

3.07 General Regulations for Commercial / Mixed Use Districts.

A. Accessory Uses, Buildings and Structures.

1. Permitted Accessory Uses, Buildings and Structures.

Accessory uses, buildings or structures shall be permitted in all Commercial / Mixed Use *Districts*, provided, however, that the *primary use* which is supported by the *accessory use, building or structure* is a *permitted use* within the *district* to which a *lot* is zoned.

Accessory uses, buildings or structures shall not be permitted on a *lot, out lot,* or main portion of an *integrated center* prior to the erection of the *primary building* on the *lot, out lot* or main portion of the *integrated center*.

By way of example only, some typical *accessory uses, buildings and structures* in the Commercial / Mixed Use *Districts* are: fences, trash containers, recycling containers, drive-through facilities, gasoline dispensers and canopies.

2. Development Standards for Accessory Uses, Buildings or Structures in All Commercial / Mixed Use Districts.

Accessory uses, buildings or structures shall comply with all *development standards* of the applicable *district* unless an exception is specifically provided for in this Section 3.07.

Accessory uses, buildings or structures shall not encroach upon any platted easements unless specifically authorized by the terms of the easement or by written consent of the agency in whose favor the easement is granted, and in the case of a Town Easement, authorized by the Director of Engineering.

Accessory buildings or structures (including fences, *patios, decks,* etc.) shall not be located above a septic system or septic repair area. [Added Ordinance #18-03]*

3. Additional Development Standards for Accessory Uses, Buildings or Structures in any Commercial / Mixed Use District.

Accessory uses, buildings or structures permitted in any Commercial / Mixed Use *district* shall also comply with the following additional *development standards*:

- a. *Accessory uses, buildings or structures* provided for residential uses located in the LB, OR or TV *districts* shall comply with the provisions of Section 2.08, A., 3. – Additional Development Standards for Accessory Uses, Buildings or Structures in any Residential District. [Amended Ordinance #04-11]

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- b. Fences (including chain link, solid, architectural screen, lattice-work or masonry):
- (1) shall not exceed six (6) feet in height above *grade* in a required *front yard* or if located in the *buildable area* of a *lot* located between the front line of the principal *building* and the required *front yard*;
 - (2) Shall not exceed ten (10) feet in height above *grade* in a required *side yard* or a required *rear yard*; and,
 - (3) Shall comply with all Sight Distance requirements of this UDO.
 - (4) All fencing located between a *front lot line* and the front line of the primary *building* shall be *ornamental fence*. All fencing located along a *side* or *rear lot line* shall be black vinyl coated chain link or *ornamental fence*. [Added Ordinance #18-03; Amended Ordinance #19-03]*
 - (5) Control of Access fencing- All new or replacement of control of access fencing along the *right-of-way* shall be *ornamental fence*. [Added Ordinance #18-03; Amended Ordinance #19-03]*
- c. Trash/Recycling containers – Trash/Recycling containers shall: [Amended Ordinance #13-09]
- (1) be screened on at least three (3) sides by a *building* wall or a solid-walled enclosure using the primary masonry *building material* of the *primary building*, not less than six (6) feet in height nor more than ten (10) feet in height above *grade*, equipped with an opaque screen gate, excluding wood, and any solid-walled portion of the enclosure shall be provided with *foundation landscaping*; [Amended Ordinance #08-15]



Solid Walled Trash Enclosure with
Foundation Plantings



Solid Walled Trash Enclosure with
Opaque Screen Gate

- (2) not be located in any minimum *front yard*, minimum *side yard*, minimum *rear yard*, minimum *front bufferyard*, minimum *side bufferyard* or minimum *rear bufferyard*.

- d. *Parking Areas* - shall comply with the provisions of Section 7.04 – Off-Street Parking Regulations of this UDO.

- e. *Loading Areas* - shall comply with the provision of Section 7.05 – Off-Street Loading Regulations of this UDO.

- f. *Signs* - shall comply with the provisions of Section 7.03 – Sign Regulations of this UDO.

- g. Drive through facilities (single service lane or multiple service lanes):
[Amended Ordinance #08-04, 18-03]*
 - (1) drive through facilities shall not conflict with the safe and efficient flow of traffic into and out of required *parking spaces* or *loading spaces*. [Amended Ordinance #18-03]*

 - (2) drive through service lane(s) shall have a minimum width of ten (10) feet measured from the furthest point of projection of a drive through facility from the *building* or *structure*. For the purposes of Section 7.04, D., 1., c. – Separation from Buildings of this UDO (i.e., the five (5) foot minimum separation for an *interior access drive* from the wall of a *building*), a drive through service lane shall not be considered an *interior access drive*. [Amended Ordinance #18-03]*

 - (3) **Vehicle Stacking** [Amended Ordinance #18-03]*
 - (a) a minimum of one hundred and ten (110) feet shall be provided for vehicle stacking, measured from the point of entry into the drive through facility to the first occurrence of any ordering, pick-up or service facility. For multiple lane facilities, the one hundred and ten (110) feet of vehicle stacking may be divided between multiple drive through service lanes, provided that a minimum of one (1) drive through service lane contains a minimum of seventy (70) feet of vehicle stacking, measured from the point of entry into the drive through facility to the first occurrence of any ordering, pick-up or service facility; and,

 - (b) a minimum of twenty (20) feet shall be provided for vehicle stacking after exiting the last pick-up or service facility.

[Removed Ordinance #18-03]*

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- h. Gasoline Dispensers and Canopies. [Amended Ordinance #07-03]
- (1) Gasoline dispensers and canopies shall not be located within any required *front yard, minimum side yard, minimum rear yard, front buffer yard, minimum side buffer yard* or *minimum rear buffer yard* and shall be provided with adequate on-site maneuverability so as to avoid any interference with through traffic on any public *right-of-way*. [Amended Ordinance #14-07]
 - (2) Canopies shall be sized to offer protection from the elements, but proportional to the primary structure.
 - (3) The size of the canopy fascia and canopy support columns shall be in proportion to the overall size of the canopy structure.
 - (4) Canopies and related elements, including fuel dispensers, support columns, planters, etc., shall be constructed of the same building materials, colors, and textures as the primary structure.
 - (5) Interest shall be added to the canopy through the use of: roof line variations; separation of roof pitches; varying the direction of roof pitches; use of mansard roofs, hip roofs, gambrel roofs; inclusion of dormers; or, other variation in roof design.



Example of Gasoline Dispenser and Canopy

- i. Underground Facilities.

Underground facilities (including by way of example, septic tanks and finger systems, cisterns, cellars, basements, underground storage tanks, etc.) shall not be located in or under any minimum *front yard, minimum*

side yard, minimum rear yard, minimum front buffer yard, minimum side buffer yard or minimum rear buffer yard. [Amended Ordinance #14-07]

j. Mailbox Kiosks. [Added Ordinance #07-03]

The design and location must be approved by the Town of Holly Springs Department of Planning and Zoning and shall be so designed that:

- (1) All mailboxes located within an integrated center must be placed in the same structure.
- (2) The structure can be built into a wall as part of the building façade, or can be freestanding and shall be constructed with at least three (3) of the following four (4) design and appearance requirements:
 - a. Primary building material is masonry or brushed metal.
 - b. Sets on a decorative pedestal or is fixed to two decorative posts.
 - c. Designed as an architectural feature to create identity of the business or businesses.
 - d. Provide foundation planting around the base of the structure in accordance with Section 7.01, F., 2. of this UDO. [Section Reference Modified Ordinance #14-07]

k. Business Vehicles. [Added Ordinance #13-09]

The total number of *business passenger vehicles* shall not exceed three (3) *passenger vehicles* per business with a GVWR \leq 6,000 LBS and shall meet the following requirements:

- (1) The vehicle(s) are used in the normal day-to-day operation of the business *use*;
- (2) Must be parked on the same property as the business location;
- (3) To the greatest extent possible, the vehicle(s) shall be parked beside or behind the *building* in which the *use* is located, parking in the front of the *building* shall only be permitted if side and rear parking is not available.
- (4) Vehicle(s) shall be placed so as to minimize visibility from *right-of-way* to the greatest extent possible.

B. Temporary Uses, Buildings and Structures.

1. Permits Required.

A *temporary use, building or structure* which is in compliance with the provisions of this Section, shall be allowed on a *lot or out lot* in any commercial / mixed use *district*. A *temporary use, structure or building* which will be converted into a permanent *primary or accessory use* after the cessation of the *temporary use* shall be required to obtain a *UDO permit* prior the establishment of the use or the construction of any *structure or building*. A *temporary use, structure or building* which will be removed from the site upon cessation of the *temporary use* shall comply with the regulations contained in this Section, and shall obtain a *UDO permit* from the Department of Planning and Zoning.

2. Permitted Temporary Uses, Buildings and Structures.

By way of example only, permitted *temporary uses, buildings and structures* include: construction trailers, sales offices, and *temporary seasonal retail sales*.

3. Duration.

Except as specifically provided otherwise in this Section 3.07, a *temporary use, building or structure* shall be permitted for a period not to exceed one (1) year. Except as specifically provided otherwise in this Section 3.07, the *UDO permit*, if required, may be renewed one (1) or more times by the *Director*, for good cause shown, for an additional period(s) not to exceed a total of one (1) year beyond the original expiration date.

4. Compliance with Development Standards.

Any *temporary use, building or structure* shall comply with all applicable *development standards* and *setback* requirements in the *district* in which the *temporary use, building or structure* is located. Temporary construction trailers, freestanding sales offices, and other temporary uses which shall not be converted into a permanent *primary or accessory use*, shall be exempt from the requirement to provide a hard surfaced *parking areas*.

5. Cessation of Use.

All *buildings, structures* or debris associated with the *temporary use* shall be removed from the site immediately upon completion or cessation of the *temporary use* or expiration of the time period set forth above.

6. Additional Regulations for *Temporary Seasonal Retail Sales Uses* and *Temporary Retail Sales Uses*. [Amended Ordinance #11-07]*

- a. Any *temporary seasonal retail sales use, structure or building* shall also comply with the following regulations:
1. The *use or structure* shall comply with all *setback* requirements applicable to *off-street parking spaces* on the site;
 2. A minimum of three (3) *off-street parking spaces* shall be provided on-site for the *temporary seasonal retail sales use*;
 3. The location of the *temporary seasonal retail sales use* and its required amount of *parking spaces* shall not interfere with any required *parking spaces* or safe and efficient flow of vehicular and pedestrian traffic around the *parking area* for the permanent *primary use* of the site;
 4. *Signs* for the *temporary seasonal retail sales* shall comply with the provisions of Section 7.03 – Sign Regulations of this UDO regarding *temporary signs*; and
 5. Notwithstanding the provisions above to the contrary, *temporary seasonal retail sales uses shall not exceed thirty (30) consecutive days per occurrence or a total of ninety (90) days during any calendar year.*
 6. Non-profit organizations that are supported primarily by charity or that has a 501c classification by the Internal Revenue Service and civic organizations/ clubs that are operated by a corporation, association, person or persons for a social, educational or recreational purpose in Holly Springs; selling a product within a temporary time frame to gain a donation or fund to help support a specific cause is exempt from the criteria set forth above in Section 3.07, B., 6. [Added Ordinance #07-03]
- b. Any *temporary non-seasonal retail sales use*, not within a *building* shall also comply with the following regulations: [Added Ordinance #11-07]*
1. A temporary display or sale of goods for commercial purposes shall take place on a developed *lot* where the *primary use* is retail sales, or on an immediately adjacent developed out *lot* of such a *project*.

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2. The hours of operation of the *temporary non-seasonal retail sale* of products shall be the same as the hours of operation of the *primary use*.
 3. The *temporary non-seasonal retail sales* of products shall be allowed on an individual *lot* or *out lot* or *integrated center* for no more than ninety (90) total days per calendar year.
 4. The number of *temporary non-seasonal retail sales* of products per *lot* or *out lot* or *integrated center* per calendar year shall not exceed three (3).
 5. The *lot* or *project* contains an area that is not actively used which would support the proposed *temporary non-seasonal retail sale* of products without encroaching into or disturbing existing *bufferyards*, open space, landscaping, or traffic movements.
 6. Tents and other temporary *structures* will be located so as not to interfere with the normal operations of any permanent *use* located on the *lot* or *project*.
 7. The *temporary non-seasonal retail sales use* will not occupy any minimum required *off-street parking* required for the *primary use*.
 8. The *temporary non-seasonal retail sale* of products will not likely cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services will be impeded. and;
 9. Will be located so as to provide for the safe and efficient maneuvering of motor vehicles and pedestrians and shall maintain five (5) feet of sidewalk clear for pedestrian flow on or around sidewalks, pedestrian ways; required *parking areas, areas, driveways, interior access drives, interior access driveways*.
7. Additional Regulations for *Temporary Construction Trailers*: [Added Ordinance #07-03]
- a. Under skirting shall be installed around the entire perimeter of the *building* or *structure*;
 - b. Shall be located on an approved *lot*, as shown on both the *preliminary plan* and *final plat*; or development plan;
 - c. Shall serve only *lots* depicted within the *preliminary plan*; or development plan;

- d. Shall provide a off-street parking spaces in an amount required for office use based upon the square footage of the building provided, however;
 - (1) *Temporary construction trailers*, and other *temporary uses* which shall not be converted into a permanent *primary* or *accessory use*, shall be exempt from the requirement to provide a hard surfaced *parking areas* and;
 - (2) An improved apron, in conformance with the Town of Holly Springs Engineering Design and Construction Standards shall be required.

8. Additional Regulations for Sales Offices: [Added Ordinance #07-03, Amended Supplement #6 Corrected typographical error]

- a. Shall be located on an approved lot, as shown on both the *preliminary plan* and final plat; or development plan;
- b. Shall serve only lots depicted within the *preliminary plan*; or development plan;
- c. Shall provide a off-street parking spaces in an amount required for office use based upon the square footage of the building provided, however;
 - (1) freestanding *subdivision sales offices*, and other *temporary uses* which shall not be converted into a permanent *primary* or *accessory use*, shall be exempt from the requirement to provide a hard surfaced *parking areas*; however required parking for the Disabled shall be in compliance with the North Carolina Accessibility Code, Chapter 4 and;
 - (2) An improved apron, in conformance with the Town of Holly Springs Engineering Design and Construction Standards shall be required.
- d. Sales Offices shall also comply with the provisions of Section 2.08, I. Appearance and Dimensional Criteria for Manufactured Homes. [Amended Supplement #6 Corrected typographical error]

9. Special Events: [Added Ordinance #15-10]

All *special events* shall also comply with the following regulations:

- a. Shall be located on a *lot of record*.

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- b. The *special event* shall not exceed three (3) continuous days.
- c. The maximum number of *special events* per *single use site* or *integrated center* per calendar year shall be:
 - 1. If the *gross floor area* is less than 100,000 square feet: four (4);
 - 2. If the *gross floor area* is greater than 100,000 square feet: seven (7).
- d. The *special event* will not cause interference with the movement of emergency vehicles to such an extent that adequate police, fire, or other emergency services will be impeded and;
- e. Will be located as to provide for the safe and efficient maneuvering of motor vehicles and pedestrians and shall maintain five (5) feet of sidewalk clear for pedestrian flow on or around sidewalks; pedestrian ways; required *parking areas*; *driveways*; *interior access drives*; and *interior access driveways*,
- f. Those *special events* located within common areas, or *open space* areas, as specified in Section 3.08, A., 7. of this UDO and have been approved as part of a *Development Plan*, shall not be required to obtain a *UDO Permit* and will not be counted against the maximum number of *special events* per calendar year as specified above.

C. Home Occupations.

Home occupations undertaken in connection with a residential *use* located in the LB, OR or TV *districts* shall comply with the provisions of Section 2.08, C. – Home Occupations.
[Amended Ordinance #04-11]

D. Performance Standards.

All new uses established in a LB, TV, OR, CB or GB *district* after the effective date of this UDO shall comply with the following performance standards. Any use in a LB, TV, OR, CB or GB *district* in existence prior to the effective date of this UDO shall not be altered or modified so as to conflict with the following performance standards. [Amended Ordinance #04-11]

1. Vibration

No use or activity shall cause earth vibration or concussions that are detectable beyond the *lot lines* without the aid of instruments.

2. Pollutants or Contaminants

No use shall discharge across *lot lines*, in the land, water or air, any noxious, toxic or corrosive matter, fumes or gases, or any other pollutants or contaminants that tend to be injurious to human health or welfare, to animal or plant life or to property, or interfering or tending to interfere with the enjoyment of life or property.

3. Odor

No use shall emit across *lot lines* odors in such quantities as to be readily detectable at any point along the *lot lines*.

4. Noise

No use shall produce noise in such a manner as to annoy, disturb, frighten or otherwise interfere with the use and quiet enjoyment of adjacent properties. Operational or production noise shall be muffled so as not to become detrimental due to intermittence, beat frequency, shrillness or vibration.

5. Heat

No use shall produce heat perceptible from any point beyond the *lot lines*.

6. Glare

No use shall produce glare perceptible from any point beyond the *lot lines*.

7. Waste

No use shall accumulate within the *lot* or discharge beyond the *lot lines* any waste matter, whether liquid or solid, in such a manner as to be detectable from any point beyond the *lot lines*.

E. Zoning Violations in Commercial / Mixed Use Districts.

The following shall be deemed violations of this UDO and shall be enforceable by the Town of Holly Springs as set forth in Section 10 – Enforcement of this UDO:

1. The conduct of any activity in a commercial / mixed use *district* that is not specifically enumerated as a permitted *primary use* or *accessory use* in that *district*, and which activity has not been *legally established* by a currently valid *variance*, *special exception* or other approval grant;
2. Failure to comply with *district development standards*, including but not limited to landscaping, paving of *parking areas*, minimum *parking space* requirements, trash dumpster enclosure, fencing or screening requirements; or,
3. The failure to comply with the terms, provisions or conditions of: a grant of *variance* or *special exception*; an approval of a *development plan*; an approval of a *conditional use district*; or, other approval grant authorized by this UDO.

F. Additional Development Standards.

1. Additional Front Setback Provisions.

a. *Public Streets*

- (1) In the case where the *Comprehensive Transportation Plan* does not include a *proposed right-of-way*, or where the *existing right-of-way* is greater than the *proposed right-of-way*, the *existing right-of-way* line shall be used for *setback* measurement. [Amended Ordinance #12-05]*
- (2) The *setback* provisions of this UDO are subject to the following modification:

In any *block* in any commercial / mixed use *district* contained in this UDO in which an existing *front yard setback* is established by existing, legally established *buildings* or *structures* on more than sixty percent (60%) of the total number of *lots* within the same *block face* fronting on the same *public street*, the minimum required *front yard setback* for any new *building*, *structure* or addition along such *block face* shall be the average of such established *front yards* if such dimension is less than the minimum *front yard setback* established by this UDO.

- (3) Any development permitted within a required *front yard* shall be those specified in the "Use of Minimum *Yards*" sections of the applicable commercial / mixed use *district*.

b. *Private Streets*

The minimum *front yard* and minimum *building setback* from the *right-of-way* line of a *private street* shall be the same as for a *local public street* in the applicable commercial / mixed use *district*.

Provided, however:

- (1) The *setback* provisions of this UDO are subject to the following modification:

In any *block* in any commercial / mixed use *district* contained in this UDO in which an existing *front yard setback* is established by existing, legally established *buildings* or *structures* on more than sixty percent (60%) of the total number of *lots* within the same *block face* fronting on the same *private street*, the minimum required *front yard setback* for any new *building*, *structure* or

addition along such *block face* shall be the average of such established *front yards* if such dimension is less than the minimum *front yard setback* established by this UDO.

- (2) Any development permitted within a required *front yard* shall be those specified in the "Use of Minimum Yards" sections of the applicable residential *district*.

2. Setback Regulations for Laterally-Supported Extensions.

Notwithstanding any *setback* regulations of this UDO to the contrary, laterally-supported extensions, such as canopies, eaves, cornices, bay windows, or roof overhangs, may extend a maximum of three (3) feet into any minimum *front yard*, minimum *side yard* or minimum *rear yard*.

3. Setback Regulations for Gateway Features. [Amended Ordinance # 08-15]

Notwithstanding any *setback* regulations of this UDO to the contrary, features such as: clock towers; fountains; sculptures; walls / fencing; or, landscaping, used to define a location, establish a point of arrival or create a public gathering place, may be located within a minimum *front yard* when such features are:

- (a) located at a gateway designated in the *Comprehensive Plan*; [Amended Ordinance # 08-15]
- (b) designed in compliance with the "gateway design guidelines" if adopted by the Town of Holly Springs for that gateway; and, [Amended Ordinance #08-15]
- (c) approved in connection with the approval of a *development plan* for Architectural and Site Design Review.

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G. Requirements for Private Streets, Interior Access Driveways and Interior Access Drives.

See Section 7.07 – Street Design and Right-of-Way Reservation, sub-Section B., 22.

H. Maintenance of Buffer Areas.

Notwithstanding anything in this UDO to the contrary, if any portion of a commercial / mixed use *lot* is required by Section 7.01 – Landscape Regulations of this UDO to be a *buffer area*, the following additional regulations shall apply:

1. Any *buffer area* located on a *lot* adjacent to a *front, side* or *rear lot line*, shall be maintained by the owner of the *lot* at all times. Dead or diseased trees or shrubs located in the *buffer area* shall be removed and replaced with appropriate replacement trees or shrubs, subject to the approval of the *Director*. Any removal, relocation, replacement or other alteration to the plant materials located in the *buffer area* shall be approved, in writing, by the applicable homeowners association, if any, and the Town of Holly Springs prior to such removal, relocation, replacement or other alteration to the plant materials in the *buffer area*.
2. No *accessory building* or *accessory structure* of any kind, other than a *freestanding sign* authorized by Section 7.03 – Sign Regulations of this UDO, shall be permitted in the *buffer area*.