:

(A) Protect human life, safety, and health;

(B) Minimize expenditure of public money for costly flood control projects;

(C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(D) Minimize prolonged business losses and interruptions;

(E) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;

(F) Minimize damage to private and public property due to flooding;

(G) Make flood insurance available to the community through the National Flood Insurance Program;

(H) Maintain the natural and beneficial functions of floodplains;

(I) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(J) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

Section 21.2: Definitions

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meanings they have in common usage and to give this article its most reasonable application.

Accessory Structure
A structure, which is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban "accessory structures." Pole barns, hay sheds and the like qualify as "accessory structures" on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

Addition (to an existing building)
An extension or increase in the floor area or height of a building or structure.

Alteration of a Watercourse
A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

Appeal
A request for a review of the Local Floodplain Administrator's interpretation of any provision of this article.

Area of Special Flood Hazard
See definition of Special Flood Hazard Area (SFHA).

Base Flood
The flood having a 1% chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE)
A determination of the water surface elevations of the base flood as published in the Flood Insurance Study. When the BFE has not been provided in a "Special Flood Hazard Area", it may be obtained from engineering studies available from a Federal, State, or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

Basement
Any area of the building having its floor subgrade (below ground level) on all sides.

Building
See definition of Structure.

Chemical Storage Facility
A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Design Flood
See definition of Regulatory Flood Protection Elevation.

Development
Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations or storage of equipment or materials.

Development Activity
Any activity defined as development which will necessitate a floodplain development permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

Digital Flood Insurance Rate Map (DFIRM)
The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Disposal
Defined as in G.S. 130A-290(a)(6).

Elevated Building
A non-basement building, which has its reference level raised above the ground by means of pilings, columns (posts and piers), or shear walls parallel to the flow of water.

Encroachment
The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing Building and Existing Structure
Any building and/or structure for which the "start of construction" commenced before July 17, 2006.

Existing Manufactured Home Park or Subdivision
A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the initial effective date of the floodplain management regulations adopted by the community.

Flood or Flooding
A general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and

(2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM)
An official map of a community, issued by the Federal Emergency Management Agency, on which the Special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

Flood Hazard Boundary Map (FHBM)
An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard have been defined as Zone A.

Flood Insurance
The insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM)
An official map of a community, issued by the Federal Emergency Management Agency on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Flood Insurance Study (FIS)
An examination, evaluation, and determination of flood hazard areas, corresponding water surface elevations (if appropriate), flood insurance risk zones, and other flood data in a community issued by

FEMA. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood Prone Area
See definition of Floodplain.

Flood Zone
A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

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

Floodplain Administrator
The individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit
Any type of permit including grading, building, or any other development permit that is required in conformance with the provisions of this article prior to the commencement of any development activity.

Floodplain Management
The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations and open space plans.

Floodplain Management Regulations
This article and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood prone areas. This term describes federal, state or local regulations in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing
Any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

Flood-Resistant Material
Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbers are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally

unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

Floodway
The channel of a river or other watercourse including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway Encroachment Analysis
An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and models.

Floor
See definition of Lowest Floor.

Freeboard
The additional amount of height added to the base flood elevation (BFE) to account for uncertainties in the determination of flood elevations. See also definition of Regulatory Flood Protection Elevation.

Functionally Dependent Facility
A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales or service facilities.

Hazardous Waste Management Facility
A facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste as defined in G.S. Chapter 130A, Article 9.

Highest Adjacent Grade (HAG)
The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

Historic Structure
Any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the United States Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(2) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(3) Individually listed on a state inventory of historic places; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program as determined by the Secretary of Interior, or directly by the Secretary of Interior in states without approved programs.

Letter of Map Change (LOMC)

An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

(1) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area;

(2) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features;

(3) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations;

(4) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

Light Duty Truck

Any motor vehicle rated at 8,500 pounds gross vehicular weight rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

(1) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

(2) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or

(3) Available with special features enabling off-street or off-highway operation and use.

Lowest Adjacent Grade (LAG)
The elevation of the ground, sidewalk, patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor
Subfloor, top of slab or grade of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's "lowest floor," provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this article.

Manufactured Home
A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a recreational vehicle.

Manufactured Home Park (MHP) or Subdivision
A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market Value
The building value, excluding the land (as agreed to between a willing buyer and seller), as established by what the local real estate market will bear. "Market value" can be established by independent certified appraisal, replacement cost depreciated by age of building (actual cash value) or adjusted assessed values.

New Construction
Structures for which the start of construction commenced on or after the effective date of the original version of this article (May 14, 2018) and includes any subsequent improvements to such structures.

Nonconforming Building or Use
Any legally existing building or use which fails to comply with the current provisions of this article.

Non-Conversion Agreement
A document stating that the owner will not convert or alter what has been constructed and approved. Violation of the agreement is considered a violation of the ordinance and, therefore, subject to the same enforcement procedures and penalties. The agreement must be filed with the recorded deed

for the property. The agreement must show the clerk's or recorder's stamps and/or notations that the filing has been completed.

Non-Encroachment Area (NEA)
The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

Obstruction
Includes but is not limited to any dam, wall, wharf, embankment, levee, dike, pile, abutment, protection, excavation, channelization, bridge, conduit, culvert, building, wire, fence, rock, gravel, refuse, fill, structure, vegetation or other material in, along, across or projecting into any watercourse which may alter, impede, retard or change the direction and/or velocity of the flow of water, or due to its location, its propensity to snare or collect debris carried by the flow of water, or its likelihood of being carried downstream.

Post-FIRM
Construction or other development, which started on or after July 17, 2006, or on or after the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

Pre-FIRM
Construction or other development, which started before July 17, 2006 or before the effective date of the initial Flood Insurance Rate Map for the area, whichever is later.

Principally Above Ground
At least 51% of the actual cash value of the structure is above ground.

Public Safety and/or Nuisance
Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal or basin.

Recreational Vehicle (RV)
A vehicle, which is:

(1) Built on a single chassis;

(2) Four hundred square feet or less when measured at the largest horizontal projection;

(3) Designed to be self-propelled or permanently towable by a light duty truck; and

(4) Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel or seasonal use.

(5) Is fully licensed and ready for highway use.

For the purposes of this article, "Tiny Homes/Houses" and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.

Reference Level
The portion of a structure or other development that must be compared to the regulatory flood protection elevation to determine regulatory compliance of the building. Within special flood hazard areas designated as Zones A1-A30, AE, A, A99, AO or AH, the reference level is the top of the lowest floor or lowest attendant utility (including ductwork), whichever is lower.

Regulatory Flood Protection Elevation
The elevation to which all structures and other development located within the special flood hazard areas must be elevated or floodproofed, if nonresidential.

(1) In "Special Flood Hazard Areas" where base flood elevations (BFEs) have been determined, this elevation shall be at least the BFE plus two (2) feet for all structures and other development.

(2) In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

Remedy a Violation
To bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this article or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

Riverine
Relating to, formed by, or resembling a river (including tributaries), stream, brook and the like.

Salvage Yard
Property used for the storage, collection and/or recycling of any type of equipment whatsoever, whether industrial or noncommercial, and including but not limited to vehicles, appliances and related machinery.

Solid Waste Disposal Facility
Any facility involved in the disposal of solid waste, as defined in G.S. 130A-290(a)(35).

Solid Waste Disposal Site
Defined as in G.S. 130A-290(a)(36).

Special Flood Hazard Area (SFHA)
The land in the floodplain subject to a 1% or greater chance of being flooded in any given year as determined in Section 21.3.2 of this article.

Start of Construction
Includes substantial improvements, and the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction 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 beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations, or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Structure
For floodplain management purposes, a walled and roofed building, a manufactured home, or a gas or liquid storage tank, or that is principally above ground.

Substantial Damage
Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. See definition of "substantial improvement".

Substantial Improvement
Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to Section 21.4.5 of this article.

Technical Bulletin and Technical Fact Sheet
A FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. It should be noted that technical bulletins and technical fact sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

Temperature Controlled
Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Variance
A grant of relief from the requirement of this article that permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

Violation
The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Sections 21.4 and 21.5 is presumed to be in violation until such time as the documentation is provided.

Water Surface Elevation (WSE)
The height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Watercourse
A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. "Watercourse" includes specifically designated areas in which substantial flood damage may occur.

Section 21.3: General Provisions

21.3.1 Lands to Which this Ordinance Applies

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including the Extra-Territorial Jurisdiction (ETJ), of the Town of Warsaw.

21.3.2 Basis for Establishing the Special Flood Hazard Area

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State ofN01th Carolina and FEMA in its FIS dated June 20, 2018 for Duplin County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Warsaw are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

21.3.3 Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 21.3.2 of this article.

21.3.4 Compliance

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

21.3.5 Abrogation and Greater Restrictions

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

21.3.6 Interpretation

In the interpretation and application of this ordinance, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under State statutes.

21.3.7 Warning and Disclaimer of Liability

The degree of flood protection required by this ordinance is considered reasonable for regulatory pm-poses and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of The Town

of Warsaw or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

21.3.8 Penalties for Violation

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of Warsaw from taking such other lawful action as is necessary to prevent or remedy any violation.

Section 21.4: Administration

21.4.1 Designation of Floodplain Administrator

The Warsaw Town Manager or their designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

21.4.2 Floodplain Development Application, Permit, and Certification Requirements

(A) Application Requirements. Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

(1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;

(b) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 21.3.2, or a statement that the entire lot is within the Special Flood Hazard Area;

(c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 21.3.2;

(d) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 21.3.2;

(e) The Base Flood Elevation (BFE) where provided as set forth in Section 21.3.2; Section 21.4.3; or Section 21.5.4;

(f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

(g) The certification of the plot plan by a registered land surveyor or professional engineer.

(2) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

(a) Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;

(b) Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and

(c) Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

(3) If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

(4) A Foundation Plan, drawn to scale, which shall include details of tl1e proposed foU11dation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

(a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/shear walls); and

(b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 21.5.2(D)(4) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.

(5) Usage details of any enclosed areas below the lowest floor.

(6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

(7) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

(8) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 21.5.2(F) and (G) of this ordinance are met.

(9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(B) Permit Requirements. The Floodplain Development Permit shall include, but not be limited to:

(1) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

(2) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 21.3.2.

(3) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

(4) The Regulatory Flood Protection Elevation required for the protection of all public utilities.

(5) All certification submittal requirements with timelines.

(6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 21.5.6 have been met.

(7) The flood openings requirements, if in Zones A, AE, AH, AO, A99.

(8) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).

(9) All materials below BFE/RFPE must be flood resistant materials.

(C) Certification Requirements.

(1) Elevation Certificates

(a) An Elevation Certificate (FEMA Form 086-0-33) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(b) An Elevation Certificate (FEMA Form 086-0-33) is required after the reference level is established. Within seven (7) calendar days of establishment of the

reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

(c) A final Finished Construction Elevation Certificate (FEMA Form 086-0-33) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of filial as-built construction of the elevation of the reference level and all attendant utilities. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3” x 3”. Digital photographs are acceptable.

(2) Floodproofing Certificate

(a) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form 086-0-34), with suppo1ting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by

such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(b) A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Ce1tificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

(3) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 21.5.2(C)(2).

(4) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

(5) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

(a) Recreational Vehicles meeting requirements of Section 21.5.2(F)(1);

(b) Temporary Structures meeting requirements of Section 21.5.2(G); and

(c) Accessory Structures that are 150 square feet or less and Cost of Structure $3,000.00 or less and meeting requirements of Section 21.5.2(H).

(D) Determinations for Existing Buildings and Structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations,

substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

(1) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

(2) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

(3) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(4) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

21.4.3: Duties and Responsibilities of the Floodplain Administrator

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(A) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

(B) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(C) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).

(D) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

(E) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 21.5.6 are met.

(F) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 21.4.2(C).

(G) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 21.4.2(C).

(H) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 21.4.2(C).

(I) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 21.4.2(C) and Section 21.5.2(B).

(J) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.

(K) When BFE data has not been provided in accordance with the provisions of Section 21.3.2, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Section 21.5.4(B)(3), in order to administer the provisions of this ordinance.

(L) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 21.3.2, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.

(M) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

(N) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.

(O) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

(P) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.

(Q) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

(R) Follow through with corrective procedures of Section 21.4.4.

(S) Review, provide input, and make recommendations for variance requests.

(T) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 21.3.2 of this article, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(U) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

21.4.4: Corrective Procedures

(A) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

(B) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:

(1) That the building or property is in violation of the floodplain management regulations;

(2) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

(3) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(C) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than least one hundred eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.

(D) Appeal: Any owner who has received an order to take corrective action may appeal the order to the local elected governing body by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local governing body shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

(E) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a Class I misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

21.4.5: Variance Procedures

(A) The Town of Warsaw Planning Board as established by the Town of Warsaw, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this article.

(B) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

(C) Variances may be issued for:

(1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;

(2) Functionally dependent facilities if determined to meet the definition as stated in Section 21.2 of this article, provided provisions of Section 21.4.5(I)(2), (3), and (5) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

(3) Any other type of development provided it meets the requirements of this Section.

(D) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

(1) The danger that materials may be swept onto other lands to the injury of others;

(2) The danger to life and property due to flooding or erosion damage;

(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(4) The importance of the services provided by the proposed facility to the community;

(5) The necessity to the facility of a waterfront location as defined under Section 21.2 of this article as a functionally dependent facility, where applicable;

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(7) The compatibility of the proposed use with existing and anticipated development;

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(E) A written report addressing each of the above factors shall be submitted with the application for a variance.

(F) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.

(G) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to $25 per $100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(H) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.

(I) Conditions for Variances:

(1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.

(2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief

(4) Variances shall only be issued prior to development permit approval.

(5) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(J) A variance may not be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas.

Section 21.5: Provisions for Flood Hazard Reduction

21.5.1 General Standards

In all Special Flood Hazard Areas, the following provisions are required:

(A) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(B) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.

(C) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damage.

(D) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, and electric outlets/switches.

(1) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

(2) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.

(E) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into flood waters.

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(H) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

(I) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted.

(J) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(K) All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

(L) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(M) All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(N) When a structure is partially located in a Special Flood Hazard Area, the entire structure shall meet the requirements for new construction and substantial improvements.

(O) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.

21.5.2 Specific Standards

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Section 21.3.2 or Section 21.5.4, the following provisions, in addition to the provisions of Section 21.5.1, are required:

(A) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section 21.2 of this article.

(B) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Section 21.2 of this article. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.

(C) Manufactured Homes.

(1) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Section 21.2 of this article.

(2) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to G.S. 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering ce1iification is required.

(3) All enclosures or skirting below the lowest floor shall meet the requirements of Section 21.5.2 (D).

(4) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(D) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

(2) Shall not be temperature-controlled or conditioned;

(3) Shall be constructed entirely of flood resistant materials; and

(4) Shall include, in Zones A, AE, AH, AO, A99 flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

(a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(b) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;

(c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(d) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;

(e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

(f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(5) Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space; the Town of Warsaw may have the right to inspect the enclosed area. The Town of Warsaw will conduct annual inspections. This agreement shall be recorded with the Duplin County Register of Deeds and shall transfer with the property in perpetuity.

(E) Additions/Improvements.

(1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages.

(b) A substantial improvement, with modifications/rehabilitations/ improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.

(2) Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.

(3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

(a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.

(b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(4) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (I) year period, the cumulative cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (I) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

(a) Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

(b) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(F) Recreational Vehicles. Recreational vehicles shall either:

(1) Temporary Placement

(a) Be on site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions.)

(2) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

(G) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood, or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

(1) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;

(2) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(3) The time frame prior to the event at which a structure will be removed (i.e., minimum of72 hours before landfall of a hurricane or immediately upon flood warning notification);

(4) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(5) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(H) Accessory Structures.

(1) When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) Accessory structure shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);

(b) Accessory structures shall not be temperature-controlled;

(c) Accessory structures shall be designed to have low flood damage potential;

(d) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;

(e) Accessory structures shall be firmly anchored in accordance with the provisions of Section 21.5.1(A);

(f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 21.5.1(D); and

(g) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 21.5.2(D)(4).

(2) An accessory structure with a footprint less than 150 square foot and that is a minimal investment of $3,000 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 21.5.2(B). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 21.4.2(C).

(I) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(1) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

(2) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

(3) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 21.5.2(B) of this article shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

(4) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(a) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

(b) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(J) Other Development.

(1) Fences in regulated floodways and NEAs that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 21.5.6 of this article.

(2) Retaining walls, sidewalks and driveways in regulated floodways and NEAs. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of 21.5.6 of this article.

(3) Roads and watercourse crossings in regulated floodways and NEAs. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 21.5.6 of this ordinance.

21.5.3 Reserved

21.5.4 Standards for Floodplains Without Established Base Flood Elevations

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 21.3.2, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Section 21.5.1 shall apply:

(A) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

(B) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

(1) When BFE data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Sections 21.5.1 and 21.5.2.

(2) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non-encroachment areas shall also comply with the requirements of Sections 21.5.2 and 21.5.6.

(3) All subdivision, manufactured home park and other development proposals shall provide BFE data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such BFE data shall be adopted by reference in accordance with Section 21.3.2 and utilized in implementing this ordinance.

(4) When BFE data is not available from a Federal, State, or other source as outlined above, the reference level shall be elevated or floodproofed (nonresidential) to or above the Regulatory Flood Protection Elevation, as defined in Section 21.2. All other applicable provisions of Section 21.5.2 shall also apply.

21.5.5 Standards for Riverine Floodplains with Base Flood Elevations but Without Established Floodways or Non-Encroachment Areas

Along rivers and streams where BFE data is provided by FEMA or is available from another source but neither floodway nor non-encroachment areas are identified for a Special Flood Hazard Area on the FIRM or in the FIS report, the following requirements shall apply to all development within such areas:

(A) Standards of Sections 21.5.1 and 21.5.2; and

(B) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.

21.5.6 Floodways and Non-Encroachment Areas

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 21.3.2. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and cany debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 21.5.1 and 21.5.2, shall apply to all development within such areas:

(A) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

(1) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or

(2) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.

(B) If Section 21.5.6(A) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(C) Manufactured homes may be permitted provided the following provisions are met:

(1) The anchoring and the elevation standards of Section 21.5.2(C); and

(2) The encroachment standards of Section 21.5.6(A).

Section 21.6: Legal Status Provisions

21.6.1 Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance originally enacted July 17, 2006. It is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town of Warsaw enacted on July 17, 2006, which are not reenacted herein are repealed.

21.6.2 Effect Upon Outstanding Floodplain Development Permits

Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

21.6.3 Severability

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

21.6.4 Effective Date

This ordinance shall become effective June 20, 2018.

21.6.5 Adoption Certificate

I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Town of Warsaw Board of Commissioners, Warsaw, North Carolina, on the 14th day of May 2018.

WITNESS my hand and the official seal of the Town of Warsaw, this the 14th day of May 2018.

A.J. Connors, Mayor

THE TOWN OF WARSAW CORPORATE SEAL DUPLIN COUNTY, NC

ATTEST: Crystal Lea Turner, Town Clerk

(This page intentionally left blank.)