Table of Contents

APPENDIX A LAND DEVELOPMENT STANDARDS....3
CHAPTER 1 - PURPOSE AND APPLICABILITY....3
CHAPTER 2 - DISTRICT PROVISIONS....7
CHAPTER 3 - SUPPLEMENTAL USE STANDARDS....29
CHAPTER 4 - GENERAL PROVISIONS FOR ALL DISTRICTS....49
CHAPTER 5 - BUILDING AND DEVELOPMENT DESIGN STANDARDS....57
CHAPTER 6 - INFRASTRUCTURE STANDARDS....71
CHAPTER 7 - CIVIC SPACE....101
CHAPTER 8 - TREE PROTECTION, LANDSCAPING AND SCREENING....107
CHAPTER 9 - PARKING AND DRIVEWAYS....119
CHAPTER 10 - LIGHTING....133
CHAPTER 11 - SIGNS....139
CHAPTER 12 - ENVIRONMENTAL CONSERVATION STANDARDS....155
CHAPTER 13 - NONCONFORMITIES....201
CHAPTER 14 - ADMINISTRATIVE AGENCIES....207
CHAPTER 15 - ADMINISTRATION....213
CHAPTER 16 - VIOLATIONS AND PENALTIES....255
CHAPTER 17 - DEFINITIONS....261

THIS PAGE INTENTIONALLY LEFT BLANK

APPENDIX A LAND DEVELOPMENT STANDARDS[1]

CHAPTER 1 - PURPOSE AND APPLICABILITY

1.1 Title.

This chapter [appendix] shall be known and may be cited as the Land Development Standards for the Town of Waynesville, North Carolina. This chapter [appendix] may also be known and may be referred to as the "LDS."

1.2 Authority.

The Land Development Standards contained in this chapter [appendix] have been adopted pursuant to the authority conferred by the North Carolina General Statutes. Specifically, principal authorization comes in the North Carolina General Statutes in Chapter 160D (Local Planning and Development Regulation). The Land Development Standards of Waynesville, North Carolina also uses powers granted in other sections of the North Carolina General Statutes relating to particular types of development or particular development issues.

1.3 Jurisdiction.

The provisions of this chapter [appendix] shall apply within the corporate limits of the Town of Waynesville, North Carolina and within the town's extraterritorial jurisdiction, as identified on the map of the territorial jurisdiction of the Town of Waynesville. This territorial jurisdiction map is recorded in the Office of the Register of Deeds for Haywood County and filed with the Administrator of the Town of Waynesville. The map and its boundaries shall be incorporated and made a part of this ordinance.

1.4 Purpose and Intent.

The regulations contained in this chapter [appendix] have been adopted in accordance with the Land Development Plan for the Town of Waynesville, North Carolina, as adopted, in order to:

- Promote the health, safety, good order, general welfare and diversity of the community.
- Encourage the most appropriate use of land throughout the town's jurisdiction.
- Provide for sound, orderly systematic development in the community.
- Create a balance between the rights of the community and the rights of the individual.
- Lessen congestion in the streets.
- Secure safety from fire, panic and other dangers.
- Insure a fair and adequate distribution of light and air among buildings.
- Prevent the overcrowding of land while discouraging urban sprawl.
- Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public services.

[1]Editor's note(s)—Printed herein is the Land Development Standards of the Town of Waynesville, which derive from an ordinance adopted April 12, 2011. Amendments to the ordinance are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original ordinance. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.

- Conserve the value of buildings and land.
- Promote the economic and industrial prosperity of the town.
- Preserve the town's unique natural and historic resources and environmental quality of the town.
- Control accelerated erosion and sedimentation in order to prevent the pollution to water and other damage to watercourses and other public and private property by sedimentation.
- Safeguard the natural resources of the town by regulating stormwater run-off.
- Minimize public and private losses due to flood conditions.

1.5 Consistency with All Adopted Plans.

In accordance with G.S. 160D, all development plans shall be in conformance with all adopted plans (including comprehensive plans, transportation plans, small area plans, open space and greenway plans, or any other plan adopted by the Waynesville Town Council).

1.5.1 Implementation of Plan.

This chapter is intended to implement the goals, objectives and purposes of the Land Development Plan for the Town of Waynesville as adopted on April 23, 2002.

1.5.2 Amendments to Chapter and Land Development Plan.

A. The Land Development Standards of Waynesville, North Carolina also uses powers granted in other sections of the North Carolina General Statutes relating to particular types of development or particular development issues. Any amendments to or actions pursuant to this ordinance shall be consistent with the Land Development Plan.

B. The Land Development Plan for the Town of Waynesville may be amended and these Land Development Standards shall reflect those amendments.

1.5.3 Adopted Small Area Plans.

All development plans shall be consistent with any adopted small area plans. Small area plans may contain any of the following elements:

- Multi-Modal Circulation Network (pedestrian, bicycle, automobile, and public transit networks).
- Green Infrastructure Network (floodplains, wetlands, lakes, streams, parks, squares, and other public open spaces).
- Location of sites reserved for Civic and Institutional buildings and uses.
- General Massing and Development Intensity Pattern.
- Specific Design Guidelines (in addition to those contained in this Ordinance).

1.5.4 Variations to Adopted Plans.

Specific alignments, locations, or areas of public facilities noted in any adopted plan may be varied on a site by site basis as requested by the developer by the Administrator provided the integrity of the proposed network and connections, location, or area shown in the plan are maintained.

1.6 Required Conformance with this Ordinance.

1.6.1 Required Conformance.

No land or structure shall be used or occupied, and no structure or parts shall be constructed, erected, altered, or moved, unless in conformity with all of the regulations herein specified for the zoning district in which it is located. Every building erected, moved, or structurally altered shall be located on a lot conforming to the requirements of the district.

From and after the adoption of the LDS, no real property lying within the jurisdiction of the LDS shall be subdivided except in conformance with all applicable provisions of the LDS. In addition, after the effective date of the LDS, no plat for subdivision of land within the jurisdiction of the LDS shall be certified for recording by the Administrator, nor shall the Clerk of Superior Court order the recording of a plat until it has been submitted and approved in accordance with the provisions of the LDS.

1.6.2 Conformance to Subdivision Standards and Required Improvements Upon Development.

All existing lots of record, platted prior to the adoption of this ordinance and upon which no buildings have been erected, shall be grandfathered upon the date of adoption of this ordinance and shall not be subject to the new lot standards herein. However, buildings upon such lots shall be subject to standards in this ordinance including all related site improvements.

1.7 Transitional Provisions.

The following transitional provisions shall apply to various activities, actions and other matters pending or occurring as of the effective date of this ordinance.

1.7.1 Violations Continue.

Any violation of any previous ordinance of the Town of Waynesville shall continue to be a violation under this ordinance and shall be subject to the penalties set forth at the time of the violation, unless the use, development, construction or other activity is clearly consistent with the express terms of this ordinance.

1.7.2 Completion of Development Plans.

A. Permit Issued: Any building or development for which a permit was issued prior to the effective date of this chapter or any amendment thereto, may be completed in conformance with the issue permit and other applicable permits and conditions.

B. Application Filed:

1. Any type of land development application which has been officially filed with the appropriate town official prior to the effective date of this ordinance or any amendment thereto, may continue to be processed under the land use rules and regulations in effect prior to said date.

2. The application process must be completed within one (1) year of said date.

3. If the application process is not completed within the specified time, then the application process may be completed only in strict compliance with the requirements of this ordinance.

1.8 Conflict with Other Laws.

A. This ordinance is not intended to abrogate any other law, ordinance or regulation. However, whenever the requirements of this ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

B. In the event of any conflict between limitations, requirements, or standards contained in different provisions of this chapter in applying them to an individual use or structure, the more restrictive provision shall apply unless otherwise provided.

C. In the event of a conflict or inconsistency between the text of this chapter and any caption, figure, illustration or map contained herein, the text shall control.

D. This ordinance is not intended to abrogate any easement, covenant, or other private agreement. However, where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easement, covenant or other private agreement, then the requirements of this chapter shall govern. Unless deed restrictions, covenants or other contracts directly involve the Town of Waynesville as a party in interest, the town shall have no administrative responsibility for enforcing such deed restrictions or covenants.

E. Should the courts declare any section or provisions of this ordinance invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof, other than the part so declared to be invalid.

1.9 Interpretation.

In interpreting and applying these regulations, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purpose of these regulations and are adopted for the promotion of the public health, safety, and general welfare.

Except as hereinafter provided, these regulations shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easement, covenants, or other agreements between parties.

In any event, wherever the requirements of this chapter are in conflict with other requirements of lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive, or that imposing the highest standards, shall govern.

1.10 Effective Date.

Many provisions herein are a restatement of previous provisions of the Land Development Standards and are hereby continued without interruption. All other provisions of this ordinance became effective on April 12, 2011, and subsequently, including the provisions of 160D, as adopted on June 22, 2021.

CHAPTER 2 - DISTRICT PROVISIONS

2.1 Official Land Development Map.

2.1.1 Official Land Development Map.

In accordance with 160D-105, the adopted zoning district boundaries and zoning overlays shall be shown on a map of the Town of Waynesville which shall be known as the Official Land Development Map, and such map is hereby incorporated into these Land Development Standards for the Town of Waynesville.

Zoning district maps and a copy of the currently effective version of any incorporated map shall be maintained for public inspection in the Waynesville Development Services Department.

The Official Land Development Map shall be maintained in the Waynesville Development Services Department and a copy shall be kept on file with the Town Clerk. Copies of the Official Land Development Map shall be provided upon request and, when certified by the town clerk in accordance with G.S. 160A-79 or G.S. 153A-50, shall be admissible into evidence and shall have the same force and effect as would the original map.

Zoning district boundaries are automatically amended to remain consistent with the incorporated map upon Town Council approval of zoning map amendments.

2.1.2 Adoption of Other Maps by Reference.

North Carolina flood insurance rate maps, watershed boundary maps, and state surface water maps officially adopted and promulgated by State and federal agencies are hereby adopted and incorporated into these Land Development Standards in their most recently adopted version by reference.

The Town of Waynesville Municipal Services District map, Powell Bill Map, Comprehensive Pedestrian Plan, Parks and Recreation Master Plan, and local and federally designated historic districts and landmarks are hereby adopted and incorporated into these Land Development Standards in their most recently adopted version by reference.

2.1.3 Interpretation of Land Development Map.

The following rules of interpretation shall be applicable to the Land Development Map for the Town of Waynesville.

A. **Land Development District Designation:** A district name on the land development map indicates that the regulations pertaining to the district designated by that name, or abbreviation of the same, extend throughout the whole area bounded by the district boundary lines within which such name or abbreviation is shown, except as otherwise provided.

B. **District Boundary Determination.**

1. Where uncertainty exists as to the boundaries of any land development district, the Administrator shall interpret the location of the land development district boundaries. An appeal from an interpretation or finding of the Administrator may be taken to the board of adjustment as specified in Section 15.12 of this ordinance.

2. District boundaries indicated as approximately following centerlines of streets, highways or alleys shall be construed to follow such centerlines.

3. District boundaries indicated as approximately following platted lot lines shall be construed as following such lines.

4. District boundaries indicated as approximately following town limit lines shall be construed as following such town limits.

5. District boundaries indicated as approximately following railroad lines shall be construed to the midway between the main tracks.

6. District boundaries indicated as approximately following centerlines of streambeds or other bodies of water shall be construed to follow such centerlines.

7. District boundaries indicated as approximately parallel to or extensions of any of the features noted in the aforementioned provisions shall be so construed and at such distance there from as indicated on the official copy of the land development map. Distances not specifically indicated on the official copy of the land development map shall be determined by the scale of such map.

8. Where the land development map shows a district boundary dividing a lot, each part of the lot shall conform to the standards established by this ordinance for the land development or overlay district in which that part is located.

2.2 Districts by District Type.

The following 30 base districts are organized into categories that standardize various regulations while allowing some limited customization of each district.

District Category	District Name
Residential—Low Density (RL)	Country Club Residential - Low Density (CC-RL) Eagles Nest Residential - Low Density (EN-RL) Francis Cove Residential - Low Density (FC-RL) Hall Top Residential - Low Density (HT-RL)
Residential—Medium Density (RM)	Chestnut Park Residential - Medium Density (CP-RM) Dellwood Residential - Medium Density (D-RM) Howell Mill Residential - Medium Density (HM-RM) South Waynesville Residential - Medium Density (SW-RM)
Neighborhood Residential (NR)	Allens Creek Neighborhood (AC-NR) Love Lane Neighborhood (LL-NR) Main Street Neighborhood (MS-NR) Ninevah Neighborhood (N-NR) Pigeon Street Neighborhood (PS-NR) Plott Creek Neighborhood (PC-NR) Raccoon Creek Neighborhood (RC-NR) Sulphur Springs Neighborhood (SS-NR) Walnut Street Neighborhood (WS-NR)
Urban Residential (UR)	East Waynesville Urban Residential Neighborhood (EW-UR) Hazelwood Urban Residential Neighborhood (H-UR) Howell Mill Urban Residential Neighborhood (HM-UR)
Neighborhood Center (NC)	North Main Street Neighborhood Center (NM-NC) Pigeon Street Neighborhood Center (PS-NC) Raccoon Creek Neighborhood Center (RC-NC)
Business District (BD)	Central Business District (CBD) Hazelwood Business District (H-BD) South Main Street Business District (SM-BD)
Regional Center (RC)	Dellwood/Junaluska Regional Center (DJ-RC) Hyatt Creek Regional Center (HC-RC) Russ Avenue Regional Center (RA-RC)
Commercial Industrial (CI)	Commercial-Industrial (CI)

(Ord. No. O-01-15 , § 2, 1-27-2015; Ord. No. 04-16 , 6-14-2016)

2.3 Purpose and Intent by District.

2.3.1 Residential—Low Density Districts (RL) Purpose and Intent.

A. The **Country Club Residential—Low Density District (CC-RL)** is an area predominately comprised of large lot subdivisions with the Waynesville Country Club serving as its social and recreational center. While single-family homes are the dominant residential use in this area, townhouses and accessory apartments are also permitted. Connections to the South Main Street Business District should be enhanced as new development takes place. A residential scale is required for all new development. Tree preservation and proliferation along the South Main Street corridor is critical to the ambiance of the area.

B. The **Eagles Nest Residential—Low Density District (E-RL)** is a rural district characterized by beautiful views afforded by steep terrain. Water service is available throughout much of the area but sewer service is limited. Future development shall be sensitive to the terrain with grading minimized through the use of good design, clustered development and large lot development. Clear cutting for views is unacceptable; appropriate trimming of trees for vistas is preferred. As this is an area dominated by private development, it will be important in the future to acquire public park land especially at elevations exceeding three thousand (3,000) feet above mean sea level. Land conservation easements are encouraged. Possible road connections shall be evaluated as new streets are constructed in an effort to improve connectivity without jeopardizing the natural beauty of the area. Sidewalks are not required except in major residential developments due to the rural mountain character of the district.

C. The **Francis Cove Residential—Low Density District (FC-RL)** is an area that will remain as a very sparsely developed area. Few urban services are available in this area to support dense development and the topography poses a limitation on development as well. Agricultural and residential uses will be the predominant future land use. Maintaining the rural character of this area will be an important focus. Clustering future development in small areas while leaving large areas undeveloped will be critical in achieving this goal.

D. The **Hall Top Residential—Low Density District (HT-RL)** is a rural district characterized by steep terrain and narrow winding roads. Despite the difficulty of developing in this district and the limited provision of services, the proximity to the Russ Avenue and Dellwood/Junaluska Town Centers makes the location an attractive one for the variety of residential developments permitted in this area. Large lot development is the standard with cluster development respecting the terrain encouraged so as to leave as much open space as possible. Road design will also consider the terrain with narrow road widths permitted and sidewalks not required. Linking developments with trails is encouraged.

2.3.2 Residential—Medium Density Districts (RM) Purpose and Intent.

A. The **Chestnut Park Residential—Medium Density District (CP-RM)** is a well-established older neighborhood bordering the Central Business District. This linear neighborhood is served mainly from a single road. This road, which leads into the Eagles Nest Mountain area, is one of the few roads in Waynesville that crosses under Highway 23/74. Due to the interference of the highway and limited access into the neighborhood itself, as future development occurs, connections into adjoining neighborhoods (i.e., connecting Shingle Cove Road to Laurel Ridge) are important to keep Chestnut Park Road from becoming too heavily traveled. Pedestrian and bicycle amenities connecting the neighborhood to Chestnut Park and adjoining areas will be developed. Medium density residential development will be the predominant land use in the area.

B. The **Dellwood Residential—Medium Density District (D-RM)** shall develop predominately as a low to medium density residential district separating the Russ Avenue and Dellwood/Junaluska

Town Centers. Promoting a mixture of residential densities, this district shall be developed with such enhancements to residential living as pedestrian access and the provision of open space. Higher density development and limited business and professional services shall be promoted along Russ Avenue with larger lots and cluster development promoted throughout the district. Nonresidential uses typically found in residential areas are permitted, however, development in this district shall be designed to clearly define the residential appearance and scale of the area and to define the differences between this area and the Russ Avenue Town Center and Dellwood/Junaluska Area Center.

C. The **Howell Mill Residential—Medium Density District (HM-RM)** shall develop as a residential neighborhood providing a mix of housing types and densities. Long, narrow lots are encouraged to provide for the establishment of good block widths throughout the area. Higher density housing is encouraged south of Howell Mill Road with lower density housing provided to the north. The center of the neighborhood is the Waynesville Recreation Center, providing recreational and social opportunities for all of Waynesville but with particular convenience and importance for those residing in this district. The proximity of this area to Russ Avenue shall be enhanced with improved transportation connections. Development occurring off of Howell Mill Road shall also incorporate connectivity between streets and shall include, where appropriate, pedestrian access to the Recreation Center and the Richland Creek Greenway. Nonresidential uses typically found in residential areas are permitted.

D. The **South Waynesville Residential—Medium Density District (SW-RM)** will develop in the future as a low density residential area with some limited mixed uses allowed along Old Balsam Road. The entry to the town from the south, it needs to develop in a manner that reflects development in Waynesville — attractive buildings, the maintenance of the natural beauty of the area, etc. An area of difficult slopes, floodplains, and a limited access highway, development has been and will continue to be checked by many of these constraints. As this is a non-urban area on the edge of town, development standards are minimal.

2.3.3 Neighborhood Residential Districts (NR) Purpose and Intent.

A. The **Allens Creek Neighborhood District (AC-NR)** is a predominately residential neighborhood of mostly medium density development mixed with agricultural uses. Due to the linear nature of the neighborhood, Allen's Creek Road becomes the "center" of the community and as such, maintaining a "pedestrian-friendly" environment is important. As development occurs, such things as building houses closer to the street, requiring sidewalks and planter strips and allowing narrow lane widths for new streets will help to maintain the pedestrian scale in the area which has already been started. Traffic calming devices may be needed to aid with maintaining a low speed (especially with large trucks) along Allens Creek Road. Connections from within the district to the South Main Street Business District are important and should be made wherever possible. Efforts will be made to preserve existing farmland and restrict development on the steep slopes found in this district. The county soccer complex should be emphasized as a focal point of activity and community for this neighborhood.

B. The **Love Lane Neighborhood District (LL-NR)** is an older, traditional neighborhood bordered by the Russ Avenue Town Center on one side and the Central Business District on the other. One of the oldest neighborhoods in the town and one of the first to be settled, it has the advantages of having a great location, sufficient urban facilities and a mixture of housing types and styles. The area between Richland Creek and Dellwood Road has an excellent stock of smaller bungalow style homes on small lots. This is an enormous asset to the Town due to its proximity to Russ Avenue and Downtown, as it contains good, affordable housing within walking distance of many amenities. This asset will only improve as Russ Avenue develops into a more pedestrian friendly area. For this reason, this type of development should be encouraged, maintained and continued

in this area. Connectivity to the ball fields, Downtown, The Richland Creek Greenway and Russ Avenue should be improved, both for vehicles and pedestrians. Sidewalks and street trees will be required throughout the district. Development along Richland Creek should be sensitive to the location. The area to the northwest of Dellwood Road enjoys some of the oldest housing stock in Waynesville. Maintaining this stock and enhancing any additional development will continue to be important. Street trees will be required throughout the district. Dellwood Road, containing a mix of office, residential and service uses, needs to maintain a pedestrian scale and any improvements should enhance the comfort level of the pedestrian. Driveways accessing Dellwood Road should be kept to a minimum for this reason. Future plans are to improve this corridor as part of a connector (including Smathers Street and Brown Avenue) to alleviate some of the traffic along Main Street. Development will, therefore, complement this road improvement in addition to being of an appropriate scale and design for close proximity with vital, urban residential areas.

C. The **Main Street Neighborhood District (MS-NR)** is a walkable, in-town neighborhood separating two business districts — the Central Business District and the South Main Street Business District. In addition to the convenient location, the public library, Central Elementary School and many larger, older homes are among the amenities that make this area attractive for residential living. Future development should work to maintain this attractive area, continuing a scale and design that will attract ongoing residential use of this district. The dense tree canopy currently found in the area will be maintained and sensitivity to this canopy and the improvement of pedestrian facilities will be important with any new development.

D. The **Ninevah Neighborhood District (N-NR)** is a well-established residential community containing a mix of housing types. As sufficient urban facilities are available in this district, it is proposed to develop more densely, but still at a small residential scale. Sidewalk development will be required to establish connectivity throughout the neighborhood. The public center of the community (at the intersection of Oakdale Road, Crymes Cove Road and Country Club Drive) should be enhanced and should allow for uses which would serve the daily needs of the residents of the area as well as those uses that serve as community gathering places.

E. The **Pigeon Street Neighborhood District (PS-NR)** is a residential community enjoying proximity to Downtown Waynesville and a strong neighborhood center of its own. A mix of medium to high density residential development will continue to occur in this area which already has a strong street system. An attractive pedestrian realm will be established as new development occurs, as will connections between the various neighborhoods in this district and the neighborhood center. The establishment of such connections and the management of traffic to make the area more conducive to pedestrians are important considerations as any improvements to Pigeon Street are made in the future.

F. While it is semi-rural currently, as the **Plott Creek Neighborhood District (PC-NR)** develops it should do so in a manner which complements its location near the Hazelwood Town Center, and the Hazelwood Elementary School which is within its boundaries. Infrastructure should be well connected and networked (including sidewalks, streets, water/sewer, etc.) and other infrastructure needs should be addressed (such as recreational opportunities) as the area develops. Special care should be taken to enhance the natural features of the area, such as the mountain slopes and the creek, so that they become an integral part of the community. Connections (roads, trails, etc.) to other districts, such as Hyatt Creek area and to the large mountain tracts at the end of Plott Creek, are also important and must be considered as the area develops.

G. The **Raccoon Creek Neighborhood District (RC-NR)** is a medium density residential area surrounding one of the major entrances into Waynesville — Business 23. There are two centers

for this area — the Ratcliff Cove Neighborhood Center and the Junaluska School/ballfield area within the district itself. Water service is available throughout much of the district with sewer available along Business 23 and Francis Farm Road. Higher density development is encouraged west of Business 23 with lower density clustered development proposed to the east. It is suggested that the County explore recreational uses on the landfill property on Francis Farm Road — an area that could become another focal point for the community. Development will occur at a residential scale. Development fronting onto Business 23 must form a street wall along this entryway into town.

H. The **Sulphur Springs Neighborhood District (SS-NR)** is located in a convenient in-town setting — bordered by the Hazelwood Town Center, the Central Business District, Highway 23/74 and Richland Creek. Due to the proximity to two town centers, the area is ideal for high quality dense development. The addition of pedestrian amenities and traffic calming measures will improve the walkability of the area. Interconnecting roads as the area develops is paramount to keeping Sulphur Springs Road from becoming overly traveled. The passive park that exists where the spring house for the old Sulphur Springs Hotel was located should be redesigned to become more of an amenity and center for those who live in the area. Connections with the greenway that is developed along Richland Creek will add to the beauty of this neighborhood.

I. The **Walnut Street Neighborhood District (WS-NR)** is an important, older, in-town, heavily canopied neighborhood district separating three major centers: the Russ Avenue Town Center, the North Main Street Boulevard District and the Central Business District. This district will continue to develop with a strong residential core of medium-density, single family homes surrounded by appropriately designed service and business uses along Walnut and North Main Streets. Any new development in this area needs to maintain the high quality of building construction present in the district. A residential scale will be required for all new development. As the lots in this district are larger, and due to the walkable nature of the area, accessory dwellings are encouraged. Sidewalks, which are found throughout the district, will be required for any new development. The tree canopy, which defines the area, must be enhanced with future development in order to continue the differentiation between this district and the adjoining, more urban districts.

2.3.4 Urban Residential Districts (UR) Purpose and Intent.

A. The **East Waynesville Urban Residential District (EW-UR)** is an urban neighborhood of mostly medium to high density residential development bordering the Waynesville town center. Higher density development is encouraged closer to town with lesser densities found as the district approaches areas with steeper slopes. A number of public spaces are found in this district including the East Street and Vance Street parks. It will be important as new development and redevelopment occurs for connections to be made to such public spaces and throughout the district.

B. The **Hazelwood Urban Residential District (H-UR)** is a traditional walkable neighborhood of mostly small, well-built housing in an area where sufficient urban facilities are available. It is a self-contained community with affordable housing, smaller well-kept lots, narrow tree-lined streets and distinct edges and centers. Major public spaces including a park and the "old" Hazelwood School are located in this neighborhood. Since it is convenient to shopping and employment, the goal for Hazelwood is to encourage infill development and the rehabilitation of existing structures in keeping with the residential scale and character of the existing neighborhood. Limited non-residential uses supporting the community are permitted if contributing in scale, design and use to the area. Pedestrian amenities are to be enhanced with all new development as are the development of access points to different parts of Waynesville

from the Hazelwood neighborhood. Parking on public streets is permitted and encouraged as an alternative to the development of new parking lots.

C. The **Howell Mill Road Urban Residential District (HM-UR)** is a transitional neighborhood that buffers rural and medium density residential areas from the intense commercial uses found within the Russ Avenue Regional Center District. It is convenient to town and the Recreation Center and served by the multi-modal Howell Mill Road, yet valued for its green spaces, vistas and peaceful character. Future development should build on, and connect to, this transportation infrastructure and accommodate vehicles, pedestrians and cyclists and be of a residential scale and design.

2.3.5 Neighborhood Center Districts (NC) Purpose and Intent.

A. The **North Main Street Neighborhood Center District (NM-NC)** is a mixed use district that forms the gateway into town from the northeast. The setting of this district is important as it frames Eagles Nest Mountain at the apex of the hill on North Main and forms a forced perspective to the "center" of the district — the intersection of Walnut and Main Streets. As a result, maintaining inviting vistas down Main Street and creating an attractive public realm are the objective of many of the standards set forth for this district. Street walls, boulevard trees and sign control will all be important in meeting these objectives as the street is redesigned. Working to keep traffic congestion to a minimum in this area will require the use of rear access drives, side street entrances and shared driveway connections. The uses found in the North Main Street Boulevard District serve not only the surrounding neighborhoods, but all of the Waynesville community and are varied in nature.

B. The **Pigeon Street Neighborhood Center District (PS-NC)** is a neighborhood mixed use district providing goods, services and employment opportunities to residents of the Pigeon Street area and surrounding neighborhoods. The location for a number of significant community facilities, this center needs to continue to develop in an attractive manner, retaining the pedestrian scale of existing development and respecting the history of the community. The Pigeon Street Neighborhood Center should be the hub of the community, and care must be taken as to not allow Highway 276 to become a dividing line in the community. In order to accomplish this, the buildings on both sides will need to be well articulated and close to the street, development will need to provide high quality pedestrian amenities and streetscapes and the traffic should be calmed, managed and predictable.

C. The **Raccoon Creek Neighborhood Center District (RC-NC)** is a small neighborhood center that functions as a gathering place for those residing in the rural and neighborhood districts found in East Waynesville. A highly mixed-use district, this area will develop into a small scale, pedestrian friendly setting with design criteria supporting such development. The creation of an inviting streetscape and pedestrian connections are important — both within the center and to adjoining neighborhoods. Efforts to calm and manage the traffic at the center will be important in this busy area as will the sharing of parking and the development of "park and walk" amenities. As this is at an entrance to Waynesville, architectural and site design should be of the highest quality.

2.3.6 Business Districts (BD) Purpose and Intent.

A. As the civic and cultural center for the town, the **Central Business District (CBD)** is designed to preserve Downtown Waynesville as the primary civic, retail, office, institutional, cultural and entertainment center of the community. Expansion of what has been known as the Central Business District area into Frog Level will secure the relationship of the two areas and encourage the further redevelopment of Frog Level, including the development of a "town square" in the area. Building design, parking and transportation improvements in the Central Business District should focus on the comfort and enjoyment of the pedestrian while promoting the development

of a well-balanced transportation system, including the reinstitution of the old train depot in Frog Level. Residential development in the form of multi-family development and dwelling units in the second floor of buildings is strongly encouraged. Infill opportunities and high density development, respecting the historic fabric of the area are envisioned. Public parking areas are recommended as opposed to the generation of private parking facilities.

B. The **Hazelwood Business District (H-BD)** is a small scale center for business, retail and institutional activity serving the residents of Hazelwood, Plott Creek, Eagles Nest and other surrounding neighborhoods. A broad mixture of uses is permitted, however, development in the future must be sensitive in design and provide for a high level of pedestrian safety and comfort. The large undeveloped tracts of land in this district must be well connected both to the neighborhood and the center as they develop. On-street parking is permitted and encouraged on many streets. Articulation in this area should occur at the scale of the pedestrian with buildings built at the scale of a neighborhood center. Connections among properties within this district and to surrounding districts are very important.

C. The **South Main Street Business District (SM-BD)** is a densely developed area that has and will continue to contain a broad mix of land uses. The proximity of this district to so many neighborhoods (Allens Creek, Hazelwood, Country Club, Saunook and Old Balsam) and the variety of services provided here make pedestrian amenities and efficient vehicular movement critical. To help alleviate some of the traffic along the South Main corridor, the existing road network on the west side of this district needs to be continued with rear access drives created as development takes place to the east. Limitations on curb cuts, the institution of traffic calming measures, the prohibition of parking backing on to the street and the planting of street trees will enhance both the driving conditions and walkability of this area. A high priority shall be given to a high quality streetscape along South Main Street. The scale of development in the district will be flexible but articulated to the scale of the pedestrian. Housing mixed in with other uses is strongly encouraged.

2.3.7 Regional Center (RC) Districts Purpose and Intent.

A. The **Dellwood/Junaluska Regional Center District (DJ-RC)** will develop in the future into a hub for retail, service and employment uses serving Waynesville and the region. It is envisioned that such uses be concentrated here in order to limit sprawling strip commercial development in the area. The vision for the district is that of a well-defined area, but one designed to accommodate large-scale development. Development should encourage the intermixture of uses and provide for residential uses in addition to those uses heavily dependent on the automobile. Transportation improvements made in this district will form a network of roads and pedestrian ways and provide accommodations for all modes of travel. An improved Russ Avenue with a landscaped median should enhance the traffic situation in the area. Rear accessways connecting adjacent development shall be required to provide access between development supplementary to the public streets. The outdoor auditorium at Lake Junaluska will serve as the town center for this area.

B. The **Hyatt Creek Regional Center District (HC-RC)** will develop as a mixed use center containing retail, service and employment uses to serve Waynesville and the region. Although conveniently located off a major highway exit, development in this district, while accommodating uses to serve those in a wide area, must be developed with sensitivity to the surrounding rural setting. Standards for development include a dense tree canopy requirement, a high impervious surface ratio, and measures to protect creeks and drainage areas. Road improvements should be limited to projects that improve the road network and provide traffic calming measures while not destroying the narrow, rural nature of the road system. Large-scale development can be

accommodated here with such development encouraged to contain a mix of uses. Housing mixed in with other uses is strongly encouraged.

C. The **Russ Avenue Regional Center District (RA-RC)** is a gateway for the community and often defines the first image a visitor has of the town. This district shall be a setting for high intensity land uses addressing the needs of the Waynesville community and surrounding areas. The Russ Avenue Town Center is envisioned as supporting dense development options due to the ample infrastructure in place and the proximity to downtown and the other municipalities in the county. The past emphasis in the Russ Avenue area on automobile traffic only shall be reduced by changing the nature of the district to make the area comfortable for other modes of transit including pedestrian, bicycle and mass transportation options. Central to this transformation is the redesign of Russ Avenue — turning the existing middle lane into a tree-lined landscaped median. The standards for future development along this corridor will also be important to this transformation, incorporating principles designed to manage access along Russ Avenue. The development of an accessway connecting the rear portions of lots fronting on Russ Avenue will further reduce traffic congestion along the Russ Avenue corridor. Building development in the area is designed to create a comfortable streetscape and public realm by bringing buildings closer to the street, providing sidewalks and street trees and providing access between development and public areas. The mixture of residential and commercial uses is encouraged. Development sensitive to the appearance of the corridor is essential within this district. The highway bridge forms a gateway into the area (and the town) and any future designs should be sensitive to this fact.

2.3.8 Commercial Industrial Districts Purpose and Intent.

A. The **Commercial Industrial District (CI)** is an area designed to accommodate research and development, industrial and manufacturing uses, administrative facilities and limited supporting commercial services. While a broad mixture of uses is permitted, the principal focus in this area shall be on industrial development. High design and performance standards will be important for future development as this district is highly visible not only from a usage standpoint but also because of its location at one of the major entrances into Waynesville. Connectivity within the district is required to create an industrial campus feel within this area.

(Ord. No. 04-16 , 6-14-2016)

2.4 Dimensional Standards by District.

2.4.1 Table of Dimensional Standards by Residential District.

Standard	Residential—Low Density (RL)	Residential—Med. Density (RM)	Neighborhood Residential (NR)	Urban Residential (UR)
1. Applicable Districts	CC-RL, EN-RL, FC-RL, HT-RL	CP-RM, D-RM, HM-RM, SW-RM	AC-NR, LL-NR, MS-NR, N-NR, PS-NR, PC-NR, RC-NR, SS-NR, WS-NR	EW-UR, H-UR HM-UR
2. Development Standards				
a. Density (max base)	6 units/acre	8 units/acre	10 units/acre	16 units/acre
b. Density (max with SUP)	12 units/acre	12 units/acre	16 units/acre	24 units/acre
c. Civic Space (min) per CH 7	Refer to Section 7.3	Refer to Section 7.3	Refer to Section 7.3	Refer to Section 7.3
3. Lot Standards				
a. Lot Area—House	½ acre	¼ acre	⅛acre	⅛acre
b. Lot Area—All bldg. types with rear vehicular access	Subject to density	Subject to density	Subject to density	Subject to density
c. Lot Width (min)— With rear vehicular access	60 ft. n/a	50 ft. 16 ft.	50 ft. 16 ft.	50 ft. 16 ft.
d. Frontage at Front Setback	n/a	n/a	n/a	n/a
e. Pervious Surface (min)	20%	20%	10%	10%
4. Building Setback (min)				
a. Principal Front[1]	20 ft.	10 ft.	10 ft.	10 ft.
b. Street Side/Secondary Front[1]	20 ft.	5 ft.	5 ft.	5 ft.
c. Side (from adjacent lot)	10 ft.	10 ft.	10 ft.	10 ft.
d. Setback Between Bldgs.	15 ft. (10 ft.)	6 ft.	6 ft.	6 ft.
e. Rear	20 ft.	6 ft.	6 ft.	6 ft.
5. Accessory Structure Setback				
a. Side	5 ft.	5 ft.	5 ft.	5 ft.
b. Rear	5 ft.	5 ft.	5 ft.	5 ft.
c. Other Standards	See Section 4.5.3	See Section 4.5.3	See Section 4.5.3	See Section 4.5.3
6. Building Height (in Stories)				
a. Principal Building (max)	3 stories	3 stories	3 stories	3 stories
b. Accessory Structure (max)	2 stories	2 stories	2 stories	2 stories
7. Outdoor Storage				
a. Residential Uses	Permitted in all districts[2]	Permitted in all districts[2]	Permitted in all districts[2]	Permitted in all districts[2]
b. Nonresidential Uses	Not permitted	Not permitted	Not permitted	Not permitted

[1] Where no right-of-way exists or if the right-of-way is only inclusive of the street pavement add 10 ft. See also 4.3.1.A.3.

[2] Customary storage as an accessory to residential use of the property.

[3] A maximum of 60' in Building Height from highest adjacent grade to highest point on a roof.

2.4.2 Table of Dimensional Standards by Mixed-Use/Non-Residential District

Standard	Neighborhood Center (NC)	Business District (BD)	Regional Center (RC)	Commercial Industrial (CI)
1. Applicable Districts	NM-NC, PS-NC, RC-NC	CBD, H-BD , SM-BD	DJ-RC, HC-RC, RA-RC	CI
2. Development Standards				
a. Density (max base)	None	None	None	None
b. Civic Space (min) per CH 7	Refer to Section 7.3. Applies to residential units only.	Exempt	Refer to Section 7.3. Applies to residential units only.	Exempt
c. Building Footprint (Max)	8,000 s.f. (may exceed with an SUP/CD)	None	None	None
3. Lot Standards				
a. Lot Area	None	None	None	None
b. Lot Width	None	None	None	None
c. Frontage at Front Setback	n/a	100%	n/a	n/a
d. Pervious Surface (min)	n/a	n/a	n/a	20%
4. Building Disposition				
a. Principal Front Setback	0 ft. (min.)—20 ft. (max.) (10 ft. min. from fronting thoroughfare)*	0 ft. (min.)—10 ft. (max.)	0 ft. (min.) (10 ft. min. from fronting thoroughfare)	5 ft.
b. Street Side/Secondary Front Setback	0 ft. (min.)—20 ft. (max.) (10 ft. min. from fronting thoroughfare)*	0 ft. (min.)—10 ft. (max.)	0 ft. (min.) (10 ft. min. from fronting thoroughfare)	5 ft.
c. Side Setback (from adjacent lot)	0 ft.	0 ft.	10 ft.	5 ft.
d. Setback Between Bldgs	0 ft.	0 ft.	6 ft.	n/a
e. Rear Setback	5 ft.	20 ft.	6 ft.	5 ft.
5. Accessory Structure Setback				
a. Side	0 ft.	5 ft.	5 ft.	5 ft.
b. Rear	0 ft.	5 ft.	5 ft.	5 ft.
c. Other Standards	See Section 4.5.	See Section 4.5	See Section 4.5	See Section 4.5
6. Building Height (in Stories)				
a. Principal Building (max)	3 stories	3 stories/4—5 stories (CBD)	4—5 stories	3 stories
b. Accessory Structure (max)	2 stories	2 stories	2 stories	2 stories
7. Outdoor Storage				
a. Residential Uses	Permitted in all districts**	Permitted in all districts**	Permitted in all districts**	Permitted in all districts**
b. Nonresidential Uses	Subject to Type A screening	Subject to Type A screening	Subject to Type B screening	Subject to Type C screening

(Ord. No. 04-16 , 6-14-2016; Ord. No. O-02-18 , § 1, 3-13-2018; Ord. No. O-26-18 , § 1, 11-27-2018; Ord. No. O-03-19 , Pt. 2, 1-22-2019, Ord. No. O-22-24)

* *Exception:* Where parking is permitted in the front yard per section 9.3, the maximum setback shall not be applicable.

** Customary storage as an accessory to residential use of the property.

2.5 Use Categories and Interpretation of Uses.

2.5.1 Use Categories.

All uses permitted in this Ordinance have been divided into nine general categories and are generally defined as follows:

A. **Residential:** Premises available for long-term human habitation by means of ownership and rental, but excluding short-term leasing or rental of less than a month's duration.

B. **Lodging:** Premises available for short-term human habitation, including daily and weekly rental.

C. **Office/Service:** Premises available for the transaction of general business and the provision of services, but excluding retail sales and manufacturing, except as a minority component.

D. **Commercial:** Premises available for the commercial sale of merchandise, prepared foods, and food and drink consumption, but excluding manufacturing.

E. **Entertainment/Recreation:** Premises for the gathering of people for purposes such as arts and culture, amusement, and recreation.

F. **Civic/Institutional:** Premises available for organizations dedicated to religion, education, government, social service, health care, and other similar functions.

G. **Manufacturing/Wholesale/Storage:** Premises available for the creation, assemblage, storage, and repair of items including their wholesale or retail sale.

H. **Agricultural:** Premises for growing crops, raising animals, harvesting timber, and harvesting fish and other animals from a farm, ranch or their natural habitat and all related functions.

I. **Infrastructure:** Uses and structures dedicated to transportation, communication, information, and utilities.

2.5.2 Interpretation of Use Matrices.

A. **Permitted/Prohibited Uses:** Uses not listed as permitted (P); permitted with additional standards (PS); or requiring a special use permit (SUP) are presumed to be prohibited from the applicable zoning district.

B. **Uses Not Listed:** In the event that a particular use is not listed in the Use Matrix, and such use is not listed as a prohibited use and is not otherwise prohibited by law, the Administrator shall determine whether a materially similar use exists in this Chapter. Should the Administrator determine that a materially similar use does exist, the regulations governing that use shall apply to the particular use not listed and the Administrator's decision shall be recorded in writing. Should the Administrator determine that a materially similar use does not exist, this Chapter may be amended to establish a specific listing for the use in question.

C. **Materially Similar Uses:** The Administrator may determine that a use is materially similar if:

1. The use is listed as within the same Structure or Function classification as the use specifically enumerated in the Use Matrix, as determined by the Land-Based Classification Standards ("LBCS") of the American Planning Association [Reference: http://www.planning.org/lbcs/index.html]. The use shall be considered materially similar if it falls within the same LBCS classification and meets the requirements of subsection ii below.

2. The proposed use shall not generate average daily trips exceeding other similar uses proposed in the zoning district by more than 10%, as determined by the Institute of Transportation Engineers, Trip Generation (most recent edition)(the "ITE Manual"), which

document is hereby incorporated by this reference. If the trip generation is not listed in the ITE Manual, then the use shall be considered materially similar to the use that most closely approximates the proposed use. The Administrator may also refer to similar local traffic studies.

D. **Rules of Construction:** In order to assist in interpretation of the Use Matrix, the LBCS numbers, where applicable, are enumerated in Chapter 18, Definitions. In interpreting the Use Matrix, the following rules of construction shall apply:

1. If a use is listed for a specific classification, while a more general classification within the same industry classification is also listed for another use, the specific classification governs. A specific use is not permitted in all districts where uses assigned to the general classification are permitted simply because they share a similar LBCS code number. The numbers increase as the use classifications get more specific.

2. Some uses are listed separately, but fall within the same LBCS classification. The uses within one such classification are not permitted in other zoning districts simply because they fall within the same LBCS classification.

2.5.3 Table of Permitted Uses.

See Insert.

2.5.3 Table of Permitted Uses (rev. 2012, 2016,2017, 2018, 2020, 2022, 2023):

For uses permitted in the Railroad Overlay District (RR-O), see Section 2.6 Overlay Districts of the LDS.

	Residential-Low Density Districts (RL)				Residential-Medium Density Districts (RM)				Neighborhood Residential (NR)									Urban Residential (UR)			Neighborhood Center (NC)			Business District (BD)			Regional Center (RC)			Commercial Industrial (CI)
USE TYPES	**CC-RL**	**EN-RL**	**FC-RL**	**HT-RL**	**CP-RM**	**D-RM**	**HM-RM**	**SW-RM**	**AC-NR**	**LL-NR**	**MS-NR**	**N-NR**	**PS-NR**	**PC-NR**	**RC-NR[1]**	**SS-NR**	**WS-NR**	**EW-UR**	**H-UR[2]**	**HM-UR**	**NM-NC**	**PS-NC**	**RC-NC**	**CBD**	**H-BD**	**SM-BD**	**DJ-RC**	**HC-RC**	**RA-RC**	**CI**
RESIDENTIAL																														
Dwelling-Single Family	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-
Dwelling-Two Family	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-
Dwelling-Townhome	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-
Dwelling – Cottage	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-
Dwelling-Multifamily	-	-	-	-	P	P	-	P	P	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	P	P	P	P	P	-
Dwelling-Accessory	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	P	P	P	P	P	P	P	P	P	-
Family Care Home (6 or fewer residents)	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
Halfway Houses	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
Home Occupation	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	P	P	P	P	P	P	P	P	P	-
Live-Work Units	PL/PS	-	-	-	-	PL/PS	-	PL/PS	-	PL/PS	PL	PL/PS	-	-	PL/PS	-	PL/PS	CL/PS/PL	PL/PS	CL/PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
Manufactured Home Parks	-	-	-	-	-	-	-	-	SUP	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Manufactured Housing	-	-	PS	PS	PS	PL/PS	-	PS	PS	-	-	PS	-	-	PS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Residential Care Facilities (More than 6 residents	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	P	P	P	P	P	P	P	P	P	-
LODGING																														
Bed and Breakfast Homes (Up to 4 Rooms)	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	P	P	P	P	P	P	P	P	P	-
Boarding House	-	-	PS	-	PS	-	-	PS	PS	PS	PS	-	-	-	-	-	PS	-	-	-	P	P	P	P	P	P	P	P	P	-
Inn (Up to 20/30 Rooms)	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	P	P	P	P	P	P	P	P	P	-
Hotel/Motels (More than 30 Rooms)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-
OFFICE/SERVICE																														
Animal Services	PL	-	PL	-	-	PL	-	-	-	-	-	-	-	-	-	-	PL	-	-	-	P	P	P	P	P	P	P	P	P	P
ATM	PL	-	-	-	-	PL	-	PL	-	PL	PL	PL	-	-	PL	-	PL	-	-	-	P	P	P	P	P	P	P	P	P	-
Banks, Credit Unions, Financial Services	PL	-	-	-	-	PL	-	PL	-	PL	PL	PL	-	-	PL	-	PL	-	-	-	P	P	P	P	P	P	P	P	P	-
Business Support Services	PL	-	-	-	-	PL	-	PL	-	PL	-	-	-	-	PL	-	PL	PC/PL	-	PC	P	P	P	P	P	P	P	P	P	P
Child/Adult Day Care Home (8 or less persons)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-
Child/Adult Day Care Center (More than 8 persons)	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	P	P	P	P	P	P	P	P	P	-
Civic/Social/Fraternal Organization	-	-	-	-	-	-	PS	-	PS	PS	PS	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P
Construction & Maintenance Services	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P
Drive Thru Service	PL/PS	-	-	-	-	PL/PS	-	-	-	PL/PS	-	-	-	-	-	-	PL/PS	-	-	-	PS	PS	PS	SUP	SUP	SUP	PS	PS	PS	P

P Permitted

PC Permitted on corner lots only

PL Permitted in Designated Locations

PS Permitted subject to Additional Standards in Ch 3

SUP Special Use Permit Required (See Ch 3 and Ch 15)

CD Conditional District (See Ch 3 and Ch 15)

[-] Not Permitted

[1] Raccoon Creek Neighborhood Residential Mixed Use Overlay -2 (RC-NR-MXO-2): in addition to permitted uses in the underlying RC-NR district, “Government Services” are also permitted. No other uses noted as PL are allowed for this overlay.

[2] Hazelwood Urban Residential (H-UR) has three mixed-use overlay (MXO) districts with permitted uses as follows:

H-UR-MXO: all uses of the underlying H-UR district AND uses noted as PL

H-UR-MXO-2: all uses of the underlying H-UR district AND uses noted as PL, EXCEPT “General Commercial Less than 100,000 square feet.”

H-UR-MXO-3: all uses allowed in the H-UR district, and ONLY “Professional Services.” No other uses noted as PL are allowed for this overlay.

	Residential-Low Density Districts (RL)				Residential-Medium Density Districts (RM)				Neighborhood Residential (NR)									Urban Residential (UR)			Neighborhood Center (NC)			Business District (BD)			Regional Center (RC)			Commercial Industrial (CI)
USE TYPES	**CC-RL**	**EN-RL**	**FC-RL**	**HT-RL**	**CP-RM**	**D-RM**	**HM-RM**	**SW-RM**	**AC-NR**	**LL-NR**	**MS-NR**	**N-NR**	**PS-NR**	**PC-NR**	**RC-NR[1]**	**SS-NR**	**WS-NR**	**EW-UR**	**H-UR[2]**	**HM-UR**	**NM-NC**	**PS-NC**	**RC-NC**	**CBD**	**H-BD**	**SM-BD**	**DJ-RC**	**HC-RC**	**RA-RC**	**CI**
Dry Cleaning & Laundry Services	-	-	-	-	-	-	-	-	-	PL	PL	PL	-	-	PL	-	PL	-	-	-	P	P	P	P	P	P	P	P	P	P
Funeral Homes	PL	-	-	-	-	PL	-	PL	-	PL	-	-	-	-	PL	-	PL	-	-	-	P	P	P	P	P	P	P	P	P	P
Government Services	-	-	P	-	-	PL	PC	PL	-	PL	-	PL	-	-	PL	-	PL	-	PL	PL	P	P	P	P	P	P	P	P	P	P
Kennels	-	PS	-	-	-	-	PS	-	PS	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Medical Outpatient Care Center	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-
Personal Services	PL	-	PL	-	-	PL	-	PL	PC	PL	PL	PL	-	-	PL	-	PL	PL	PL	PL	P	P	P	P	P	P	P	P	P	-
Post Office	-	-	-	-	-	-	PC	PL	-	PL	-	PL	-	-	-	-	PL	-	-	-	P	P	P	P	P	P	P	P	P	-
Professional Services	PL	-	PL	-	-	PL	-	PL	PC	PL	PL/PC	PL	-	-	PL	-	PL	PC/PL	PL	P	P	P	P	P	P	P	P	P	P	-
Studio – Art, dance, martial arts, music	P	P	P	P	-	P	P	PL	P	PL	P	PL	-	-	P	-	PL	P	PL	P	P	P	P	P	P	P	P	P	P	-
COMMERCIAL																														
Adult Establishment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS
Alcoholic Beverage Sales Store	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-
Auto Parts Sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	P	P	P	P
Bar/Tavern/Night Club	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
Drive-Thru Commercial	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	P	P	P	-
Cryptocurrency Mining Facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Data Center Facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Event Space	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Gas/Fueling Station	-	-	-	-	-	-	-	-	PC/PS	-	-	-	-	-	PL/PS	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
General Commercial – Less than 100,000 sf	-	-	-	-	-	-	-	-	-	-	PL	PL	-	-	PL	-	PL	-	PL	-	P	P	P	P	P	P	P	P	P	-
General Commercial – Greater than 100,000 sf	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP
Neighborhood Commercial (as defined in section 17.30 adopted 8/2018)	-	-	-	-	-	PL	-	PL	-	PL	-	PL	-	-	PL	-	PL	PL	PL	-	-	-	-	-	-	-	-	-	-	-
Neighborhood Restaurant (as defined in section 17.30 adopted 8/2018)	-	-	-	-	-	PL	-	PL	-	PL	-	PL	-	-	PL	-	PL	PL	PL	-	-	-	-	-	-	-	-	-	-	-
Outside Sales	-	-	-	-	-	-	-	-	-	-	-	PL	-	-	PL	-	PL	-	-	-	P	P	P	P	P	P	P	P	P	-
Outside Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	P
Pawnshops	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-
Restaurant	-	-	-	-	-	-	-	-	-	-	PL	PL	-	-	PL	-	PL	-	-	-	P	P	P	P	P	P	P	P	P	-
Vehicle & Heavy Equipment Sales/Rental	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	-	-	PS	PS	PS	PS	PS	PS
Vehicle Services –Minor Maintenance/Repair/Wash	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Vehicle Services – Major Repair/Body Work	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS
Video gaming parlor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS/SUP	PS/SUP	PS/SUP	-
ENTERTAINMENT/ RECREATION																														
Amusements, Indoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-
Amusements, Outdoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-
Billiard/Pool Hall	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	-
Campground	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Cultural or Community Facility	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-
Golf Course/Country Club	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	--	-	-	-

P Permitted

PC Permitted on corner lots only

PL Permitted in Designated Locations

PS Permitted subject to Additional Standards in Ch 3

SUP Special Use Permit Required (See Ch 3 and Ch 15)

CD Conditional District (See Ch 3 and Ch 15)

[-] Not Permitted

	Residential-Low Density Districts (RL)				Residential-Medium Density Districts (RM)				Neighborhood Residential (NR)									Urban Residential (UR)			Neighborhood Center (NC)			Business District (BD)			Regional Center (RC)			Commercial Industrial (CI)
USE TYPES	**CC-RL**	**EN-RL**	**FC-RL**	**HT-RL**	**CP-RM**	**D-RM**	**HM-RM**	**SW-RM**	**AC-NR**	**LL-NR**	**MS-NR**	**N-NR**	**PS-NR**	**PC-NR**	**RC-NR[1]**	**SS-NR**	**WS-NR**	**EW-UR**	**H-UR[2]**	**HM-UR**	**NM-NC**	**PS-NC**	**RC-NC**	**CBD**	**H-BD**	**SM-BD**	**DJ-RC**	**HC-RC**	**RA-RC**	**CI**
Racetrack	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Recreation Facilities, Indoor	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	P	P	P	P	P	P	P	P	P	-
Recreation Facilities, Outdoor	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	P	P	P	P	P	P	P	P	P	-
Recreational Vehicle Park	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Riding Stables	PS	PS	PS	PS	PS	PS	PS	PS	PS	-	-	PS	PS	PS	PS	-	-	PS	-	PS	-	-	-	-	-	-	PS	PS	-	-
Shooting Range, Outdoor	-	-	-	-	-	-	SUP	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Theaters, Drive-In	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	-	P	P	P
Theater, Indoor	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-
Theater, Outdoor	PS	PS	-	PS	-	PS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-
CIVIC/INSTITUTIONAL																														
Cemetery	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-
College/University	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P
Correctional Institution	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SUP	-	SUP	-	-	-	-
Hospital	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-
Religious Institution	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-
Schools – Elementary & Secondary	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	P	P	P	P	P	P	P	P	P	-
Schools – Vocational/Technical	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P
MANUFACTURING/ WHOLESALE/STORAGE																														
Freight Hauling/Truck Terminals	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SUP	SUP	SUP	P
Landfill	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P
Laundry, Dry cleaning Plant	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Manufacturing, Light	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P
Manufacturing, Neighborhood	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P
Manufacturing, Heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P
Materials Recovery & Waste Transfer Facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P
Metal Products Fabrication, Machine or Welding Shop	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P
Mini-Warehouses	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SUP	SUP	SUP	SUP
Recycling Collection Stations	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Storage - Outdoor Storage Yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	PS
Storage -Warehouse, Indoor Storage	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P
Wholesaling and Distribution	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P
AGRICULTURAL																														
Animal Production	PS	-	PS	PS	-	PS	PS	PS	PS	-	-	PS	PS	PS	PS	-	-	-	-	-	-	-	-	-	-	-	-	PS	-	-
Animal Production Support Services	-	-	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	P	-	-	
Crop Production & Nurseries	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Crop Production Support Services	-	-	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	-	-	P	-	-	
Feed Lots	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Fish Hatcheries	-	-	-	-	-	-	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-
Forestry & Logging	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Forestry Support Services	-	-	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P
Produce Stands in Conjunction with Crop Production	-	P	P	P	-	P	-	P	P	--	-	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-

P Permitted

PC Permitted on corner lots only

PL Permitted in Designated Locations

PS Permitted subject to Additional Standards in Ch 3

SUP Special Use Permit Required (See Ch 3 and Ch 15)

CD Conditional District (See Ch 3 and Ch 15)

[-] Not Permitted

	Residential-Low Density Districts (RL)				Residential-Medium Density Districts (RM)				Neighborhood Residential (NR)									Urban Residential (UR)			Neighborhood Center (NC)			Business District (BD)			Regional Center (RC)			Commercial Industrial (CI)
USE TYPES	**CC-RL**	**EN-RL**	**FC-RL**	**HT-RL**	**CP-RM**	**D-RM**	**HM-RM**	**SW-RM**	**AC-NR**	**LL-NR**	**MS-NR**	**N-NR**	**PS-NR**	**PC-NR**	**RC-NR[1]**	**SS-NR**	**WS-NR**	**EW-UR**	**H-UR[2]**	**HM-UR**	**NM-NC**	**PS-NC**	**RC-NC**	**CBD**	**H-BD**	**SM-BD**	**DJ-RC**	**HC-RC**	**RA-RC**	**CI**
Swine Farms	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
INFRASTRUCTURE																														
Wireless Communications Facility, Micro	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS
Wireless Communications Facility, Mini	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-	PS	PS	PS	PS	PS	PS
Wireless Communications Facility, Macro	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	-	PS	PS	PS	PS	PS	PS
Monopole Wireless Communications Tower	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	-	SUP	SUP	SUP	SUP	SUP	SUP
Parking Lot/Structure – Principal use	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	-
Public Transportation Facilities	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P
Radio and Television Broadcasting Facilities (Except Towers)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P
Utilities – Class 1	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Utilities – Class 2	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Utilities – Class 3	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	SUP	SUP	SUP	P

P Permitted

PC Permitted on corner lots only

PL Permitted in Designated Locations

PS Permitted subject to Additional Standards in Ch 3

SUP Special Use Permit Required (See Ch 3 and Ch 15)

CD Conditional District (See Ch 3 and Ch 15)

[-] Not Permitted

(Ord. No. 04-16 , 6-14-2016; Ord. No. O-22-17 , § 2, 11-28-2017; Ord. No. O-07-18 , 5-22-2018; Ord. No. O-14-18 , § 1, 8-28-2018; ; Ord. No. O-19-18 , § 2, 10-9-2018; Ord. No. O-21-18 , 11-13-2018; Ord. No. O-28-18 , 11-27-2018; Ord. No. O-20-20 , § 2, 10-27-2020, Ord. No O-40-22, 12-31-2022; Ord. No O-07-23, 02-14-23; Ord. No. O-43-23, 11-14-2023)

2.6 Overlay Districts.

2.6.1 Historic Overlay District.

A. **Purpose:** The Historic Overlay District (HOD) is a zoning overlay district established pursuant to NCGS § 160D-940 and created with the purpose of implementing additional protections and controls on properties and structures located within locally designated Historic Districts as well as to individual Historic Landmarks.

B. **Applicability:** All locally designated Historic Districts and Historic Landmarks shall be a part of the Historic Overlay District.

C. **Development Standards.**

1. **Historic Overlay District—General Requirements.**

a. Development within the historic districts shall meet all requirements of the applicable underlying land development district in addition to those set forth in this section and those set forth in the Appendix and other applicable sections of this chapter.

b. When the provisions of this section and the standards and regulations established for each individual HOD, impose higher standards than are required for that land development district, the provisions of this section and the applicable standards and regulations shall govern.

c. In cases of authentic restoration or reconstruction, where approved by the Historic Preservation Commission, variances shall not be required from the development standards of the underlying land development district. The use of the property must, however, be one which is allowed by this chapter.

2. **Certificate of Appropriateness.**

a. **COA Required:** No exterior feature of any building or other structure in an HOD (including masonry walls, fences, light fixtures, utility structures, steps, pavement, signs, landscape and color or other appurtenant features), shall be erected, altered, restored, moved, or demolished until after an application for a Certificate of Appropriateness has been submitted to and approved by the Historic Preservation Commission. A Certificate of Appropriateness is required to be issued by the Commission prior to the issuance of a building permit or other permit granted for the purposes of constructing, altering, moving or demolishing structures. A Certificate of Appropriateness shall be required whether or not a building or other permit is required.

b. **Procedures:** Section 15.11.

c. **Exterior Features—Scope of Review:** Exterior features shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure. It shall also encompass the kind, texture and color of the building materials, the size and scale of the building and the type, color and style of all windows, doors, light fixtures and important landscape and natural features of the lot on which the building or other structure is located.

d. **Interior Features—Scope of Review:** The jurisdiction of the Historic Preservation Commission over interior spaces shall be limited to specific interior features of architectural, artistic or historical significance in publicly

owned landmarks; and of privately owned landmarks for which consent for interior review has been given by the owners. Such consent of an owner for interior review shall bind future owners and/or successors in title, provided such consent has been filed with the Register of Deeds of Haywood County and indexed appropriately. In these cases, the landmark designation shall specify the interior features to be reviewed and the specific nature of the commission's jurisdiction over the interior.

e. **Normal Maintenance and Repair:** Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in a HOD that does not involve a substantial change in design, material, or outer appearance thereof.

f. **Unsafe or Dangerous Situations:** Nothing in this section shall be construed to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature which an authorized government official certifies in writing to the Historic Preservation Commission is required by the public safety because of an unsafe or dangerous condition.

g. **State Properties:** All of the provisions of this chapter related to historic preservation shall apply to construction, alteration, moving and demolition by the State of North Carolina, its political subdivisions, agencies and instrumentalities, provided however that they shall not apply to the interiors of buildings or structures owned by the State of North Carolina.

3. **Relocation, Demolition:** Any application for a certificate of appropriateness authorizing the relocation, demolition, or destruction of a building or structure within a HOD may not be denied. However, the effective date of such a certificate of appropriateness may be delayed for a period of up to three hundred and sixty-five (365) days from the date of approval of the certificate of appropriateness. During such period the Historic Preservation Commission may negotiate with the property owner and any other parties in an effort to find a means of preserving the building, structure or site.

D. **Permitted Uses:** All uses permitted in the applicable land development district underlying a historic overlay district are permitted in the HOD.

2.6.2 Mixed-Use Overlay District.

A. **Purpose:** The Mixed-Use Overlay District (MX-O) is a zoning overlay district established to permit certain limited mixed-uses within residential neighborhoods.

B. **Applicability:** The frontage of locations or blocks shall be identified on the Land Development Map to permit certain non-residential uses as permitted in the Use Table in Section 2.5.3. Such locations are noted as either PC (permitted on any Corner Lot located at the intersection of two publicly-maintained streets) or PL (Permitted in Designated Locations on the Land Development Map).

2.6.3 Railroad Overlay District.

A. **Purpose:** The Railroad Overlay District (RR-O) is a zoning overlay district created with the purpose of implementing the goals of the 2035 Comprehensive Land Use Plan to encourage redevelopment along the railroad corridor and to create opportunities within the Town of Waynesville’s industrial areas. The goal of the RR-O is to provide more zoning flexibility and promote economic vibrancy of the underutilized areas along the rail tracks.

B. **Development Standards:** all development standards, including but not limited to density, setbacks, height, etc., of the underlying district apply.

C. **Permitted Uses:**

- All the uses allowed in the underlying districts remain exactly as they are noted in the Table of Permitted Uses (See LDS 2.5.3).
- In case of a conflict with the table below, the use as noted for the underlying district in LDS 2.5.3 will prevail (not necessarily the most restrictive).
- Additional uses for RR-O are specified in the table below. If the use is not allowed in the underlying district but is noted in the table below, then it is permitted in RR-O.
- Permitted Uses allowed within the RR-O[1]:

Uses	Railroad Overlay Districts (RR-O)
Dwelling-Single Family	PS
Dwelling- Two Family	P
Dwelling- Townhome	P
Dwelling- Cottage	P
Dwelling-Multifamily	P
Dwelling Accessory	PS
Family Care Home (6 or fewer residents)	PS
Halfway Houses	PS
Home Occupation	PS
Live-Work Units	PS
Manufactured Home Parks	SUP
Manufactured Housing	PS
Residential Care Facilities (more than 6 residents)	P
Hotels/Motels	P
Personal Services	P
Professional Services	P
Event Space	SUP
Neighborhood Commercial	P
Neighborhood Restaurant	P
Vehicle & Heavy Equipment Sales/Rental	PS
Vehicle Services- Major Repair/Body Work	PS
Amusements, Outdoor	P
Billiard/Pool Hall	P
Freight Hauling/Truck Terminals	SUP
Mini-Warehouses	SUP
Storage- Warehouse, Indoor Storage	P
Manufacturing, Light	P
Produce Stands in Conjunction with Crop Production	P
Wireless Communications Facility, Mini	PS
Wireless Communications Facility, Macro	PS

[1] P- Permitted, PS- Permitted subject to additional standards in Chapter 3, SUP- Special Use Permit required (See Chapter 3 and 15).

Monopole Wireless Communications Tower	SUP

2.7 Conditional Districts (CD).

Conditional Districts are districts with conditions voluntarily added by the applicant and approved in a legislative procedure by the Town Council in accordance with G.S. 160D. Conditional Districts provide for orderly and flexible development under the general policies of this Ordinance without the constraints of some of the prescribed standards guiding by-right development. Because Conditional District developments are constructed in a comprehensive manner, they establish their own building, street, block, and lot pattern which may be unique from other surrounding blocks or neighborhoods. This Conditional District may be used in any district but is not intended to relieve hardships that would otherwise be handled using a variance procedure.

2.7.1 Standards for Conditional Districts.

Within a Conditional District (CD), petitioners may place additional requirements or standards onto themselves and their property or ask that certain uses identified in the specific zoning category or provisions in Chapters 2-12 be decreased. It shall be the Town Council's final decision to grant approval or denial of the CD zoning amendment in light of the revised development standards presented in accordance with the procedures of Section 15.15. If no specific request is made by the petitioner to the change in the development standards or if the petition is silent on the point, it shall be understood that the underlying zoning district guidelines and standards shall apply.

In addition to the modification of specific district provisions (except use), the various provisions detailed in Chapters 2-12 may be varied if specifically requested by the petitioner as part of a Conditional District application:

CH	Title	Exception to modifications:
2	District Provisions	Uses permitted may not be added unless the use proposed is not currently defined or contemplated by the Code. Permitted uses may be removed from the petition.
3	Supplemental Use Standards	
4	General Provisions for All Districts	
5	Building and Development Design Standards	
6	Site and Development Infrastructure Improvement Requirements	
7	Civic Space	May substitute required open space for payment-in-lieu. Amount required may not be reduced.
8	Tree Protection, Landscaping and Screening	No further modifications permitted. See Alternate Methods of Compliance.
9	Parking	
10	Lighting	
11	Signs	Signage may exceed the permitted amount by no more than 50 percent.
12	Environmental Conservation Standards	No further modifications permitted. See Alternate Methods of Compliance.

CHAPTER 3 - SUPPLEMENTAL USE STANDARDS

3.1 Applicability.

There are certain uses that exist which may be constructed, continued, and/or expanded provided they meet certain mitigating conditions specific to their design and/or operation. Such conditions ensure compatibility so that different uses may by located in proximity to one another without adverse effects to either. When uses are listed in the Use Matrices in Chapter 2 as Uses Permitted with Additional Standards (PS) or uses requiring Special Use Permits (SUP) they shall comply with the additional criteria set forth in this chapter for that use in addition to other applicable criteria contained in this ordinance.

3.1.2 Uses Permitted with Additional Standards (PS).

A. Permitted uses with special requirements are uses permitted by right, provided that the specific standards set forth in this article are met.

B. The specified standards are intended to insure that these uses fit the vision of the land development districts in which they are permitted, and that these uses are compatible with other development permitted within the districts.

3.1.3 Special Use Permit Applications (SUP).

A. Special Uses are uses which are generally compatible with other land uses permitted in a land development district but which, because of their unique characteristics or potential impacts on the surrounding neighborhood and/or the town as a whole, require individual consideration in their location, design, configuration, and/or operation at the particular location proposed.

B. All Special Uses shall at a minimum meet the standards for the land development district in which they are located and the specific standards set forth in this article for that use.

C. Individual consideration of the use may also call for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location and to ensure protection of the public health, safety and welfare.

D. Approval procedures for Special Use Permits are found in Section 15.10.

3.1.4 Conflict with Other Regulations.

A. If there is a conflict between the standards set forth in this chapter and any other requirements of this ordinance, the standards of this ordinance shall control except as set forth below.

B. The land development district in which a particular use is permitted is controlled by the use listings found for the individual districts. In the event of any inconsistency between this article and the use listings for the districts, the use listings found in Chapter 2 shall control.

3.2 Supplemental Use Standards—Residential.

3.2.1 Dwelling—Accessory.

A. **Number:** Accessory dwellings may only be located on a lot with an existing single-family dwelling. The number of accessory dwellings per lot shall be as specified in Table 4.5.2. Accessory dwellings count toward, and may not exceed, the density of the underlying zoning district.

B. **Other Applicable Laws:** Accessory dwellings must comply with all applicable local, state and federal laws, and building codes.

C. **Placement on the Lot:** The placement of detached accessory dwellings on a lot shall be in accordance with Table 4.5.2.

D. **Yard Requirements:** The accessory dwelling shall meet all yard/setback requirements as established for principal uses within the land development district in which it is located.

E. **Compatibility.**

1. The accessory dwelling shall meet all applicable design standards for the land development district in which it is located in accordance with Chapter 5.

2. The accessory dwelling shall be clearly subordinate in size, height, footprint, and other design elements, to the main structure. Existing accessory structures that are converted or partially converted to accessory dwelling units (ADUs) shall be subordinate to the main structure, as determined by the Administrator.

3. The exterior of the accessory dwelling shall be compatible with the principal residence in terms of color, siding, and roofing appearance.

F. **Campers, Campers, Park Models, Tiny Homes on Wheels, Recreational Vehicles, Etc. Prohibited For Use:** Campers, park models, tiny homes on wheels, travel trailers and recreational vehicles are not permitted for use as an accessory dwelling, unless granted under a temporary housing permit for emergencies. Manufactured housing is allowed as an accessory dwelling only if it is permitted as a use in the underlying zoning district, subject to additional standards and design guidelines in Chapters 3 and 5. Manufactured housing is not allowed as an accessory dwelling in Mixed-Use Overlay Districts except for the westside of the Dellwood Medium Density District and within the Railroad Overlay District

3.2.2 Family Care Home (6 or fewer residents).

Family Care Homes shall be certified by the State of North Carolina—Division of Health Service Regulation.

3.2.3 Halfway Houses.

No such use may be located within a half mile (2,640 feet) of another such use measured as a straight line on a map.

3.2.4 Home Occupation.

A. **General Standards.**

1. The home occupation shall be clearly incidental and secondary to residential occupancy.

2. The use shall be carried on entirely within an enclosed structure on the premises.

3. The home occupation shall be operated by a resident of the dwelling.

4. A maximum of twenty-five (25) percent of the gross floor area of the dwelling unit may be used for the home occupation.

5. A maximum of two (2) full-time equivalent non-residents of the dwelling may be employed on the premises.

B. **Exterior Appearance.**

1. The use shall not change the residential character of the dwelling.

2. Storage of goods and materials associated with the home occupation must be completely within an enclosed structure.

3. Parking must be provided so as not to create hazards or street congestion.

4. Only one (1) vehicle principally used in connection with the home occupation shall be parked or stored on the premises.

5. No display of goods, products, services or other advertising (except permitted signage as set forth in Chapter 11, Signs) shall be visible from outside of the dwelling.

6. No generation of dust, odors, noise, vibration or electrical interference or fluctuation shall be perceptible beyond the property line.

3.2.5 Live-Work Units.

Construction shall meet requirements of the International Residential Code, and the following:

A. Non-residential use areas shall meet accessibility requirements of the North Carolina Accessibility Code (including site access and parking).

B. The maximum total size of Live-Work unit is 3,000 square feet and three stories in height.

C. The work area shall occupy 50% or less of the total unit.

D. The same tenant shall occupy the work area and living area.

3.2.6 Manufactured Homes and Manufactured Home Parks.

A. **See Section 5.9 for Design Guidelines for Manufactured Homes on Individual lots.**

1. In the Dellwood Residential Medium Density District (D-RM), Manufactured Homes on Individual Lots shall only be permitted west of Russ Avenue outside of the Mixed-Use Overlay.

B. **General Manufactured Home Park Requirements.**

1. No manufactured home park shall be approved for a site less than three (3) contiguous acres under single ownership or control, unless the park is divided into separate lots by deed.

2. The maximum allowable density in the manufactured home park shall be eight (8) dwelling units per buildable acre (land area excluding floodways, wetlands, and slope in excess of twenty (20%) percent).

3. The manufactured home park shall be buffered from all adjacent property with a Type C Buffer Yard (8.5.2.C).

4. At least two (2) trees shall be planted (or retained) in the park per dwelling unit. These trees shall be in addition to those required to meet the landscape requirements contained in Chapter 8 Landscaping and consistent with Section 3.2.6.

5. The operator/manager of a manufactured home park shall designate and enforce underpinning of all manufactured homes in the community.

6. All streets within a manufactured home park shall comply with the standards set forth in Chapter 6.

7. An acceptable plan for the collection and disposal of garbage shall be included in the site plan for the manufactured home park.

8. Civic space shall be provided in accordance with Chapter 7.

9. Individual units shall be located and set so that water does not collect under units.

C. **Manufactured Home Space Requirements.**

1. Each manufactured home shall be located at least twenty (20) feet from any other manufactured home or structure within the park, excluding storage buildings for use with the individual home. Each home shall be at least thirty-five (35) feet from any property line. If the property abuts a public street, the setback shall be forty (40) feet. Each home shall be setback at least ten (10) feet from the edge of any traveled way within the park.

2. There shall be front and rear steps and/or decks for each manufactured home and a deck/entry transition area at the front door of a minimum of 6' by 6'.

3. Each manufactured home space shall have a permanent site number sign that is clearly visible from the street running in front of the home.

4. A minimum of two (2) parking spaces shall be provided for each manufactured home.

5. A visitor parking area, consisting of one (1) space for each five (5) manufactured home units located within the park, shall be provided. This parking area does not have to be paved.

3.2.7 Residential Care Facilities (More than 6 residents).

A. **Buffering:** Residential care facilities must be buffered from adjacent residentially zoned property with a Type C buffer in accordance with Section 8.5.2.C.

B. **Licensing:** Prior to the submission of an application for a certificate of land development standards compliance, an owner/operator of a residential care facility shall have received a license from the State of North Carolina for such a facility.

C. **Number of Units:** Unless located and having access on a Main Street or higher order street, no residential care facility shall contain more than fifteen (15) units.

D. **Maximum Density:** The maximum gross density for shall not exceed the number of units per acre requirement for the district in which the development is located. Each dwelling in a duplex, townhouse, garden apartment, apartment building, and every four (4) beds in a residential personal care unit and each six (6) beds in a skilled care nursing facility shall constitute one (1) dwelling unit for the purposes of calculating the density.

E. **Development Standards.**

1. To the extent practicable, the community shall provide access connectivity (vehicular and pedestrian) to adjacent neighborhoods.

2. All utilities shall be placed underground.

3. Where a community adjoins a residential district, with or without an intervening street or alley, to the maximum extent reasonably practicable, residential uses within the community shall be located adjacent to the residential district, and non-residential uses and signs shall be located and oriented away from the residential district.

F. **Accessory Uses:** The following accessory uses are permitted: congregate dining facilities, recreational and social facilities, health care facilities and similar service, gift shops, snack shops, banks and barber/beauty shops for residents.

(Ord. No. O-21-17 , § 1, 11-28-2017; Ord. No. O-04-18 , 4-10-2018; Ord. No. O-25-18 , § 1, 11-27-2018; Ord. No. O-27-18 , 11-27-2018)

3.3 Supplemental Use Standards—Lodging.

3.3.1 Bed and Breakfast Homes (Up to 4 rooms).

A. **Owners/Employees.**

1. The owners or managers of a bed and breakfast home shall reside on the premises.
2. No more than two (2) persons not in residence on the premises shall be employed in connection with the bed and breakfast home.

B. **Structure/Rooms.**

1. A structure used for a bed and breakfast home shall appear residential in nature.
2. The maximum number of rented rooms shall not exceed four (4) rooms.
3. No cooking facilities shall be provided in the guest rooms.

C. **Activities.**

1. Activities and functions at the bed and breakfast home shall be provided for overnight guests only and shall be limited to breakfast and an afternoon and/or evening refreshment.
2. In addition to the functions for overnight guests, the bed and breakfast home may have four (4) private parties, receptions or similar contracted activities per year. A temporary use permit (see Section 15.6) must be obtained for each such event. In no way is this provision meant to restrict the owner/manager's use of their home for personal entertaining.

3.3.2 Boarding House.

A. **Owner/Manager:** The owners or manager of the boarding house shall reside on the premises.

B. **Structure/Rooms:**

1. A structure used for a boarding house shall appear residential in nature.
2. No cooking facilities shall be provided in the guest rooms.

C. **Parking:** Parking shall be buffered completely from all adjacent properties and the street as provided in Section 8.6.1.

3.3.3 Inn (Up to 30 Rooms).

A. **Development Standards:** Inns shall be buffered from any adjoining residentially zoned property in accordance with Section 8.4.

B. **Owners/Employee:** An owner/manager of an inn shall reside on the property.

C. **Parcel Size:** Each inn constructed in a residential district shall be on a lot which is no less than five (5) acres in size. The size limit is waived if the principal building is on the National Register of Historic Places either individually or as a contributing building within a district, is designated as a

Local Historic Landmark by the Town Council, or is on the inventory of historic properties maintained by the Historic Preservation Commission.

D. **Number of Rooms:** Inns shall provide no more than thirty (30) rooms for lodging; however, inns on properties of less than five (5) acres shall provide no more than twenty (20) rooms for lodging.

E. **Activities:**

1. Special Events: Inns may have parties, receptions, or other similar contracted activity provided that these take place on no more than twelve (12) days within a one (1) year period; and that such events take place on no more than three (3) consecutive days. A temporary use permit (see Section 15.4) must be obtained for each such event.

2. Meals Open to non-Overnight Guests: In addition to the special events above, the inn may also have up to one (1) meal per month open to non-overnight guests.

3. Personal, non-commercial use of the inn by the resident owner or manager is not subject to the limitations of this section.

F. **Open Space:** Every inn located in a residential district must maintain at least fifty percent (50%) of the development for common open space.

G. **Building Setbacks:** All buildings shall be located no closer than fifty (50) feet from the rear and side property lines.

3.4 Supplemental Use Standards—Office/Service.

3.4.1 Child/Adult Day Care Center (More than 8 Persons).

A. **Compliance with Regulations:**

1. All state and local regulations must be met.

2. A copy of the N.C. State license issued to the facility shall be available for inspection.

B. **Access:** Adequate access to and from the site, as well as adequate off-street space must be provided for the pickup and discharge of children or adults.

C. **Buffering:** Child and adult care centers shall be buffered from adjoining residentially zoned property with a Type C buffer in accordance with Section 8.4.2.C.

3.4.2 Civic/Social/Fraternal Organizations.

Civic, social and fraternal organizations shall be buffered from adjoining residentially zoned property with a Type C buffer in accordance with Section 8.4.2.C.

3.4.3 Drive Thru Service.

A. No drive-thru window or building may be located within 100 feet of the building of any existing residence.

B. Drive-thru windows and services shall be located and accessed only at the rear of a building. If such a facility is rendered impractical due to extreme topography then it may be located to the side. For properties that front along Main Street are excluded from this topographic exception. (CBD only)

C. Drive-thru windows and services shall be located and accessed only at the side or rear of a building. (All other permitted Districts)

D. Vehicle storage/stacking areas for drive-thru uses shall be located outside of and physically separated from the right-of-way of any street.

3.4.4 Kennels, Outdoor.

A. **Confinement of Animals:** Outdoor pens and runs are prohibited except by Special Use Permit (SUP).

B. **General Standards:**

1. Any building or pen housing animals shall be located a minimum of one hundred fifty (150) feet from any residentially zoned or developed property.

2. Areas used for exercising or training of animals shall be securely fenced to prevent the animals from straying.

C. **Disposal of Waste:**

1. All animal refuse and food shall be kept in airtight containers and disposed of on a regular basis.

2. Animal wastes shall not be stored within one hundred and fifty (150) feet of any property line or surface waters unless located indoors.

D. **Buffering:** All such outdoor kennels and similar animal shelters shall be buffered from any adjoining residentially zoned property with a Type A buffer in accordance with Section 8.4.2.A.

3.5 Supplemental Use Standards—Commercial.

3.5.1 Adult Establishment.

A. **Purpose:**

1. The Town Council of the Town of Waynesville finds that it is necessary to set forth the appropriate special requirements by which adult establishments may be established within the Town's zoning jurisdiction.

2. Adult establishments, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when they are located near residential areas or educational, religious or recreational uses.

3. Studies have shown that lower property values and increased crime rates tend to accompany and are brought about by the concentration of adult establishments.

4. The Town Council finds that the regulation of these uses is necessary to ensure that these adverse effects do not contribute to the blighting of surrounding neighborhoods and to protect the quality of life in the Town of Waynesville.

5. It is not the intent of the Town Council in adopting this section to suppress any activities protected by the First Amendment, but rather to enact a content neutral standard that addresses the secondary effects that adult establishments have on the Town.

B. **Location:**

1. No adult establishment shall be located within one thousand three hundred and twenty feet (1,320) of another adult establishment.

2. No adult establishment shall be located within one thousand three hundred and twenty (1,320) feet of: a church, synagogue or regular place of worship; a public or private

elementary or secondary school; a public library; a public park or playground; a licensed child care center; or an entertainment business that is oriented primarily toward children.

3. No adult establishment shall be located within one hundred (100) feet of Russ Avenue, from Frazier Street to Walnut Street, measured from the right-of-way.

4. For the purposes of this section, measurement shall be made in a straight line, from the nearest property line on which an adult establishment is located to the nearest property line of the premises of any use listed above.

C. **Signs and Displays:** No sexually oriented printed material, slide, video, photograph, written text, live show, or other sexually oriented visual display shall be visible from outside the walls of the establishment, nor shall any live or recorded voices, music or sounds be heard from outside the walls of the establishment.

D. **Hours of Operation:** No adult establishment, except an adult motel, may remain open at any time between the hours of one o'clock (1:00) a.m. and eight o'clock (8:00) a.m. on weekdays and Saturdays, and one o'clock (1:00) a.m. and twelve (12:00) p.m. on Sundays.

3.5.2 Auto Parts Sales.

No service or outdoor storage is permitted except that which is associated with normal retail establishments.

3.5.3 Bar/Tavern/Night Club.

No such facility shall be located within 300 feet of the property line of any lot containing a church or school or any residential district. These standards shall not apply for such uses located in Business Districts (BD) or Regional Mixed-Use Districts (RMX).

3.5.4 Drive Thru Commercial.

A. No drive-thru window or building may be located within 100 feet of any existing residence.

B. Drive-thru windows and services shall be located and accessed only at the rear of a building. If such a facility is rendered impractical due to extreme topography then it may be located to the side. Properties that front along Main Street are excluded from this topographic exception. (CBD only).

C. Drive-thru windows and services shall be located and accessed only at the side or rear of a building. (All other permitted Districts).

D. Vehicle storage/stacking areas for drive-thru uses shall be located outside of and physically separated from the right-of-way of any street.

3.5.5 Event Space.

A. An “event space” may be a primary or secondary use of the property. In either case, it must be allowed in the underlying zoning district.

B. **Screening.** An outdoor area of an event space shall be buffered by a Type C buffer (LDS 8.4.2.C) from any lot containing a church, a school, or any residential district (adjacent or across the street / private road).

C. **Parking.** LDS 9.2.1 standards apply. Vehicles attending/employed by an event cannot block the streets, create traffic congestion or unsafe situations, or park in the public right-of-way or undesignated areas.

D. **Noise.** All events must comply with the Town of Waynesville noise ordinances.

E. **Trash.** All events must contain their trash and comply with the Town of Waynesville trash pick-up ordinances and schedules.

F. **Other permits.** All events must be in compliance with all local, state, and federal regulations and permits, including but not limited to ABC permit.

G. **Off-Site Events.** All events are limited to the property. If additional activities take place off premises (such as parades, special events outside of your building, tent sales, or other similar events), a temporary use permit must be obtained for each such event (LDS 15.6.2).

3.5.6 Gas/Fueling Station.

A. **Canopies/Pumps:**

1. Must be located to the side or rear of the principal building (exception: RC Districts).

2. Must be located within one hundred (100) feet of the entrance of the principal building (exception: RC Districts).

3. Pump canopies must be located at least fifty (50) feet from any interior side or rear property line that adjoins residentially developed property.

4. Must be buffered from adjoining residential uses with a Type B Buffer in accordance with Section 8.4.2.B.

B. **Principal Buildings:** A principal building is required and shall be a minimum of two thousand (2,000) square feet (exception: RC Districts).

C. **Lighting:** All lighting must be shielded to direct light and glare only onto the lot or parcel where the gas/fueling station is located and shall be in accordance with Section 10.3.2.B.2.

3.5.7 General Commercial—Greater than 100,000 sq. ft.

Traffic Study Required: Development greater than 100,000 square feet in Gross Floor Area shall require the submission of a Traffic Impact Analysis in accordance with Section 16.10. The improvements recommended by the Study shall be constructed by the applicant as a condition of approval.

3.5.8 Outside Storage.

A. All outdoor storage shall be screened by a Type C buffer in accordance with Section 8.4.2.C.

B. No storage areas will be permitted to encroach in any required stream buffer.

3.5.9 Vehicle and Heavy Equipment Sales/ Rental (includes Automobiles, Boats, Recreation Vehicles, Motorcycles and Trucks).

A. **Outdoor Storage Prohibited for Certain Items:** Outdoor storage of boats, RVs, heavy trucks, semi-trailer and heavy equipment is not permitted.

B. **Landscaping Required:** All parking areas for the display of vehicles for sale must comply with the Parking Lot Landscaping standards of Section 8.6.1.

C. **Screening:** Outdoor storage of vehicles not covered by subsection A above must maintain a Type A buffer (See Section 8.4.2.A) around the vehicular parking/storage area where it abuts neighboring residential properties.

D. **Buffers:** Outdoor storage of vehicles not covered by subsection A shall not encroach into floodways, stream buffers or required building setbacks.

3.5.10 Vehicle Services—Minor Maintenance/Repair/Wash.

A. **Outside Storage of Vehicles for Repair and/or Parts:**

1. Screening: All outdoor storage shall be screened by a Type A buffer in accordance with Section 8.4.2.A.

2. No storage areas will be permitted to encroach in any required stream buffer.

B. **Vehicle Washes (Free Standing):**

1. Buildings and accessory uses shall not be less than seventy-five (75) feet from any interior side or rear property line that adjoins residentially zoned property.

2. Car and light truck washes shall be screened from any adjoining residential lot by a Type A buffer in accordance with Section 8.4.2.A.

3. Vehicle bays shall be set perpendicular to the street or otherwise screened from direct view by landscaping.

3.5.11 Vehicle Services—Major Repair/Body Work.

A. **Outdoor Storage Prohibited for Certain Items:** Outdoor storage of appliances, electronics, parts, equipment and other items is not permitted.

B. **Screening:** Outdoor storage, repair and service operations must maintain a Type A buffer (See Section 8.4.2.A) around all areas of operations and storage.

C. **Buffers:** Outdoor storage, repair and service operations shall not encroach into floodways, stream buffers or required building setbacks.

3.5.12 Video Gaming or Video Gaming Parlor.

A. Wherever legal video gaming is provided within a use or is provided as a stand alone use, a Type B Buffer Requirement or a 6' privacy fence or wall between the use and any residential or mixed use district (RL, RM, NR, UR, NC) (See LDS Section 8.4).

B. Parking must be provided for "All Other Commercial Uses" in accordance with LDs Section 9.2.1 Parking Use Category.

C. Video Gaming within a bar or where alcohol is served shall have to be approved by SUP of the Town Planning Board.

(Ord. No. O-01-15 , § 3, 1-27-2015; Ord. No. O-22-17 , § 3, 11-28-2017; Ord. No. O-28-18 , § 3, 11-27-20)

3.6 Supplemental Use Standards—Entertainment/Recreation.

3.6.1 Recreation Facilities, Indoor.

A. All such structures shall be subject to Design Review as Civic/Monument Buildings in accordance with Section 5.5.1.

B. Facilities may not have a restaurant or bar use except upon issuance of a Special Use Permit (SUP).

3.6.2 Recreation Facilities, Outdoor.

A. **Screening:** Athletic fields, country clubs, golf courses, driving ranges, common area recreation facilities and similar facilities shall be screened from adjoining residentially zoned property in accordance with Section 8.4.

B. **Access:** Primary access to all athletic fields shall be from a collector or higher order street only.

C. **Lighting:** Lighting shall be provided in accordance with Section 10.3.4.

D. **Setback from Homes:** Common area recreation facilities shall be buffered from dwelling units (both within and outside of the development) as set forth in accordance with Section 8.4.

E. **Connectivity to Surrounding Neighborhoods:** Outdoor recreation facilities shall be connected to adjacent neighborhoods to the extend practical via street connections, driveways, and/or pedestrian/bicycle paths.

F. **Operational Standards:**

1. Lights and loudspeaker systems shall not be operated before 8:00 a.m. or after 10:00 p.m.
2. Facility usage is limited to indoor activities before 6:00 a.m. or after 10:00 p.m. unless special permission is received from the Administrator.
3. No equipment, machinery or mechanical device of any kind (other than customary HVAC systems) may be operated within two hundred (200) feet of any residentially zoned property except as needed for routine maintenance of the grounds or facility.
4. Adequate provisions shall be made for the disposal of waste products and the control of noise associated with the recreational industry.
5. All exterior lighting shall be shielded such that light is not directed toward adjacent residential property.

3.6.3 Riding Stable.

A. **Size of Lot:** Riding stables may only occur on a lot exceeding three (3) acres in size.

B. **Number of Animals:** Not more than one (1) animal unit shall be kept, maintained or stabled per six thousand (6,000) square feet of land.

C. **Distance from Dwelling Unit:**

1. All animals shall be fenced so that they are not closer than fifty (50) feet from a dwelling unit on adjacent property.
2. Any building housing animals shall be located a minimum of one hundred (100) feet from a dwelling unit on adjacent property.
3. These provisions shall not apply if a dwelling unit is constructed so as to encroach upon an existing riding stable. However, an existing riding stable may not expand towards a newly established residential use.

D. **Operation Standards:**

1. Animal wastes shall not be stored any closer than one hundred and fifty (150) feet from any property line or surface waters.
2. Areas used for the riding stable shall be securely fenced.
3. No chain link fencing is permitted.

E. **Buffering:** Buildings associated with riding stables must be buffered from adjacent residentially zoned property with a Type B buffer as set forth in Section 8.4.2.B.

3.6.4 Shooting Range, Outdoor.

A. An outdoor shooting range must be governmentally owned and operated.

B. **Buffering:** Outdoor shooting ranges shall be buffered from adjoining properties with a Type A buffer as set forth in Section 8.4.2.A.

C. **Location:** Outdoor shooting ranges shall be located no closer than ¼ mile to any church, school or dwelling.

3.6.5 Theater, Outdoor.

A. **Buffering/Location:**

1. Outdoor theaters shall be buffered from adjoining residential uses with a Type A buffer as set forth in Section 8.4.2.A.

2. The performance and audience areas for any outdoor theater shall be located a minimum of fifty (50) feet from any adjacent residentially zoned property.

B. **Access:** Primary access to all outdoor theaters shall be to a collector or higher order street.

C. **Operation Standards:**

1. Reserved.

2. Lights shall be shielded and positioned so as not to shine onto adjacent properties.

3. Lights and loud speaker systems shall not be operated before 8:00 a.m. or after midnight.

3.7 Supplemental Use Standards—Civic/Institutional.

3.7.1 Cemetery.

A. **Minimum Lot Size:** A minimum of three (3) contiguous acres shall be required to establish a cemetery, columbarium or mausoleum not located on the same tract of land as a church.

B. **Minimum Yard Requirements:**

1. The minimum yard required for all structures, excluding gatehouse, is fifty (50) feet from any exterior property line. Gatehouses shall be excluded from any minimum yard requirement.

2. The minimum yard required for mausoleums and columbariums adjacent to a street shall be equal to a principal building front yard in the district.

3. The minimum yard required for any grave or burial plot is fifty (50) feet from any exterior property line. This requirement does not apply where the adjacent property contains an existing cemetery.

4. The minimum yard required for any grave or burial plot adjacent to a street shall be equal to a principal building front yard in the district provided that where graves or burial plots are adjacent to streets and closer than 50 feet a low planted screen in accordance with 8.6.1 shall be provided between the street and the cemetery.

3.7.2 Correctional Institution.

A. **Buffering:** Correctional institutions shall be buffered from adjoining residentially zoned property with a Type A buffer as set forth in Section 8.4.2.A.

3.7.3 Schools—Elementary and Secondary.

A. **Buffering:** Schools must be buffered from adjacent residentially zoned property with a Type B buffer as set forth in Section 8.4.2.B.

B. **Site Design/Access:**

1. Parking and active recreation areas shall not be located within the required yards.

2. Primary access shall be provided from thoroughfare and collector streets. Local residential streets shall not be used for primary access.

3. Connectivity (vehicular and pedestrian) to surrounding residential areas is encouraged.

3.8 Supplemental Use Standards—Industrial.

3.8.1 Freight Hauling/Truck Terminals.

A. Access to State Thoroughfare Required: All such facilities shall take primary access to their facility from a state thoroughfare (minor thoroughfare or higher order) and shall not necessitate travel through any neighborhoods.

B. Traffic Impact Analysis Required: A TIA in accordance with Section 6.10 shall be required. Any deficiencies noted in the analysis shall be mitigated by the applicant prior to the issuance of a certificate of occupancy.

C. As part of the Special Use Permit, the applicant shall provide suitable mitigation to prevent the trespass of any extra-ordinary noise, odor, dust, light or similar nuisances onto adjacent parcels with the exception of those parcels zoned CI.

3.8.2 Mini-Warehouses.

All Business Districts (BD):

A. **Entrances:** Separate entrances to individual storage units from outside the building are not permitted.

B. **Uses Permitted:**

1. It shall be unlawful for any owner, operator or lessee of any self-storage warehouse or portion thereof to offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units.

2. No portion of any self-storage warehouse shall be used, on a temporary or permanent basis, as a dwelling.

Other Districts:

A. **Lighting:** Lighting must be deflected, shaded and focused away from any adjoining residentially zoned property.

B. **Uses Permitted:**

1. It shall be unlawful for any owner, operator or lessee of any self-storage warehouse or portion thereof to offer for sale, or to sell any item of personal property or to conduct any type of commercial activity of any kind whatsoever other than leasing of the storage units.

2. No portion of any self-storage warehouse shall be used, on a temporary or permanent basis, as a dwelling.

3. Repair of stored items is not permitted on the self-storage warehouse property.

C. **Outside Storage:** No outside storage shall be permitted except the storage of recreational vehicles.

3.8.3 Recycling Collection Stations.

A. **Yard Requirements:**

1. Recycling collection stations shall meet the minimum yard requirements for the district in which they are located or the following requirements, whichever are greater:

a. Front—25 feet

b. Side—10 feet

c. Rear—20 feet

B. **Recycling Materials:** All recyclable material must be contained within a defined area or structure and shall not be allowed to spill out into adjacent areas. The recycling collection area shall be kept clean with no accumulation of trash and debris permitted.

C. **Yard Requirements:** All aspects of the materials recovery facility operation shall be no closer than fifty (50) feet to adjacent property lines.

D. **Buffering:** Material recovery facilities shall be screened from the street and from adjacent properties with a Type A buffer as set forth in Section 8.4.2.A.

3.8.4 Storage—Outdoor Storage Yard.

All outdoor storage areas shall be enclosed by an opaque fence or wall and screened from the street right-of-way with a Type A buffer as set forth in Section 8.4.2.A.

3.9 Supplemental Use Standards—Agricultural.

3.9.1 Animal Production.

A. **Size of Lot:** Animal production may only occur on a lot exceeding two (2) acres in size.

B. **Number of Animals:** Not more than one (1) animal unit shall be kept, maintained or stabled per six thousand (6,000) square feet of land.

C. **Distance from Dwelling Unit:** All animals shall be fenced so that they are no closer than one-hundred (100) feet from a dwelling unit on an adjacent property. This provision shall not apply if a dwelling unit is constructed so as to encroach upon an existing animal production use. However, an existing animal production use may not expand towards a newly established residential use.

3.9.2 Forestry and Logging.

A. **Purpose.** This section is adopted for the purpose of regulating tree removal, including forestry, logging, and clear cutting to insure that such activities do not create adverse impacts to neighboring properties, waterways or roadways.

B. **Exemptions.** The following activities are exempt from the standards of this section:

1. Removal of dead trees and hazard trees (trees in danger of falling due to disease, damage, or position relative to streets, buildings, power lines, etc.)

2. Activities occurring on sites of less than 1 acre.

3. Forestry activities taking place on property within the State Forestry Present-Use Property Tax Program being done in accordance with a Forestry Management Plan prepared by a qualified professional.

4. Removal of trees under six inches in diameter at breast height (dbh), except as provided in (C) below.

5. Tree removal activities being done in accordance with an approved development plan for which a Land Development Permit has been issued by the Town of Waynesville.

C. **General Requirements:**

1. A Land Development Permit shall be obtained for the proposed tree removal activities prior to the start of such activities, including road construction and site preparation.

2. A detailed description in writing of the planned tree removal activities, and post removal stabilization of the site shall be submitted to the Administrator.

3. A site plan showing property boundaries, existing structures and utilities, limits of clearing, perennial streams, contour lines at a 5' interval, erosion control measures, internal roads and proposed site access shall be submitted to the Administrator.

4. A copy of a valid Erosion Control Permit issued by the NC Department of Natural Resources for all land disturbing activities associated with the tree removal shall be submitted to the Administrator.

5. Off-site access roads shall be approved by the Administrator as safe and suitable for vehicular traffic associated with tree removal activities. A financial guarantee in an amount equal to 125% of the estimated cost of re-grading and/or resurfacing affected roadways may be required at the discretion of the Administrator.

6. An undisturbed buffer of a minimum of 30' from the centerline and a maximum of 25' from the top of bank of any perennial streams shall be maintained.

7. An undisturbed buffer of a minimum of 50' shall be maintained from all exterior property lines and street rights-of-way.

8. Unless the cleared area is to be immediately replanted for lawn, pasture or reforestation, small pole timber (4" to 8" dbh) shall be preserved to the maximum extent practical in order to restore a continuous tree canopy as quickly as possible.

9. Protected buffer areas shall be marked by the applicant and approved in the field by the Administrator prior to the start of any tree removal activities.

10. Tree removal activities involving the use of machinery or power equipment shall be limited to the hours of hour after sunrise to sunset.

D. **Ordinance Standards to be Adhered to:** All forestry and logging operations shall comply with the standards in Chapter 12, specifically, but not limited to 12.4 (Sedimentation and Erosion Control) and 12.5 (Stormwater Management).

3.10 Supplemental Use Standards—Infrastructure.

3.10.1 Wireless Communication Facility, Micro.

A. **General Standards:**

1. A micro wireless facility shall be considered an accessory use.
2. Placement of a micro wireless facility on a non-conforming structure shall not be considered to be an expansion of the non-conforming structure. Placement of a micro facility on a non-conforming use shall not be considered to be an expansion of the non-conforming use.

B. **Development/Design Standards:**

1. A micro wireless facility shall be located on existing buildings, poles or other existing support structures.
2. A micro facility may be located on buildings and structures provided that the interior wall or ceiling immediately adjacent to the facility is not designated residential space.
3. A micro facility shall be the same color as the existing building, pole or support structure on which it is proposed to be located. Stealth facilities are required.
4. Micro facilities shall comply with the height limitation specified for all land development districts except that such facilities may exceed the height limitation by six (6) feet if placed on an existing structure. Micro facilities may extend up to six (6) feet above a structure.
5. No lettering, symbols, images or trademarks large enough to be legible to occupants of vehicular traffic on any adjacent roadway shall be placed on or affixed to any part of a micro facility other than as required by FCC regulations regarding registration of communications devices or other applicable laws.
6. No micro facility shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the FAA, FCC or the town.

C. **Discontinuance:**

1. Discontinued micro facilities shall be reported immediately by the service provider to the Administrator. Discontinued facilities shall be decommissioned and removed by the facility owner within six (6) months of the date it ceases to be operational or if the facility falls into disrepair. The Administrator may approve an extension of an additional six (6) months if good cause is demonstrated by the facility owner.
2. The provider erecting a micro facility, must have a draft lease agreement with the landholder, or separate equivalent documentation, that specifies if the provider fails to remove the facility upon six (6) months of its discontinued use, the responsibility for removal falls upon the landholder.

3.10.2 Wireless Communication Facility, Mini.

A. **General Standards:**

1. A mini wireless facility shall be considered an accessory use.
2. Placement of a mini wireless facility on a non-conforming structure shall not be considered to be an expansion of the non-conforming structure. Placement of a mini facility on a non-conforming use shall not be considered to be an expansion of the non-conforming use.

B. **Development/Design Standards:**

1. A mini wireless facility shall be located on existing buildings, poles or other existing support structures.
2. A mini facility may be located on buildings and structures provided that the interior wall or ceiling immediately adjacent to the facility is not designated residential space.
3. A mini facility shall be the same color as the existing building, pole or support structure on which it is proposed to be located. Stealth facilities are required.
4. Mini facilities shall comply with the height limitation specified for all land development districts except that such facilities may exceed the height limitation by six (6) feet if placed on an existing structure. Mini facilities may extend up to six (6) feet above a structure.
5. No lettering, symbols, images or trademarks large enough to be legible to occupants of vehicular traffic on any adjacent roadway shall be placed on or affixed to any part of a mini facility other than as required by FCC regulations regarding registration of communications devices or other applicable laws.
6. No mini facility shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the FAA, FCC or the town.

C. **Discontinuance:**

1. Discontinued mini facilities shall be reported immediately by the service provider to the Administrator. Discontinued facilities shall be decommissioned and removed by the facility owner within six (6) months of the date it ceases to be operational or if the facility falls into disrepair. The Administrator may approve an extension of an additional six (6) months if good cause is demonstrated by the facility owner.
2. The provider erecting a mini facility, must have a draft lease agreement with the landholder, or separate equivalent documentation, that specifies if the provider fails to remove the facility upon six (6) months of its discontinued use, the responsibility for removal falls upon the landholder.

3.10.3 Wireless Communication Facility, Macro.

A. **General Standards:**

1. A macro facility shall be considered an accessory use.
2. Placement of a macro facility on a non-conforming structure shall not be considered to be an expansion of the non-conforming structure. Placement of a macro facility on a non-conforming use shall not be considered to be an expansion of the non-conforming use.

B. **Development/Design Standards:**

1. A macro wireless facility must have a minimum setback of twenty (20) feet from any adjacent residentially zoned parcel.
2. A macro facility may be located on buildings and structures provided that the immediate interior wall or ceiling adjacent to the facility is not a designated residential space.
3. A macro facility shall be the same color as the existing building, pole or support structure on which it is proposed to be located. Stealth facilities are required.
4. Macro facilities shall comply with the height limitation specified for all land development districts except that such facilities may exceed the height of existing structures by as much

as fifteen (15) feet above the existing structure. Macro facilities may not extend more than fifteen (15) feet above their supporting structure.

5. No lettering, symbols, images or trademarks large enough to be legible to occupants of vehicular traffic on any adjacent roadway shall be placed on or affixed to any part of a macro facility other than as required by FCC regulations regarding registration of communications devices or other applicable laws.

6. No macro facility shall have affixed or attached to it in any way except during time of repair or installation, any lights, reflectors, flashers, day-time strobes or steady night time light or other illumination devices, except as required by the FAA, FCC or the town.

C. **Discontinuance:**

1. Discontinued macro facilities shall be reported immediately by the service provider to the Administrator. Discontinued facilities shall be decommissioned and removed by the facility owner within six (6) months of the date it ceases to be operational or if the facility falls into disrepair. The Administrator may approve an extension of an additional six (6) months if good cause is demonstrated by the facility owner.

2. The provider erecting a macro facility, must have a draft lease agreement with the landholder, or separate equivalent documentation, that specifies if the provider fails to remove the facility upon six (6) months of its discontinued use, the responsibility for removal falls upon the landholder.

3.10.4 Monopole Wireless Communication Tower.

A. **General Requirements:**

1. All monopole communications towers must comply with FCC and FAA guidelines. The communications tower owner shall provide the town each year with a copy of any FCC and FAA licenses required.

2. Monopole communications towers may be considered either a principal or an accessory use. A different existing use or structure on the same lot shall not preclude the installation.

B. **Location/Site Design:**

1. Monopole wireless communications towers may only be located above an elevation of three thousand five hundred (3,500) feet or on property owned by the Town of Waynesville or Haywood County.

2. Monopole wireless communications towers may only be located on a lot one (1) acre or greater in size, except within the CI District.

3. Site location and development shall preserve the preexisting character of the surrounding buildings and land uses and the land development district to the extent consistent with the function of the communications equipment. Monopole towers shall be integrated through location and design to blend in with the existing characteristics of the site to the extent practical.

4. Existing on-site vegetation shall be preserved or improved, and disturbance of the existing topography shall be minimized, unless such disturbance would result in less visual impact of the site to the surrounding area.

5. Minimum yard requirements shall be in accordance with the yard requirements set forth in the development standards for the land development district in which the location of the tower is proposed, provided that all buffering requirements can be met. Additionally,

monopole towers must set back from any property in a residentially zoned district a distance equivalent to the height of the tower being erected or one hundred (100) feet whichever is greater.

6. Monopole wireless communications towers shall be landscaped with a buffer of plant materials that effectively screens the view of tower compound from adjacent property. The standard buffer shall consist of a landscaped strip at least four (4) feet wide outside the perimeter of the compound.

7. Accessory equipment facilities used to house wireless communications equipment should be located within buildings or placed underground when possible. When they cannot be located within buildings, equipment shelters or cabinets shall be fenced, screened and landscaped to screen views from adjacent properties. Accessory equipment facilities located on the roof of buildings shall be enclosed so as to be shielded from view. Accessory equipment facilities may not be enclosed with exposed metal surfaces.

8. Security fencing, if used, shall be painted or coated with a non-reflective color.

9. Proposed ingress and egress to the tower shall produce the least disturbance for adjoining uses as is practicable.

C. **Design of Tower:**

1. The use of colors and facility designs shall be compatible with the surroundings (buildings, vegetation, etc.) or the surroundings likely to exist in the area and should prevent the facility from dominating the area in which it is located.

2. The use of stealth design technology is required.

3. The maximum height allowed for a monopole tower is one hundred eighty (180) feet.

4. Macro facilities are the largest attached wireless communications facilities allowed on a monopole tower.

5. Antennas may not extend more than fifteen (15) feet above any monopole tower.

6. Towers shall not be artificially lit unless required by the FAA or other applicable authority. If lighting is required, the Board of Adjustment may review the available lighting alternatives and approve the design that will cause the least disturbance to surrounding views.

7. Security lighting for equipment shelters or cabinets and other on-ground accessory equipment is also permitted, as long as it is appropriately down-shielded to keep light within the boundaries of the site.

8. No equipment shall be operated so as to produce noise levels above forty-five (45) dB as measured from the nearest adjacent, residentially zoned property. Operation of a back-up power generator in the event of power failure, or the testing of a back-up generator between 8:00 a.m. and 9:00 p.m. are exempt from this standard.

9. No lettering, symbols, images or trademarks large enough to be legible to occupants of vehicular traffic on any adjacent roadway shall be place on or affixed to any part of a telecommunications tower or attached antenna other than as required by FCC regulations regarding tower registration or other applicable law.

D. **Collocation:**

1. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Adjustment that no existing tower, structure or alternative

technology, that does not require the use of towers or structures, can reasonably accommodate the applicant's proposed tower or antenna.

2. Applicants and permittees shall make a good faith effort to share wireless communications, structures, facilities and sites where reasonable and appropriate. Such good faith shall include sharing technical information and application information to evaluate the feasibility of collocation. In the event a dispute arises as to whether a permittee has exercised good faith in accommodating other users, the town may require a third party technical study at the expense of either or both the applicant and permittee.

E. **Discontinuance:**

1. Discontinued monopole communications towers shall be reported immediately by the service provider to the Administrator. Discontinued facilities shall be decommissioned and removed by the facility owner within six (6) months of the date it ceases to be operational or if the facility falls into disrepair. The Administrator may approve an extension of an additional six (6) months if good cause is demonstrated by the facility owner.

2. The provider erecting a mini monopole communications tower, must have a draft lease agreement with the landholder, or separate equivalent documentation, that specifies if the provider fails to remove the facility upon six (6) months of its discontinued use, the responsibility for removal falls upon the landholder.

3. A performance bond shall be filed for 1.25 times the estimated cost of removal of all towers and accessory equipment structures that are approved. The amount of the bond shall be determined by a removal company. For every year following approval, the bond shall increase by an inflation factor based upon the Consumer Price Index (CPI).

3.10.5 Radio and Television Broadcasting Services (Except Towers).

A Special Use Permit (SUP) in accordance with Section 15.10 shall be required.

3.10.6 Utilities—Class 3.

A Special Use Permit (SUP) in accordance with Section 15.10 shall be required.

3.10.7 Type IV Parking - Additional 1st Layer Parking.

Additional parking may be permitted in the 1st layer provided that one (1) or more of the following conditions is present:

A. Existing site topography creates a substantial grade separation from the road(s) upon which the site fronts.

B. Additional parking in Layer 1 makes the proposed development fit better with existing development patterns on and off site, particularly with regard to connections with existing parking areas and driveway access.

C. A "courtyard" parking arrangement is proposed with a centralized parking area bordered by multiple buildings.

D. The project involves redevelopment of an existing building.

E. The function of the proposed development requires additional Layer 1 parking.

(Ord. No. O-02-18 , § 2, 3-13-2018; Ord. No. O-26-18 , § 2, 11-27-2018)

CHAPTER 4 - GENERAL PROVISIONS FOR ALL DISTRICTS

4.1 Applicability.

The provisions in this Chapter shall apply generally to all development regardless of the underlying zoning district provisions.

4.2 General Provisions.

4.2.1 Interpretation of Dimensional Standards.

When any requirement of this ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit and a fraction of less than one-half shall be disregarded. When the determination of the number of dwelling units permitted on a lot results in a fraction of a dwelling unit, any fractional component shall be disregarded and rounded down to the nearest whole number.

4.3 Basic Lot and Use Standards.

4.3.1 All Lots to Front on Public Street, Civic Space or Approved Driveway.

All lots shall front upon a public street right-of-way (publicly dedicated or privately maintained) or a driveway constructed to the standards of this ordinance with a minimum of a 20 foot public access easement or right-of-way. With provision of alley access, lots may front upon a public open space, but access shall be of sufficient design to allow for the provision of emergency services.

4.3.2 Number of Principal Buildings per Lot.

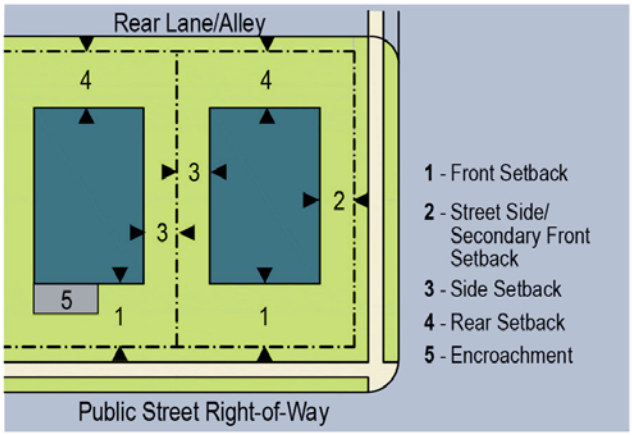
In any zoning district, more than one building housing a permitted principal use may be erected on a single lot, provided that at least one structure is fully compliant with all frontage requirements. All other requirements of this ordinance not related to building placement shall be adhered to for all principal structures.

4.3.3 Dimensional Standards.

A. **Yard Requirements:**

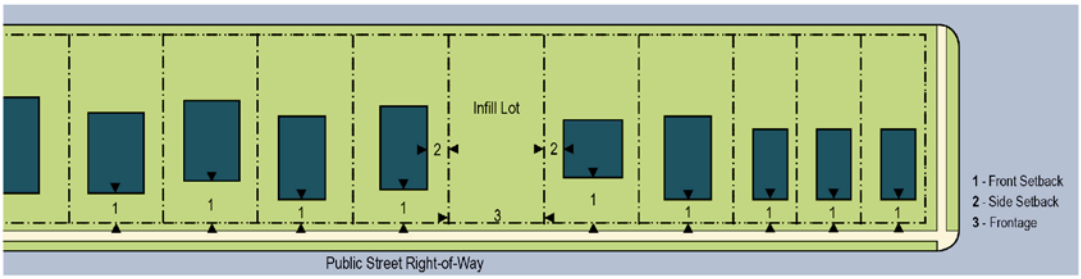
1. **General:** A building, structure or lot shall not be developed, used or occupied unless it meets the minimum yard requirements for the land development or overlay district in which it is located.

2. **Calculating Yards:** The minimum yard is the space defined by measuring perpendicularly from and along the entire boundary of the lot (property line) to the building line as show in the diagram below.



3. **Assumed Right-of-way:** Where no right-of-way exists or if the right-of-way is only inclusive of the street pavement then the front setback shall be measured from an assumed right-of-way line that is parallel to the edge of pavement and setback a minimum of ten (10) feet from the edge of the pavement. This calculation is for setback calculation purposes only and does not represent any expressed or implied taking of property.

4. **Infill Lot Standards:** The minimum front or street yard required may be reduced for any lot where the average established front yard on developed lots located within three hundred (300) feet on each side of such lot, and fronting on the same street as such lot, is less than the minimum required yard. In such cases, the minimum front or street yard may be less than that required but not less than the average of the existing front yards on the developed lots within three hundred (300) feet of each side. In addition for new lots created from existing larger lots, the lot width at the frontage line and the side yard setbacks shall be consistent with the immediately adjacent neighboring parcels on the same side of the street.



4.3.4 Encroachments.

The features listed below may encroach into a required yard.

A. **Arcades:** Building arcades, if provided, should be designed to avoid the swing of car doors parked parallel to the arcade. In addition the sidewalk within the arcade should be sufficient to accommodate the intended uses (i.e. outdoor seating) while providing suitable clearances per the American with Disabilities Act Accessibilities Guidelines (ADAAG).

B. **Awnings and Canopies:** All awnings and canopies, if provided, shall be supported by means of a frame attached directly to the building receiving beneficial use of the awning. In no case shall awnings be supported by a frame attached to a sidewalk or other public right-of-way. Awnings may encroach up to six (6) feet into any required front or street yard but shall not encroach into the street tree planting area or across the street edge of the sidewalk.

C. **Bay Windows and Balconies:** Bay windows, balconies and similar features projecting from the principal building may encroach up to three (3) feet into any required yard.

D. **Cornices and Gutters:** Cornices and gutters may encroach up to two (2) feet into any required yard.

E. **Fences and Garden Walls:** Fences and garden/yard walls may encroach into required yards but, if higher than three and one-half (3½) feet, may not be placed within the site visibility triangle of a public street, private street or driveway contained either on the property or on an adjoining property. See Section 6.7.2 concerning the sight visibility triangle.

F. **Handicapped Ramps:** Ramps for handicap accessibility and fire escapes that are required by the North Carolina State Building Code may encroach into any required yard but may not be closer than three (3) feet to any property line.

G. **Porches, Decks, and Patios:** Uncovered and unenclosed porches, decks, patios, and other similar features not exceeding an average finished height above grade of 30 inches may encroach into the side and rear setback to within 5 feet of the property line.

H. **Public Rights-of-Way Encroachments (Air Rights):** With approval of the Town or NCDOT (whichever has authority over a street), upper story balconies or bay windows may encroach into the right-of-way, but shall be a minimum of 3 feet behind the curb.

I. **Steps and Stairs:** Uncovered and unenclosed steps and stairs may encroach up to six (6) feet into any required front or street yard but may not be closer than five (5) feet to any property line.

4.3.5 Irregular Lot Setbacks.

The location of required front, side and rear yards (or setbacks) on irregularly shaped lots shall be determined by the Administrator. The determination will be based on the intent and purpose of this Ordinance to achieve an appropriate spacing and location of buildings and buildings on individual lots. Where questions arise as to appropriateness, the subdivider may be requested to provide additional design information.

4.3.6 Setbacks Along Thoroughfares.

Setbacks along thoroughfares shall be measured from the future right-of-way only if there is a specifically adopted corridor plan that shows, at a minimum, the horizontal alignment of the future roadway, pedestrian and bicycle amenities, streetscape and necessary right-of-way.

(Ord. No. O-19-20 , 10-27-2020)

4.4 Measurement of Building Height.

4.4.1 Applicability.

Building heights shall be specified in Section 2.4. Dimensional Standards by District and use "stories" as the standard unless otherwise regulated in Chapter 5 Building and Development Design. Where a specific dimension is used in the calculation of maximum height for certain types of buildings in Chapter 5, the height shall be measured from the highest adjacent grade to the highest point of the structure or at the structure's "primary facade." Wherever one Section of the Town's Land Development Standards may differ from another, the more restrictive ordinance shall apply. All structures are subject to regulations under the North Carolina State Building Codes in addition to this Section.

4.4.2 Measurement of Building Height.

The Town regulates building height by limiting the number of allowable stories within zoning district types in accordance with Section 2.4 of the Land Development Standards. In addition, the following regulations apply:

A. **Maximum within residential districts:** All structures within residential districts (RL, RM, NR, and UR), including mixed-use overlays, are limited to a maximum height of 60 feet as measured from the highest adjacent grade to the top of a flat roof or the peak of a sloped roof. The 60 feet maximum is inclusive of floodplain elevations and the number of stories allowed in Section 2.4.1 Table of Dimensional Standards by Residential District.

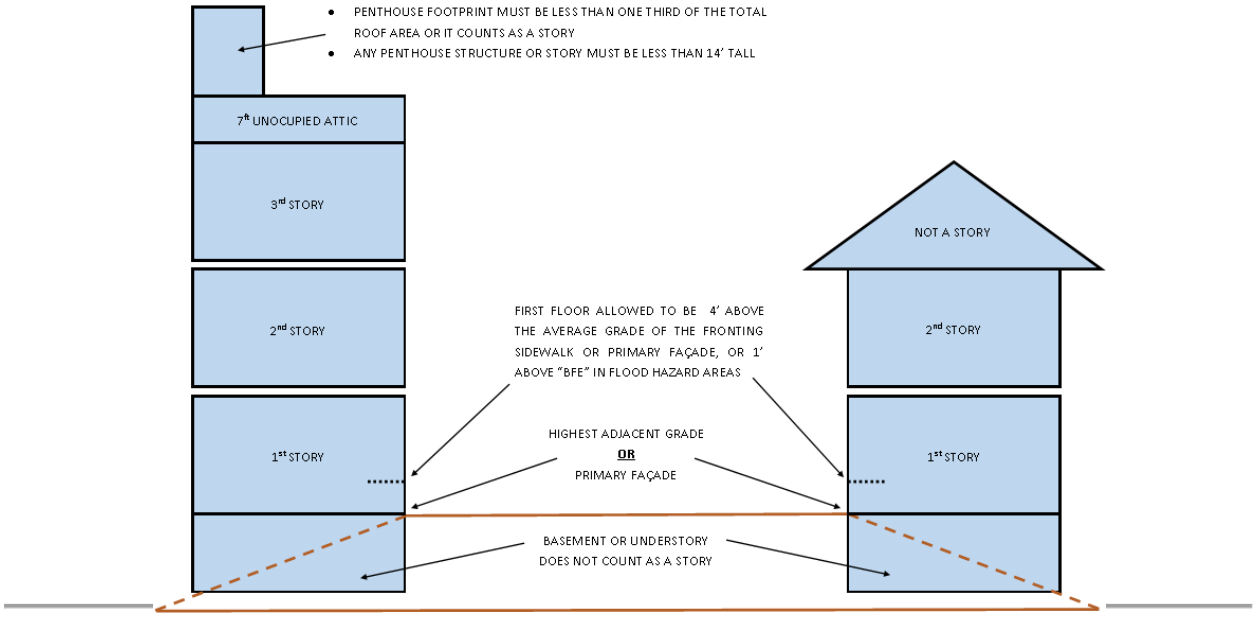
B. **Maximum height and measurement of a story:** A story is a habitable level within a building of no more than 14 feet in height from finished floor to finished floor, not including space above the eaves and within the slope structure of a pitched roof. The number of stories is measured from the highest adjacent grade or at the structure's "primary facade." The primary facade is that side of the building that is considered the front of the structure architecturally, and that contains the primary entrance or front door.

C. **Flat-roof or parapet design:** For buildings with flat roofs, unoccupied attics or building caps less than 7 feet in height are not considered stories for the purposes of determining building height. A penthouse on top of a flat roof shall be considered as a story only if it equals or exceeds one-third of the total roof area. A penthouse structure that is less than one-third of the total roof area will not count toward the number of stories of the building but must also be less than 14 feet in height.

D. **Pitched roof design:** For buildings with pitched roofs, lofts, attic space or cathedral ceilings within the slope of the roof structure, with or without dormers or vents, are not considered stories.

E. **Allowance for foundations, basements and floodplain ordinance compliance:** For either pitched or flat roofed structures, the first floor may be up to 4 feet above the average grade of the fronting sidewalk or primary facade, or be one foot (1') above base flood elevation for the lot if within a special flood hazard area. Basements or under-stories below the highest adjacent grade and facing away from the structure's primary facade, do not count as stories for the measurement of building height.

F. **Illustration:**



4.4.3 Items Not Included in Height Calculations.

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, mechanical penthouses (provided they are set back 20 feet from the front elevation), observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, masts and antennas (provided evidence from appropriate authorities is submitted to the effect that such building or buildings will not interfere with any airport zones or flight patterns). See Chapter 3 Supplemental Standards related to communication towers and wireless communication facilities.

(Ord. No. O-03-19 , Pt. 1, 1-22-2019)

Editor's note(s)—Ord. No. O-03-19 , Pt. 1, adopted Jan. 22, 2019, changed the title of § 4.4 from "Measurement of Height" to read as herein set out.

4.5 Accessory Uses and Structures.

The purpose of this section is to establish standards for accessory uses and structures in the Town of Waynesville's land use jurisdiction. Except as provided elsewhere in this chapter, it shall be unlawful for any person to erect, construct, enlarge, move or replace any accessory use or structure without first obtaining a certificate of land development standards compliance from the Administrator.

4.5.1 General.

A. Accessory uses and structures may only be used for purposes permitted in the district in which they are located.

B. Not for Dwelling Purposes: Accessory structures shall not be used for dwelling purposes except as approved Accessory Dwelling Units (see Section 3.2.1).

C. Building Permits May Be Required: Depending on the size of the structure and the incorporation of various improvements (e.g., electrical, plumbing) a building permit may also be required.

D. Accessory dwellings may only be located on a lot with an existing single-family dwelling. Accessory Dwellings are subject to the dimensional standards and density limitations of the zoning district in which they are located, as well as supplemental standards and building codes.

4.5.2 Table of Standards for Accessory Structures and Dwellings:

Standards	Single-Family/Two Family Lots Less than 0.5 Acre	Single-Family/Two Family Lots of 0.5 Acre to 1 Acre	Single-Family/Two Family Lots Greater than 1 Acre - 3 Acres	Single-Family/Two Family Lots Greater than 3 Acres - 5 Acres	Single-Family/Two Family Lots Greater than 5 Acres	All Other Lots (Commercial Lots)
Permitted Location	Side or Rear Yard Only	Side or Rear Yard Only	Side or Rear Yard Only	Permitted In All Yards	Permitted In All Yards	Permitted In All Yards
Height	Not Greater Than Principal Structure	Not Greater Than Principal Structure	Subject to District Height Standards	Subject to District Height Standards	Subject to District Height Standards	Subject to District Height Standards
Maximum Number Permitted	2 Accessory Structures, 1 of which can be an ADU.	3 Accessory Structures, 1 of which can be an ADU.	4 Accessory Structures, 2 of which can be ADUs.	No Maximum 2 of which can be ADUs.	No Maximum 3 of which can be ADUs. See Chapter 15 for other development requirements.	No Maximum 3 of which can be ADUs. See Chapter 15 for other development requirements.
Maximum Area	Footprint for accessory structures, including ADUs, must be less than 10% of lot, or not to exceed 1,500 sf in aggregate, whichever is less.	Footprint for accessory structures, including ADUs, must be less than 10% of lot, or not to exceed 1,800 sf in aggregate, whichever is less.	1,500 Square Feet Per Structure, 2,500 Square Feet in Aggregate Footprint, excluding ADUs.	3,000 Square Feet in Aggregate Footprint, excluding ADUs.	No Maximum	No Maximum

4.5.3 Other Requirements.

A. **Buffering:** Accessory structures with a footprint greater than six hundred (600) square feet shall be buffered from any adjacent residential developments with a Type C Buffer (Section 8.4.2.C).

B. **Lighting:** Exterior lighting for accessory uses and/or structures shall meet the requirements by which principal structures are governed as set forth in Section 10.2.

(Ord. No. O-23-20 , § 1, 11-10-2020)

4.6 Temporary Uses.

4.6.1 General Standards/Permits Requirement.

A. All permitted temporary uses listed in this section require a temporary use permit that shall be reviewed and issued by the Administrator.

B. Temporary use permits shall be issued for no more than one hundred and eighty (180) days within a calendar year on any individual lot unless otherwise specified within this section.

C. Exemptions. Temporary uses associated with special events approved by the Town Manager, seasonal farmer's markets approved by the Town Manager and produce stands in conjunction with crop production.

D. The property on which a temporary use is proposed must contain sufficient space to support the temporary use.

E. No temporary use shall be located closer than fifty (50) feet to a dwelling unit. Yard sales are excluded from this requirement.

F. Parking must be adequate to support the proposed temporary use.

G. Restroom facilities, if needed, must be provided.

H. Plans for security and safety must be provided.

I. All associated approvals inspections and permits required by the building code, fire marshal, county health department or Town Manager must be received prior to issuance of the temporary permit.

J. Temporary uses must manage waste, trash, recycling or other debris created by the use.

4.6.2 Temporary Uses Allowed in All Districts.

A. Permitted Temporary Uses: Civic/cultural events and yard sales are allowed in all Districts.

B. Time Limit: Civic/cultural events - thirty (30) days; yard sales - four (4) days.

4.6.3 Temporary Uses Allowed in Nonresidential Districts.

A. Permitted Temporary uses allowed in all Districts except for the residential districts include: circuses, carnivals, fairs, religious services and similar types of events; the sale of agricultural products including Christmas trees; and tent sales.

B. Time Limit: Such events shall be allowed for no more than thirty (30) days but may be renewed by the Administrator.

4.6.4 Temporary Uses with Specific Requirements.

A. Contractor's Office and Equipment/Storage Sheds.

1. Contractor's office and/or equipment/storage sheds may be placed in any District temporarily on the site of construction of a development for which a certificate of land development standards compliance has been issued.

2. Time Limit: Placement of such a temporary use is limited to a period of time determined by an estimated project completion date with the option of an extension of up to one (1) year as and if approved by the Administrator. All temporary construction buildings and trailers shall be completely removed from the site within thirty (30) days of issuance of a certificate of occupancy or completion of the project, whichever comes first.

B. Real Estate Office in a Construction Trailer or Temporary Modular Unit.

1. One (1) temporary structure, such as a construction trailer or temporary modular unit may be used as a real estate sales office in any new construction project in any District. Such a temporary structure shall be used for the sale of units within that project only.

2. Time Limit: Temporary real estate offices in construction trailers or temporary modular units may remain on the site for no more than one (1) year or until one-half (½) of the units for the project are completed, whichever occurs first.

C. Real Estate Office in a Model Home: A model dwelling may be used as a real estate sales office in a new residential development in any District. Such a model home/sales office may be used for the sale of units within that project only.

D. Mobile Food Vendors.

1. Mobile food vendor, including food trucks, trailers and pushcarts may be placed in any commercial-industrial, regional center or business district. A permit is only valid for one location. Vendors wanting to serve at multiple locations need individual permits for each site. It shall be unlawful for any vendor to sell or offer to for sale any food or beverage without first obtaining a permit pursuant to this section.

2. Time Limit: Such uses shall be allowed for ninety (90) days and may be renewed by the Administrator on a one time basis for up to one hundred and eighty (180) days on any specific site. Allowable days do not have to be contiguous if an alternate schedule is approved by the Administrator and accompanies the permit. Special events do not count toward this limit.

3. A mobile food vendor must present written documentation of the property owners' permission and a copy of its Health Department Permit at the time of application.

4. Permission to utilize public parking or sidewalk areas must be approved by the Town Manager and at the request of a sponsoring business owner adjacent to the proposed location. Within the Main Street Public Services District, vendors are permitted on private property only. The Town may require a lease agreement and fees in certain cases.

5. No mobile food vendor shall:

a) Leave a mobile food unit or pushcart unattended, or store, park or leave a mobile food unit or pushcart overnight within any public right-of-way or public property.

b) Leave any location without removing and disposing of all trash or refuse.

c) Pour waste products (including hot water or drainage from coolers) down a storm drain.

d) Operate within fifty (50) feet of an existing restaurant during the restaurant's business hours.

6. Property owners or sponsoring adjacent businesses must make their restroom facility available for mobile food vendor staff.

7. All food service operations must obtain an approved mobile food service permit from the Haywood County Health Department or concurrence from the Haywood County Health Department that the vendor has met the equivalent requirements from another county. Permits must be posted on the mobile food vendor vehicle so that they are visible to the public.

8. Signage associated with mobile food vendors must abide by the sign regulations as specified in ordinance [section] 11.5.14(H), and shall not be lit or have more than one (1) sign per street frontage. Vehicular signs do not count toward this limit.

9. Exhaust outlets shall be located not less than ten (10) feet from any structure or building.

(Ord. No. 05-16 , 6-28-2016)

CHAPTER 5 - BUILDING AND DEVELOPMENT DESIGN STANDARDS

5.1 Purpose and Intent.

The standards in this Chapter are intended to attach the same or greater level of importance to building design as is placed on the uses contained within buildings. The established architectural vernacular of the Town of Waynesville exhibits a wide variety of common building types and this Ordinance has established regulations specific to these typologies. The rich architectural history and vocabulary of the Town presents a wide variety of development options for using traditional building forms. New and renovated buildings in Waynesville are expected to contribute to the vibrancy and attractiveness of the Town.

5.2 Applicability and Administration.

The provisions outlined in this Chapter shall apply throughout the jurisdiction of this Code, regardless of the underlying zoning district provisions. However, the building type standards only apply to those buildings which are specified for the various zoning districts in this chapter. This Chapter is comprised of a combination of quantitative, easily measurable standards and qualitative standards. For those qualitative standards (as noted) that require a discretionary review for compliance, such applications will be reviewed and approved in accordance with Chapter 15.

5.2.1 Non-Standard Building Types.

While it is expected that some new building types will be introduced to the Town, these variations should be based upon the predominant types listed in this Chapter. Innovative planning or design ideas for development in any district where the proposed building types are different than those allowed by the base district requirements may be approved subject to the approval in accordance with Chapter 15.

5.2.2 Adopted Plans or Historic Standards to Take Precedence.

Where specific architectural elements are required as part of an adopted plan or associated with local historic standards, these shall take precedence over the building design requirements of this chapter.

5.2.3 Applicability of Standards.

The provisions in this Chapter shall apply to all new structures and expansions to existing structures in accordance with the following:

A. **New Structures:** All standards apply.

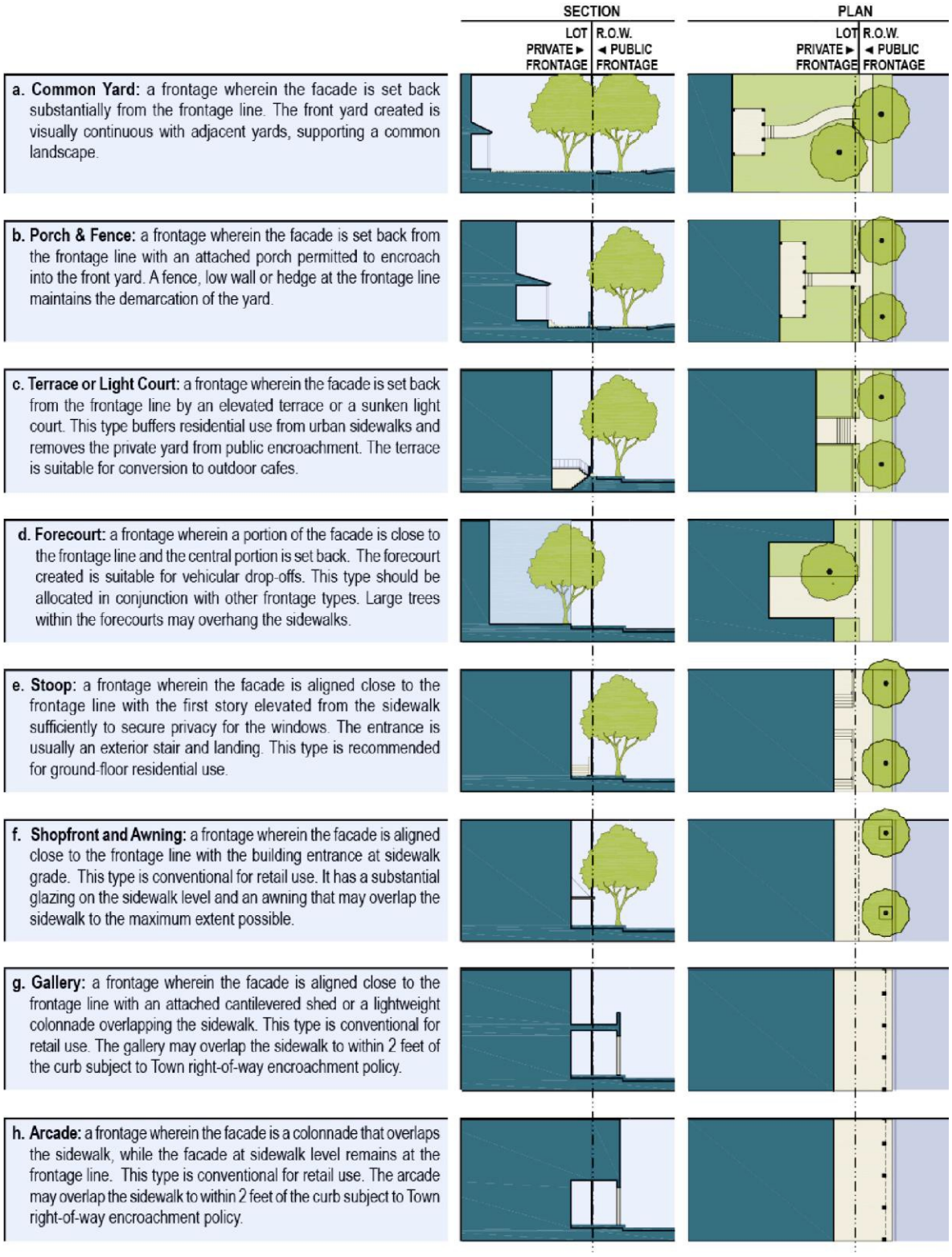
B. **Expansions of Less Than 50% of Floor Area:** Standards apply to expansion area only and those areas necessary to visually tie the new to the old.

C. **Expansions of 50% or Greater in Floor Area:** All standards apply to facades visible from the public right-of-way.

5.3 Permitted Building Types and Frontages.

Standard	RL	RM	NR	UR	NC	BD	RC	CI
1. Applicable Districts	CC-RL, EN-RL, FC-RL, HT-RL	CP-RM, D-RM, HM-RM, SW-RM	AC-NR, LL-NR, MS-NR, N-NR, PS-NR, PC-NR, RC-NR, SS-NR, WS-NR	EW-UR, H-UR, HM-UR	PS-NC, RC-NC, NM-NC	CBD, H-BD, SM-BD	DJ-RC, HC-RC, RA-RC	CI
2. Building Frontage (See Section 5.4)								
a. Common Lawn	permitted	permitted	permitted	permitted	prohibited	permitted	permitted	n/a
b. **Porch and Fence**	permitted	permitted	permitted	permitted	permitted	permitted	permitted	n/a
c. Terrace or L.C.	prohibited	prohibited	permitted	permitted	permitted	permitted	permitted	n/a
d. Forecourt	prohibited	prohibited	permitted	permitted	permitted	permitted	permitted	n/a
e. Stoop	prohibited	permitted	permitted	permitted	permitted	permitted	permitted	n/a
f. Shopfront	prohibited	prohibited	prohibited	prohibited	permitted	permitted	permitted	n/a
g. Gallery	prohibited	prohibited	prohibited	prohibited	prohibited	permitted by SUP	permitted by SUP	n/a
h. Arcade	prohibited	prohibited	prohibited	prohibited	prohibited	permitted by SUP	permitted by SUP	n/a
3. Building Type (See Section 5.5)								
a.Civic/Monument	permitted	permitted	permitted	permitted	permitted	permitted	permitted	permitted
b. House-Street	permitted	permitted	permitted	permitted	prohibited	prohibited	prohibited	prohibited
c. House-Alley	permitted	permitted	permitted	permitted	permitted	permitted	permitted	prohibited
d. Townhouse	permitted	permitted	permitted	permitted	permitted	permitted	permitted	prohibited
e. Apartment	permitted	permitted	permitted	permitted	permitted	permitted	permitted	prohibited
f. Mixed-Use	prohibited	prohibited	restricted	restricted	permitted	permitted	permitted	prohibited
g. Commercial	prohibited	prohibited	prohibited	prohibited	permitted	permitted	permitted	permitted
h. Industrial	prohibited	prohibited	prohibited	prohibited	prohibited	prohibited	prohibited	permitted

5.4 Table of Private Frontages.



5.5 Building Types.

5.5.1 Civic/Monument Buildings.

The Civic/Monument Building serves as a landmark and a public gathering place. The use of this designation is limited to public buildings (e.g., schools, fire stations, and town halls), and semi-public buildings (e.g., hospitals and religious institutions). The Civic/Monument Building can be urban in form, occupying all four yards or may be set back to define a sense of prominence or to accommodate the unique of its users. Applicable Design Standards: Civic/Monument, Section 5.7.

5.5.2 House-Street and House-Alley.

The house is the predominant residential building type in the Town of Waynesville. This building type is flexible in use accommodating primarily residential uses, home occupations, professional offices, and limited retail uses based on the zoning district in which it is located. The two basic House types - House-Street and House-Alley - are a function of how the lot is accessed by automobile. In general, within a block, building types should be uniform in their use of driveways or alleys. The House typically has four yards (front yard; two side yards; and rear yard). Variations include setting the building on one of the side property lines. Applicable Design Standards: All Residential Buildings, Section 5.6 and House, Section 5.8.

5.5.3 Townhouse Buildings.

The townhouse is a building with three (3) or more attached units that are located side by side. The use permitted within the building is determined by the District in which it is located. When an entrance is provided at-grade, the townhouse may be used as a live-work unit. The Townhouse typically has one yard (rear) through variations including a small front setback to provide some landscaping.

5.5.4 Apartment Buildings.

The apartment building is a multiple-unit building with dwelling units vertically arranged (generally) and with parking located below or behind the buildings. Units may be for rental or for sale in condominium ownership or may be designed as continuing care facilities or dormitories. The ground floor may be available for commercial uses. The uses permitted within the building are determined by the District in which the building is located. The Apartment Building typically has one yard (rear) though variations include a small front and side setbacks to provide some landscaping.

5.5.5 Shopfront/Mixed-Use Building.

The shopfront/mixed-use building is a multi-story small scale structure which can accommodate a variety of uses. A group of mixed-use buildings can be combined to form a mixed-use neighborhood center. Individual mixed-use buildings can be used to provide some commercial service, such as a neighborhood store, in close proximity to homes. The uses permitted within the building are determined by the District in which it is located. The Mixed Use Building typically has one yard (rear) though variations include a small front plaza or courtyard to provide public space for outdoor seating as well as a building with complete lot coverage where parking is handled in a manner other than on-site surface parking.

5.5.6 Commercial Buildings.

The commercial building type provides convenient automobile access from the fronting thoroughfare, while minimizing impacts of parking lots on an active pedestrian realm. The uses permitted within the building are determined by the District in which it is located. The Commercial Building typically has four yards (front yard; two side yards; and rear yard) and can accommodate a limited amount of parking in the front yard with the remainder to the side and rear of the building.

5.5.7 Industrial Buildings.

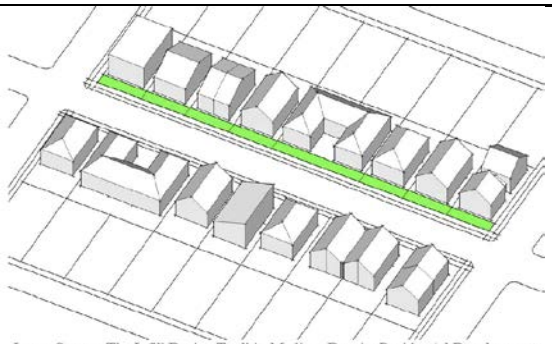
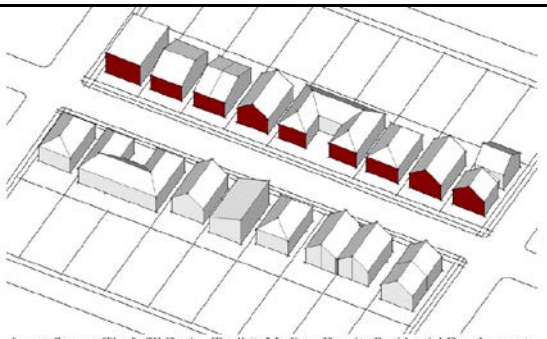
Industrial buildings are expected to be utilitarian in design to accommodate a wide range of internal activities that range from heavy machinery to storage. The uses permitted within the building are determined by the District in which it is located. The Industrial Building typically has four yards (front yard; two side yards; and rear yard) to allow for site landscaping to soften the often long expanses of wall that are typical to this type.

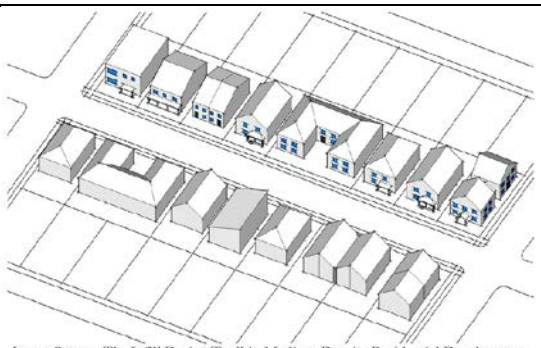
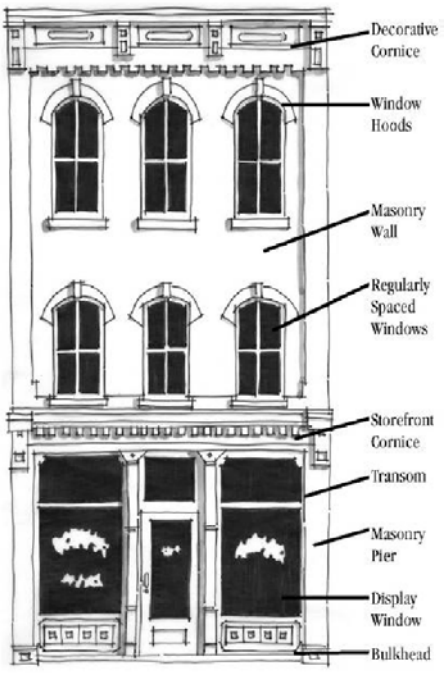
(Ord. No. O-01-15 , § 4, 1-27-2015)

5.6 General Building Design Requirements.

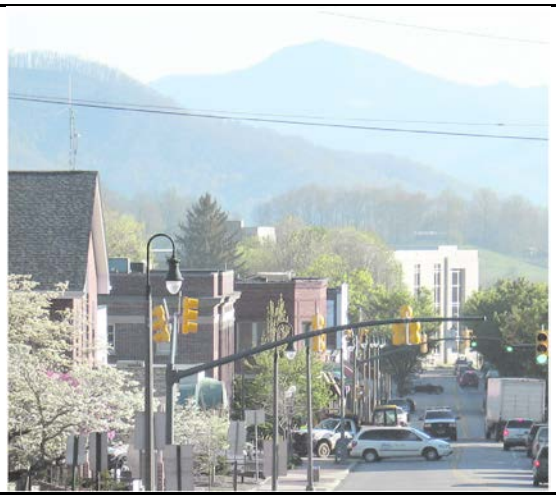
The requirements of this Chapter are intended to facilitate the proximity of wide variety of uses in close to one another through the use of detailed design standards that address the key considerations of the pedestrian realm. That is, their primary focus is on the ground floor and those portions of the building that are most readily visible to a typical pedestrian. A secondary focus is the overall aesthetic of community and the visual perceptions that encourage a vibrant economy. The general standards noted below are intended to be used by the Planning Board in their review of those applications that require additional review beyond the detailed building type design provisions found in the subsequent sections.

As a means to provide guidance for the design of buildings that integrate well into the context of Waynesville, this Section has identified seven key features necessary to ensure compatibility:

5.6.1 Street Frontage. Along residential side streets, limit interruptions to front setback landscaping. A key way of achieving this is by preserving existing front yard landscaping and minimizing the amount of frontage devoted to paved vehicle areas.	 Image Source: The Infill Design Toolkit: Medium-Density Residential Development City of Portland Bureau of Planning. December. 2008
5.6.2 Rhythm of Development along the Street. Continue established building rhythms along street frontages. Avoid monolithic massing that disrupts fine-grain neighborhood or mixed-use corridor pattern.	 Image Source: The Infill Design Toolkit: Medium-Density Residential Development City of Portland Bureau of Planning. December. 2008

5.6.3 Building Orientation. Along street frontages, orient windows, main entrances, and other primary building façade elements toward the street. Care should be taken to avoid the appearance of buildings turning their backs or sides toward the street. Courtyard buildings can contribute to this by orienting main entrances toward courtyards that serve as a semi-public extension of the public realm of adjacent streets.	 Image Source: The Infill Design Toolkit: Medium-Density Residential Development City of Portland Bureau of Planning, December, 2008
5.6.4 Front Setback Patterns. Continue established building setback patterns, where this is a neighborhood priority and is practical. Note: Deep front setbacks can compromise the ability to provide backyard space and/or rear parking, particularly at higher densities.	 Image Source: The Infill Design Toolkit: Medium-Density Residential Development City of Portland Bureau of Planning, December, 2008
5.6.5 Landscaping and Trees. Use landscaping and trees to achieve compatibility in areas where these are unifying elements of community character.	
5.6.6 Architectural Features. Consider designing buildings to respond to prevalent architectural features of the surrounding context, especially in areas where patterns established by recurring architectural features are well-documented and valued. Consideration should also be given to avoid mimicry of existing buildings, so that opportunities for the continuation of the evolution of architectural style are not stifled.	 Decorative Cornice Window Hoods Masonry Wall Regularly Spaced Windows Storefront Cornice Transom Masonry Pier Display Window Bulkhead

5.6.7 Preservation of Views.
The visual aesthetic of the surrounding mountains is of prime importance. Consider how buildings are nestled into the landscape and evaluate their impact on prominent corridors to ensure that viewsheds are maintained. Tall buildings are not inherently in conflict with this desire, but it will be important to ensure proper sight lines through adequate study.



5.7 Civic/Monument Building Design Guidelines.

5.7.1 Review Process.

Because of the often unique design requirements and the expected prominence of certain Civic/Monument buildings, the process for review and approval shall be different than those of the other building types listed in this Section. It requires that additional standards, as set forth below, be met, but relaxes some of the standards found in the applicable land development district. Approval of all Civic/Monument Buildings shall be vested solely with the Historic Preservation Commission in accordance with Chapter 15 subject to the following standards.

5.7.2 Design Exemptions.

Such buildings are exempt from the specific district provisions of Section 2.4 except that in no event shall the habitable part of a building exceed sixty (60) feet in height due to fire protection standards.

5.7.3 Applicable Design Standards.

The Historic Preservation Commission in reviewing the application shall consider the following in their review and approval of all Civic/Monument buildings. Each application shall be considered unique to the sponsoring applicant and location and therefore shall not be bound by previous decisions as precedents.

A. **Design and Construction Excellence:** Such buildings should be constructed as permanent additions to the long-term vibrancy of the Town and should serve to exemplify the very best architectural designs and building practices.

B. **Site Prominence:** Designers should consider methods in which to place such buildings above the grade of the surrounding buildings as a means to provide site prominence. Methods to consider include the incorporation of a raised entry from the primary street frontage (while still accommodating NC Accessibility Code requirements) and/or the setback of such buildings to create a formal landscaped area or plaza. Where possible, such buildings shall form a terminating vista down a street or across a civic space whenever possible.

C. **Formal Design Expected:** The formal nature of the building should be demonstrated in the architectural design and the detailing. Depending on the expressed architectural style of the building the following elements should be considered for inclusion: (from 154.305)

- Pronounced window lintels/sills/muntins/etc.
- Columns (no vinyl or metal clad) with a capitol and a base.

- A water table made up of large, quality masonry units (such as cut or hew stone) or made of smaller masonry units that extend beyond the face of the façade in order to clearly delineate the water table.
- Vertically oriented windows of at least 2:1 ratio.
- Relief in the façade must occur on many levels (the depth of the relief cannot be limited to one or two patterns repeated).
- Cornice lines with significant depth and multiple levels of relief.
- Very well designed entry way, including doors at the main entry that are monumental (taller, larger, heavier, more ornately designed, etc. than normal).
- A tower element of some nature.

D. **High Quality Materials:** The predominate material palette of Waynesville includes standard brick, stacked stone, stone or stone masonry units, native stone, and exposed heavy timber. Other acceptable exterior primary wall materials for such buildings include glass (to facilitate the views of the mountains), lap siding (cementitious fiber board), stucco, exterior insulation finishing systems (EIFS), and stone/stone masonry units. Decorative concrete masonry units (CMU) may be used as a secondary building material. No vinyl or metal siding shall be attached to any side of a monument building that is visible from a public street. (from 154.305)

5.8 House/Townhouse/Apartment Residential Building Design Guidelines.

5.8.1 Applicability.

The following standards are applicable to all residential building types including the House (excluding Manufactured Housing—See Section 5.6.3), Townhouse, and Apartment. House building types on lots 50 feet or greater than in width are exempt from these provisions.

5.8.2 Roof and Eaves.

A. Buildings shall have sloped roofs. Main roofs on residential buildings shall have a pitch between 6:12 and 12:12. Monopitch (shed) roofs are allowed only if they are attached to the wall of the main building. No monopitch roof shall have a pitch less than 4:12.

B. Flat roofs are permitted in the UR, NC, BD, RC districts only.

C. Flush eaves shall be finished by profiled molding or gutters.

D. All rooftop equipment (except small items such as fans and vents) shall be screened from view from the public right-of-way within the block.

5.8.3 Building Entrances.

A. **Porches:** Useable porches and stoops are recommended to form a predominate motif of the building design and be located on the front and/or side of the building to respond to the climatic conditions and the vernacular of the mountains. Front porches, if provided, shall be at least 8 feet in average depth.

B. **Raised Entries:** To provide privacy, all residential entrances within 25 feet of the sidewalk shall be raised from the finished grade (at the building line) a minimum of 1½ feet.

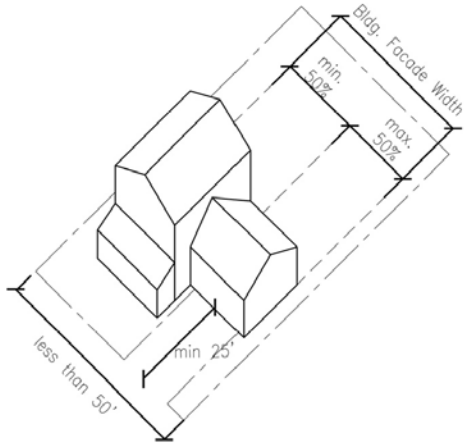
C. **Visitability/Accessibility:** For residential buildings in developments designed for residents aged 55 and older, there shall be provided one zero-step entrance to each building from an accessible path at the front, side, or rear of each building. This does not eliminate the requirements for

residential buildings to have raised front entrances unless topographic conditions present no practical alternative.

5.8.4 Garages.

A. **For Houses (on lots less than 50 ft. in width):** Garages or off-street parking areas shall be accessed only from an alley or via a driveway leading to a detached garage or parking area behind the front facade.

B. **Townhouse and Apartment Buildings in UR, NC, BD, and RC Districts:** Garages or off-street parking areas shall be accessed only from an alley or via a driveway leading to a detached garage or parking area in the rear yard. Garage doors are not permitted on the front elevation.



C. **Garage Door Setback from façade:** Garages with front loading bays shall be recessed from the front facade of the house by a minimum of four (4) feet and shall be visually designed to form a secondary building volume. Garage doors shall be setback a minimum of twenty-five (25) feet from the back of sidewalk.

D. **Garage Door Width:** At no time shall the total width of an attached garage door(s) exceed 50% of the total building façade for lots less than 50 feet in width.

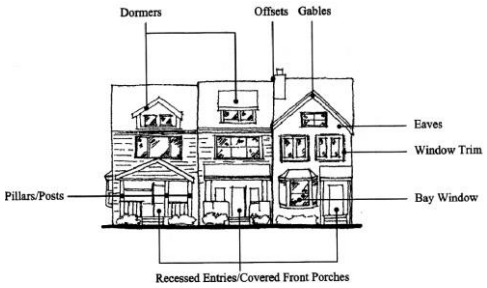
E. **Extra Bays to Be Turned:** All garages with more than two bays shall be turned such that no more than two bays are visible from the street.

5.8.5 Façade Design.

A. **Permeability:** At least 15 percent of the area of each façade that faces a street lot line must be windows or main entrance doors. Windows used to meet this standard must allow views from the building to the street. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. To count toward meeting this standard a door must be at the main entrance and facing the street property line. Development on flag lots or on lots which slope up or down from the street with an average slope of 20 percent or more are exempt from these standards.

B. **Detailed Design for Townhome and Apartment Buildings:** Detailed design shall be provided along all primary elevations and elevations facing a public street or open space by using at least five of the following architectural features on all elevations as appropriate for the proposed building type and style (may vary features on rear/side/front elevations):

- Dormers
- Gables
- Recessed entries
- Covered porch or stoop entries
- Cupolas or towers
- Pillars or posts



- Eaves (minimum 10-inch projection which may include gutter)
- Off-sets in building face or roof (minimum 16 inches)
- Window trim (minimum 4 inches wide)
- Bay windows
- Balconies
- Decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, ornamentation, and similar features)
- Other architectural features appropriate to the architectural style of the house

5.8.6 Materials.

A. **Building Walls:** Building walls (including accessory structures greater than 120 square feet) shall be primarily clad in wood clapboard, cementitious fiber board, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, stucco, or synthetic materials similar and/or superior in appearance and durability. Vinyl may only be used on buildings that are no closer than 20 feet from the next closest building and that do not contain mixed occupancy or multi-family dwelling units.

B. **Roof Materials:** Residential roofs shall be clad in wood shingles, standing seam metal, terne, slate, asphalt shingles or synthetic materials similar and/or superior in appearance and durability.

C. **EIFS:** Exterior insulation finishing systems (EIFS) may be used above 3 feet from the base of residential buildings.

5.9 Manufactured Housing Design Guidelines.

5.9.1 Applicability.

All manufactured homes permitted shall comply with the requirement of 5.6 above (General Building standards, unless the standards below conflict and shall therefore take precedence) and must comply with the standards established by the United States Department of Housing and Urban Development under the National Manufactured Housing Construction and Safety Act of 1974, 42 U.S.C. § 5401 et seq. and that satisfies each of the following additional criteria:

5.9.2 Standards.

A. The tongue, axles, running lights and removable towing apparatus must be removed prior to the issuance of a certificate of occupancy.

B. Except for units within permitted Manufactured Home Parks, the manufactured home shall be attached to a permanent foundation of brick, stone, concrete, framing or block that is unpierced except for required ventilation and access as required by the North Carolina State Building Code

or for flood hazard construction. Units within permitted manufactured home parks may use a vinyl skirting or other material to enclose the structural supports.

C. The pitch of the roof of the manufactured home shall have a minimum vertical rise of three (3) inches for every twelve (12) inches of horizontal run.

D. Except for units within permitted Manufactured Home Parks, the roof must be covered with a material that is customarily used on site-built dwellings. Aluminum or metal roofing is not permitted unless standing seam metal roofing or metal shingles are utilized.

E. The roof shall have a minimum eave projection and roof overhang of ten (10) inches, not including the gutter except when the unit is located in a Manufactured Home Park where this requirement shall apply only to double wide units.

F. Exterior siding shall be of a material customarily used on site-built dwellings which does not have a high gloss finish, such as wood, conventional vinyl or metal siding, brick, stucco or similar materials. Smooth, ribbed or corrugated metal or plastic panels are not permitted.

G. Except for units within permitted Manufactured Home Parks, the length of the home shall not exceed four (4) times the width, excluding additions.

H. Architectural and aesthetic standards specified in this section shall be applicable to all additions.

I. At the main entrance door there shall be an entryway transition that is a minimum six (6) feet by six (6) feet.

(Ord. No. O-21-17 , § 1, 11-28-2017; Ord. No. O-25-18 , § 1, 11-27-2018)

5.10 Mixed-Use/Commercial Building Design Guidelines.

The following standards are applicable to all Mixed-use and Commercial building types.

5.10.1 Minimum Height (Mixed-Use Buildings Only).

The minimum height on the front elevation shall be two (2) stories.

5.10.2 Facade Materials.

A. **Materials:** Commercial building walls visible from a public street or civic space shall be primarily standard brick, stacked stone, stone or stone masonry units, wood clapboard, cementitious fiber board, or exposed heavy timber. Glass curtain walls may be approved subject to Design Review to ensure the styling and details are appropriate for the context. Decorative concrete masonry units (CMU) and exterior insulation finishing systems (EIFS) may be used on facades not facing a public street or civic space or as a secondary building material only (less than 25% of the wall area) on primary frontage facades. Metal panels and siding may be used as a facade material on commercial buildings with the following restrictions:

1. Metal panels and siding may be used as a facade material only on commercial buildings located within Neighborhood Center, Business, and Regional Center Districts.

2. Such metal panels and siding must consist of architectural-grade metal without a high-gloss finish. Standing seam metal panels may not be used as a façade material.

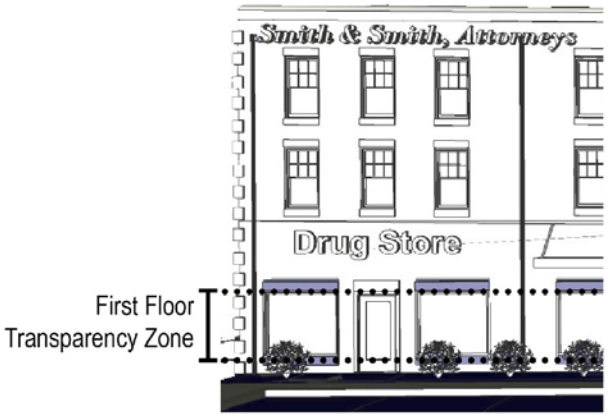
3. The use of metal panels and siding as a façade material within a National Register Historic District or Local Historic District must be approved by the Historic Preservation Commission with the issuance of a Certificate of Appropriateness.

B. **Balance of Wall Materials:** When two or more materials are used on a façade, the heavier material shall be placed below the lighter material (e.g., siding over brick) to give the sense of support and grounding.

5.10.3 Ground Level Detailing.

A. Minimize Blank Walls: Expanses of blank walls facing streets (excluding rear access drives or alleys) or public civic spaces may not exceed 20 feet in length. (A "blank wall" is a facade that does not contain transparent windows or doors.)

B. Ground-Level Glazing: Window glazing and doorways shall be the predominant features in the street-level facade. Exterior burglar bars, fixed "riot shutters," or similar security devices shall not be visible from the public right-of-way. All ground level windows shall provide direct views to the building's interior extending a minimum of 6 feet behind the window.



C. **Transparency Zone:** Glazing that is transparent under all lighting conditions shall extend from a base of contrasting material (not exceeding four (4) feet in height above the adjacent grade) to at least the height of the door head. However, spandrel or colored glass may be used above the height of the door head. Glazing shall extend from the corner of the front facade for a depth equal to:

1. Mixed-Use Buildings: At least sixty-five (65) percent of the length of building along the side street building facade.
2. Commercial Buildings: At least fifty (50) percent of the length of building along the side street building facade.
3. Commercial Buildings with Uses Greater than 100,000 sq ft: At least twenty-five (25) percent of the length of building along the side street building facade. (from 154.212.E)

D. **Canopies/Awnings:** A building canopy, awning, or similar weather protection may be provided and should project a minimum of 5 feet from the façade.

E. **Ventilation Grates and Emergency Exit Doors:** Ventilation grates or emergency exit doors located at the first floor level in the building facade, which are oriented to any public street, shall be decorative. Unless otherwise required by the building code, such grates and doors shall be located away from pedestrian spaces (sidewalks and pedestrian paths).

5.10.4 Utilities.

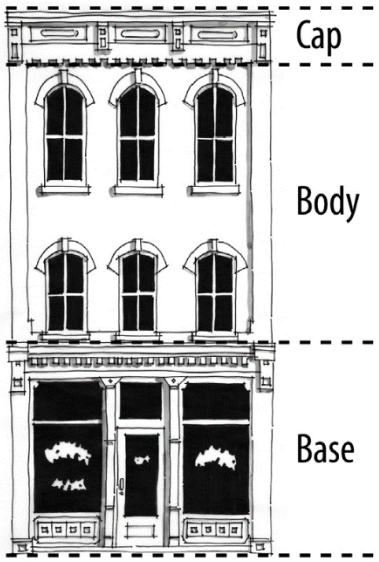
A. **Rooftop Equipment:** All rooftop equipment shall be screened from view to the extent practical given the varied topography of Waynesville. If, due to the topography of the site, a physical screen would not suffice, alternative methods to minimize the negative aesthetics of the otherwise

utilitarian equipment (e.g., painting the equipment to match the building) may be approved by the Administrator.

B. **Wall Mounted Equipment:** No wall-mounted building utility service equipment (e.g., electrical house panel boxes) shall be placed on the public street right-of-way side of the building.

5.10.5 Façade Articulation.

Articulation involves the horizontal and vertical variation of the façade so that walls are subdivided into bays or sections that are vertically proportioned. The following provisions for façade articulation shall apply to any façade visible from a public street or civic space. For buildings set back more than 200 feet from the street, the standards in this subsection apply only to the primary façade facing the street.



A. **Vertical Elements:** All architectural elevations of principal buildings [over 20 feet in height] visible from a public street or civic space shall have a clearly discernable base, body, and cap. The base shall occupy the lowest portion of the elevation, shall have a height of at least three (3) feet, and be constructed of a masonry material. The component described as the body shall constitute a minimum of 50% of the total building height. The cap shall occupy the highest portion of the elevation, excluding the roof, and shall have a dimension that does not exceed the height of the base. The cap shall consist of a cornice, parapet, awning, canopy, eave or other architectural treatment that visually performs in the same manner. The base and cap shall be clearly distinguishable from the body through changes in color, material, pattern, profile, or texture.

B. **Articulation:** The frontage of buildings shall be divided into architecturally distinct sections or bays with each section taller than it is wide, unless otherwise noted. Sections or bays shall be visually established by architectural features such as columns, ribs, pilasters or piers, changes in plane, or an equivalent element that otherwise visually subdivides the wall through at least 50% of its height. The following provisions shall apply:

Façade Width/Use Size	Maximum Bay/Section Width	Minimum Type/Depth of Articulation	Rooflines
Less than 60 feet	30 feet with each section taller than it is wide	Any required element to divide a bay/section shall be at least 12 inches in width and 4 inches in depth	
60 feet—120 feet	30 feet with each section taller than it is wide	At least one change in wall plane is required with a minimum depth of 2 feet and extending at least 20% of the entire length of the façade - all other required dividing elements shall be at least 12 inches in width and 4 inches in depth	At least one change in roofline every 60 feet
Uses greater than 100,000 square feet	Shall not exceed the height of the facade	No walls may extend more than 25% of the length of that side of the building without a minimum change in plane of 2 feet.	At least one change in roofline every 60 feet

C. **Expression of Entries:** Entries shall be marked by architectural features that emphasize their importance (e.g., tall building features, projecting overhangs, special lighting, awnings and signage).

5.11 Industrial Building Design Standards.

5.11.1 Façade Materials.

Industrial building walls shall be predominately brick, stucco, decorative concrete block, or EIFS. Vinyl or metal sheeting and regular concrete block is prohibited on the front elevations and any side elevations within twenty (20) feet of the front elevation.

5.11.2 Façade Articulation.

Articulation involves the horizontal and vertical variation of the façade so that walls are subdivided into bays or sections that are vertically proportioned. The following provisions for façade articulation shall apply to any façade visible from a public street or civic space. For buildings set back more than 200 feet from the street, the standards in this subsection apply only to the primary façade facing the street. Buildings located in a designated industrial park are exempt from these provisions.

The frontage of buildings shall be divided into architecturally distinct sections or bays with each section taller than it is wide. Sections or bays shall be visually established by architectural features such as columns, ribs, pilasters or piers, changes in plane, or an equivalent element no less than twelve (12) inches in width and four (4) inches in depth that otherwise visually subdivides the wall through at least 50% of its height.

5.11.3 Rooftop Equipment.

All rooftop equipment shall be screened from view to the extent practical given the varied topography of Waynesville. If, due to the topography of the site, a physical screen would not suffice, alternative methods to minimize the negative aesthetics of the otherwise utilitarian equipment (e.g., painting the equipment to match the building) may be approved by the Administrator.

CHAPTER 6 - INFRASTRUCTURE STANDARDS

6.1 Purpose and Intent.

The purpose of this Chapter is to establish criteria for the site development and subdivision of real property within the jurisdiction of the Town of Waynesville. These standards are set forth to:

- Promote the orderly growth and development of the Town of Waynesville; and
- Provide for suitable residential and nonresidential development with adequate streets, utilities and appropriate building sites; and
- Coordinate streets within subdivisions with existing or planned streets and with other public facilities.

6.2 Applicability.

6.2.1 Site Plan and Subdivision Authority and Applicability.

A. **Subdivision Defined:** For the purposes of this chapter, "subdivision" shall mean all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the dedication of new streets or a change in existing streets.

B. **Statutory Exemptions:** The following are not included within the definition above nor are they subject to the regulations of this Ordinance, provided however, that any document or plat to be recorded pursuant to any such exclusion shall bear the notation, "Exempt pursuant to the Town of Waynesville Land Development Standards," and the signature of the Administrator before being presented for recordation.

1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the land development standards of the town.
2. The division of land into parcels greater than ten (10) acres in size where no street right-of-way dedication is involved.
3. The public acquisition by purchase of strips of land for the widening or opening of streets.
4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the land development standards of the Town of Waynesville.
5. The conveyance to lineal descendants for the purpose of dividing real estate among said lineal descendants. At such time that any lineal descendants or their successors in interest develop or building upon their respective property, the property must conform in all respects to the regulations of the Town of Waynesville.

C. **Site Plans Defined:** A site plan is an architectural and/or engineering drawing of proposed improvements for a specific lot that depicts such elements as building footprints, driveways, parking areas, drainage, utilities, lighting, and landscaping.

D. **Conformity Required:** From and after the adoption of this chapter, no real property lying within the jurisdiction of the Town of Waynesville shall be developed or subdivided except in conformance with all applicable provisions of this Ordinance. In addition, after the effective date of this chapter, no plat for subdivision of land within the jurisdiction of this chapter shall be

certified for recording by the Administrator, nor shall the Register of Deeds record any plat until it has been submitted and approved in accordance with the provisions of this section.

6.2.2 Required Conformance to the Specifications of the Town's Public Services Department.

The specifications of the Town's Public Services Department are herein incorporated by reference. Conformance to them is required in addition to the standards of this Ordinance.

6.2.3 Other Relevant Standards for Site Plans and Subdivisions.

In addition to the standards found in this Chapter, standards in the following may also apply:

- Chapter 7: Civic Space
- Chapter 8: Tree Protection, Landscaping, and Screening
- Chapter 9: Parking
- Chapter 10: Lighting
- Chapter 11: Signs
- Chapter 12: Environmental Protection

6.3 Required Improvements for all Development.

All required improvements set forth in this Chapter shall be installed or constructed by the developer at no cost to the Town except as may otherwise be specifically provided herein or by Town policy or agreement. Required improvements under this Chapter shall not be installed or constructed until required construction plans have been approved by the Administrator. The Town may, in order to serve future development, require the developer to install certain oversized improvements and/or to increase such improvements to a size and/or extent beyond that necessary for the needs created by the developer. In such cases, the Town shall enter into an agreement to reimburse the developer for the oversizing and/or extension based upon rates as agreed to by the Town.

6.4 Connectivity.

6.4.1 Street Network.



The images to the left illustrate three conceptual subdivision layouts. The top image is an example of a poor layout with too few connections and many dead ends. The lower two images show improved street layouts with the required connections and a network of streets. (Diagrams courtesy of Fort Collins Colorado)

A. **Streets to be Interconnected:** Except where determined not feasible by the Administrator, all streets shall be designed to form part of an interconnected street pattern. Streets must connect with adjacent street networks to the extent possible. Street designs will be assessed, in terms of meeting this interconnectivity standard, on their ability to: permit multiple routes between origin/destination points; diffuse traffic; and, shorten walking distances. [154.309(B)(2)]

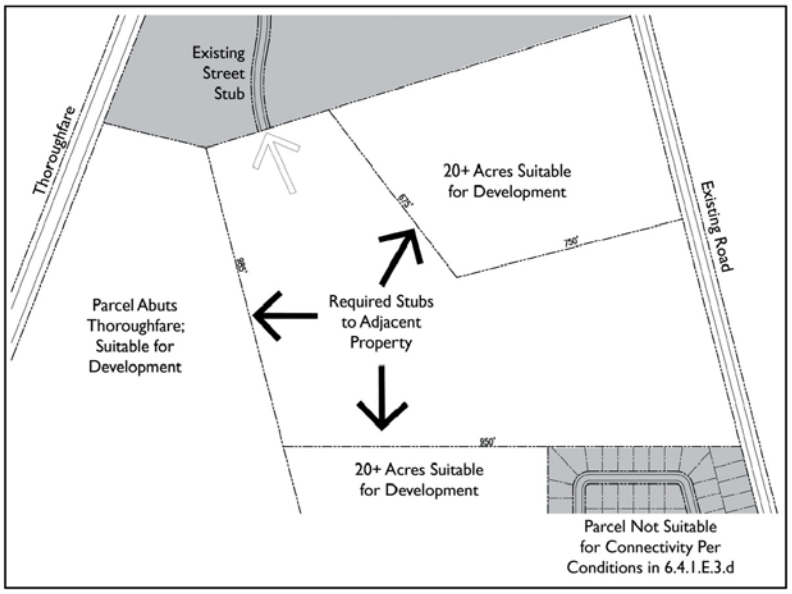
B. **Block Lengths:** Low speed, low volume streets shall be designed with short block lengths of between two hundred and fifty (250) and five hundred (500) feet. The Administrator may approve alternative block length designs based on topography, the existence of environmentally sensitive lands, the need to preserve cultural resources and similar considerations. [154.309(B)(2)]

C. **Compliance with Adopted Plans:** Streets shall be planned with due regard to the designated corridors shown on the adopted Thoroughfare Plan.

D. **Reserve Strips Prohibited:** Reserve strips and non-access easements adjoining street rights-of-way for the purpose of preventing access to or from adjacent property (except those required by the Town Council to prevent access to thoroughfares), and half-streets shall not be permitted.

E. **Street Stubs:**

1. **Connection to Street Stubs Required:** New developments shall connect to any existing street stubs from adjacent properties.



2. **Street Stub Prioritization:** New development shall stub to all adjacent properties where practical. The location of new required street stubs shall be prioritized as follows:

   a. Adjacent parcels 20 acres or greater

   b. Adjacent parcels that abut or are traversed by existing or proposed thoroughfares or collector streets.

   c. Where any adopted transportation or land use plan recommends a street connection.

3. **Exemptions:** Street stubs shall not be required where the conditions listed below would prevent connections:

   - Topographical conditions (where pre-development slopes are 18 percent or greater)
   - Environmental conditions (e.g., jurisdictional wetlands)
   - Property shape
   - Property accessibility (e.g., existing platted subdivision with no stubs)
   - Land use relationships (e.g., incompatible land use)

4. **Stub Street Details:** Stub streets and streets intended for extension during future phases shall be constructed to extend to the property line or as close to the line as practical. It shall be the responsibility of the second development to construct the connection to an existing stub street. Stub (or dead head) streets shall not exceed 150 feet in length without a paved turnaround (permanent or temporary). A clearly visible street sign shall be erected at the end of the stub street stating that the street is planned to connect to a future street.

6.4.2 Pedestrian/Bicycle Connections.

A. **Connections to Greenways and Parks:** When lots abut greenways, parks and open space areas, accessways must be provided at a minimum of every six hundred (600) feet. Where a cul-de-sac street is permitted within a development, accessways to greenways, parks and open space areas must be provided where such streets back up to these areas.

B. **Connection of Culs-de-sac:** Where two (2) cul-de-sac streets end within three hundred (300) feet of each other, accessways shall be provided between the culs-de-sac where feasible.

C. **Minimum Pedestrian/Bicycle Accessway Width:** Five (5) feet.

D. **Surface Treatment of Accessways:** The surface of accessways shall be constructed of a smooth, compactable material that is accessible for wheelchairs and stollers. Acceptable materials include asphalt, concrete, and crushed stone.

6.4.3 Public Transit Connections.

Projects with 100 or more residential units or 100,000 square feet of non-residential space that are adjacent to present or planned transit routes shall provide adequate and well-located space for a shelter and bus drop-off area.

6.5 Transportation Plan Conformity.

The location and design of streets shall be in conformance with the adopted Transportation Plans of the North Carolina Department of Transportation and of the Town, including any Pedestrian, Greenway, Bicycle, Transit or other Transportation Plans that have been adopted by the Town of Waynesville or NCDOT.

6.5.1 Reservation Required.

Whenever a tract of land included within any proposed development plan embraces any part of the thoroughfare network as designated on the Thoroughfare Plan or other town-adopted Transportation Plan, the development shall be required to reserve the thoroughfare right-of-way for up to ten (10) years.

6.5.2 Dedication of Adequate Right-of-Way Abutting Existing Substandard Thoroughfares.

If a development site abuts an existing thoroughfare with a right-of-way width less than that recommended in the adopted Thoroughfare Plan or similarly adopted specific design plan, then the development shall include dedication of any additional right-of-way along the development's frontage on the thoroughfare. The dedication shall include right-of-way sufficient to widen the right-of-way to 45 feet from the centerline of the existing roadway unless a thoroughfare cross-section has been adopted, in which case the development shall dedicate the amount of right-of-way needed to achieve the proposed cross-section. In addition, the development shall be required to build all such improvements located behind the proposed curb (e.g., trees, lights, sidewalks).

6.5.3 Proposed New Thoroughfares.

A. **Incorporation of Thoroughfare:** If (i) an adopted Thoroughfare Plan, Collector Street Plan or Transportation Plan proposes a new major thoroughfare across part of a development site; and (ii) an alignment for the thoroughfare has been determined to a reasonable degree of certainty (for example, as a centerline alignment on a functional design plan); and (iii) the thoroughfare could appropriately serve to provide direct access to the development (for example, it would not be a freeway or other restricted-access road), then the development shall incorporate the major thoroughfare into its internal road layout by having one of the development's roads run along the proposed thoroughfare alignment.

B. **Reservation of Future Right-of-Way:**

1. If (i) an adopted Thoroughfare Plan, Collector Street Plan or Transportation Plan proposes a new major thoroughfare - other than one defined in subsection 1 above - across part of a development site; and (ii) an alignment for the thoroughfare has been determined to a reasonable degree of certainty (for example, as a centerline alignment on a functional design plan); and (iii) the Town's development regulations reasonably allow the developer to both realize the maximum lot density allowed by the site's zoning and physical characteristics and avoid developing that part of the site needed as future right-of-way for the proposed thoroughfare, then the development shall include reservation of the thoroughfare's future right-of-way; that is, it shall not include lots or other development within the land area needed as the thoroughfare's future right-of-way.

2. Land area needed as future right-of-way shall be determined from NCDOT plans where available, or other by applying half the right-of-way width recommended in the Thoroughfare Plan along each side of the thoroughfare's proposed centerline alignment.

C. **Exception to Applicability:** If neither provision A nor provision B above applies to a proposed development across which a major thoroughfare is proposed, then no incorporation of the thoroughfare or reservation of future right-of-way for the thoroughfare shall be required.

D. **Record Plat Notice of Future Right-of-Way:** If the Thoroughfare Plan recommends the widening of an existing major thoroughfare abutting a development site, or proposes a new major thoroughfare across part of a development site, the record plat for the development shall include notice of such. If the land area needed for the planned widening or new thoroughfare can be ascertained with a reasonable degree of certainty, the record plat shall delineate it and label it as future right-of-way.

6.6 Town Street Classification and Design.

The purpose and intent of these standards are to create an attractive, safe, and multi-modal transportation system.

6.6.1 General Guidelines.

A. Streets constructed as part of new subdivisions or other development must comply with the design standards as provided in this section for safety according to its classification.

B. Streets may be accepted into the Town street system for maintenance with approval of the Town Council. However, streets with two or more of the following characteristics, should not be accepted into the Town's roadway system for maintenance:

   a) Roadways in elevations above 2900 feet, and/or

   b) Roadways with grades above 22% with a maintained distance over 500 feet, and/or

   c) Roadways in areas prone to rockslides and/or

   d) Roadways where the Town is unable to provide emergency services due to geometrics of the roadway, and/or

   e) Roadway stopping sight distance is inconsistent with design speed.

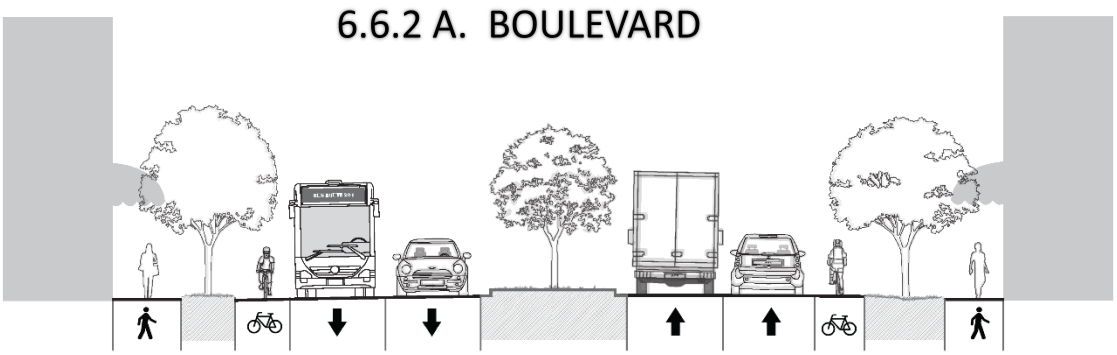
C. Design Speed and Posted Speed Limit: Design speed is a selected speed used to determine the various geometric design features of a roadway. The posted speed limit is established either by law or by traffic control devices. Speed limit is usually less than the design speed.

D. Street design includes multiple elements: the roadway or vehicle travel surface, which may include an improved shoulder or bicycle lane; curb and gutter, swale or other stormwater conveyance; planted strips and landscaping as required; sidewalks, greenways or other pedestrian facilities such as crosswalks as required.

E. Blocks are units of land, inclusive of private land, alleys, parking areas and sidewalks or other features that are circumscribed by a combination of streets, waterways, or linear greenspace that break up the linear development pattern along a roadway. New streets shall be organized with blocks that are a maximum of 500 feet in length, unless within a conservation subdivision or hillside development, or within Low Density Residential Districts (CC-RL, EN-RL, FC-RL, or HT-RL).

6.6.2 Town Street Classifications.

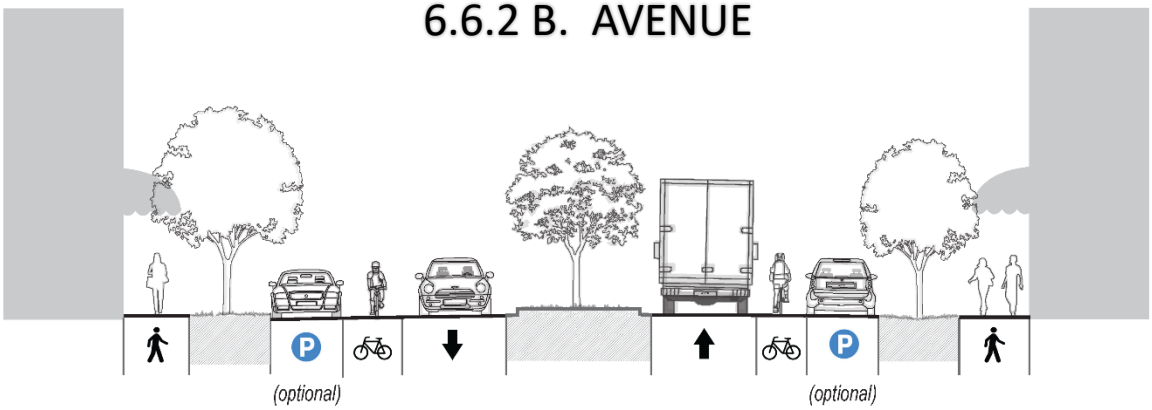
All streets, public or private, shall comply with the design standards in this section. NCDOT approval is required for development in the ETJ.



Definition: Boulevards provide multi-lane access to commercial and mixed-use developments. Boulevards also serve to carry regional traffic throughout the town. *(Russ Avenue is an example of a Boulevard.)*

- Right-of-way width: 100-124 feet (Curb and Gutter),
- Lane Widths: 10-12 feet
- Median Width: 10 – 20 feet (and available for designated turn lanes)
- Traffic Lanes: 4 or 5 lanes
- Parking Lanes: None, generally off-street parking
- Curb Type: Vertical curb and gutter or LID or open drainage *(Additional right-of-way may be required for natural drainage sections)*
- Curb Radius: 15 -25 feet at street intersection *(Ref. Sec. 6.7.6)*
- Grades: As approved by Administrator. *(Ref. Sec. 6.7.4)*
- Design Speed: 50 mph
- Stopping Sight Distance: *minimum* 425 feet (*Ref. Sec. 6.7.1)*
- Pedestrian Facilities – Intersection bulbouts (required) and Mid-block crosswalks
- Walkway Type: 6 ft. sidewalk both sides (Residential Districts) 8 ft. all other districts
- Bicycle Facilities: 5 ft. Bike Lane *(Ref. Sec. 6.9.3)* or 6 ft. w/on-street parking
- Planter Type: Continuous planting strip - 6 ft. (curb) or 8 ft. Open Drainage
- Landscape Type: 1 per 40 ft. of street frontage *(Ref. Sec. 8.5.1)*

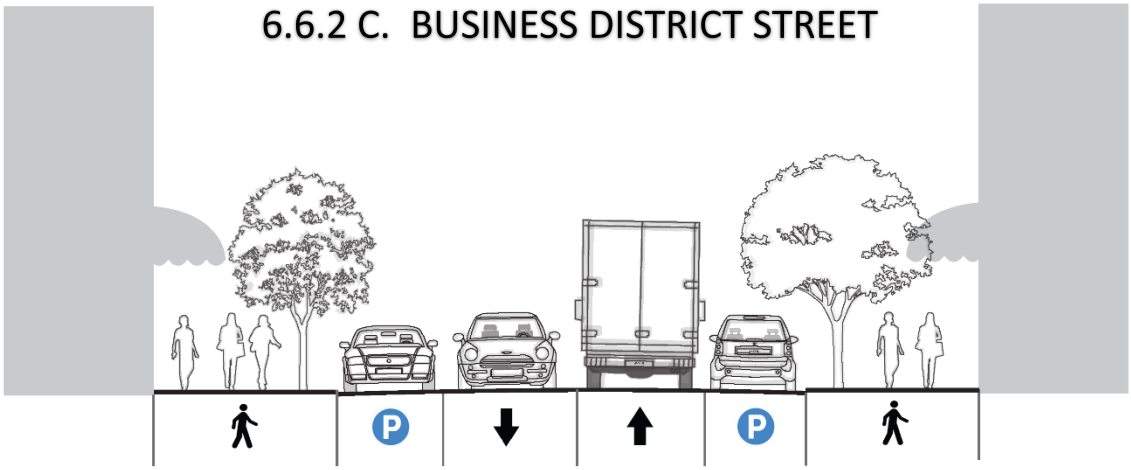
6.6.2 B. AVENUE



Definition: Avenues serve as arterial, collector, or local route connectors between neighborhoods and area centers. Used in residential and commercial areas, often terminating at prominent buildings, downtown centers, or plazas. Avenues may also circulate around squares or neighborhood parks. *(Dellwood Road and Howell Mill Road are examples of Avenues).*

- Right-of-way width: 80-104 feet (Curb and Gutter),
- Lane Widths: 10-12 feet
- Median Width: 12 – 18 feet. *(Optional)*
- Traffic Lanes: 2-3 lanes
- Parking Lanes: parking on both sides *(Ref. Sec. 6.7.11)*
- Curb Type: Vertical curb and gutter or LID or Open Drainage *(Additional right-of-way may be required for natural drainage sections)*
- Curb Radius: 15 -25 feet. at street intersection *(Ref. Sec. 6.7.6)*
- Grades: As approved by Administrator. *(Ref. Sec. 6.7.4)*
- Design Speed: 45 mph
- Stopping Sight Distance: *minimum* 360 feet *(Ref. Section 6.7.1)*
- Pedestrian Facilities – Intersection bulbouts (required) and Mid-block crosswalks
- Walkway Type: 6 ft. sidewalk both sides (Residential Districts) 8 ft. all other districts
- Bicycle Facilities: 5 ft. Bike Lane (Ref. Sec. 6.9.3) or 6 ft. w/on-street parking
- Planter Type: Continuous planting strip - 6 ft. (curb) or 8 ft. Open Drainage
- Landscape Type: 1 per 40 ft. of street frontage *(Ref. Sec. 8.5.1)*

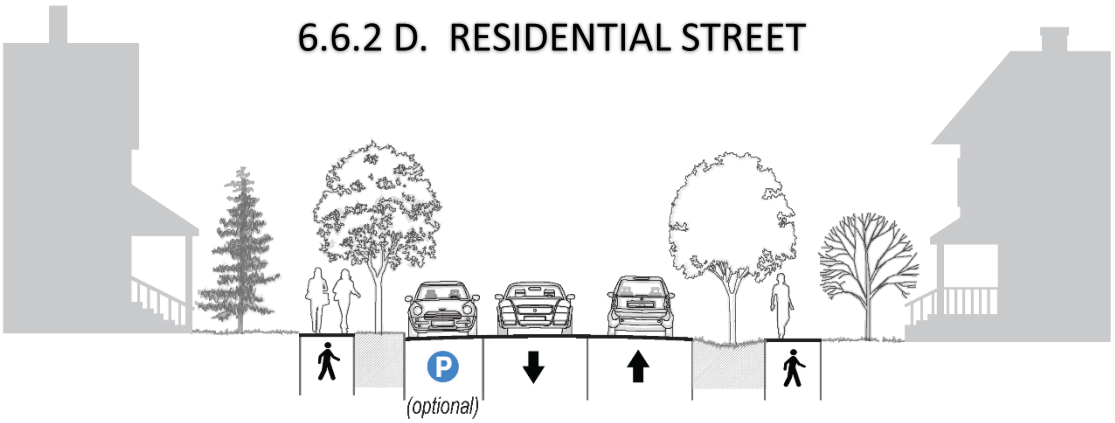
6.6.2 C. BUSINESS DISTRICT STREET



Definition: Business District Streets can be arterial, collectors, or local streets that serve as a primary thoroughfare for traffic circulation in a limited area. They provide access to downtown, commercial, or outlying business districts and generally have a high percentage of truck traffic. A destination street that serves as a center of civic, social, and commercial activity. *(Downtown, Frog Level, and Hazelwood are examples of locations for Business District Streets).*

- Right-of-way width: 60-80 feet (Curb and Gutter),
- Lane Widths: 10-12 feet
- Traffic Lanes: 2 - 3 lanes
- Parking Lanes: Both sides or (one side only as appropriate) *(Ref. Sec. 6.7.11)*
- Curb Type: Vertical curb and gutter
- Curb Radius: 15 -25 ft. at street intersection *(Ref. Sec. 6.7.6)*
- Grades: As approved by Administrator *(Ref. Sec. 6.7.4)*
- Design Speed: 35 mph
- Stopping Sight Distance: minimum 250 feet *(Ref. Sec. 6.7.1)*
- Pedestrian Facilities – Intersection bulbouts (required) and crosswalks at all intersections and Mid-block as appropriate.
- Walkway Type: 12 ft. sidewalk both sides (16 ft. required for outdoor seating areas) (dimensions are measured from back of curb to the outside edge of sidewalk)
- Bicycle Facilities: Normal Lane with integrated bicycle traffic or Wide Lane of 3-5 foot improved or striped shoulder. *(Ref. Sec. 6.9.3)*
- Planter Type: Tree wells or 6 ft. continuous planting strip (included in walkway type dimension)
- Landscape Type: 1 per 40 ft. of street frontage *(Ref. Sec. 8.5.1)*

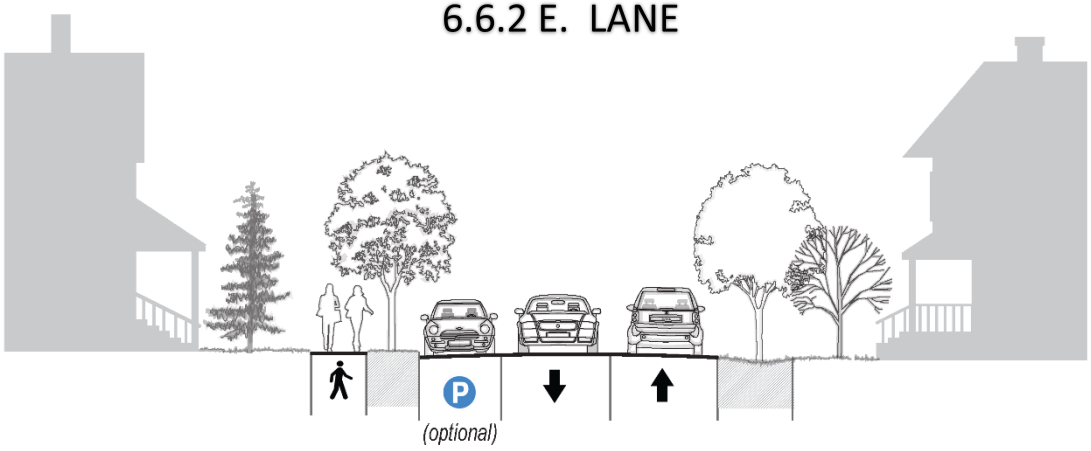
6.6.2 D. RESIDENTIAL STREET



Definition: Local Residential streets serve as the primary transportation network in the community. Generally, they contain more than 50% residential dwellings based on road frontage.

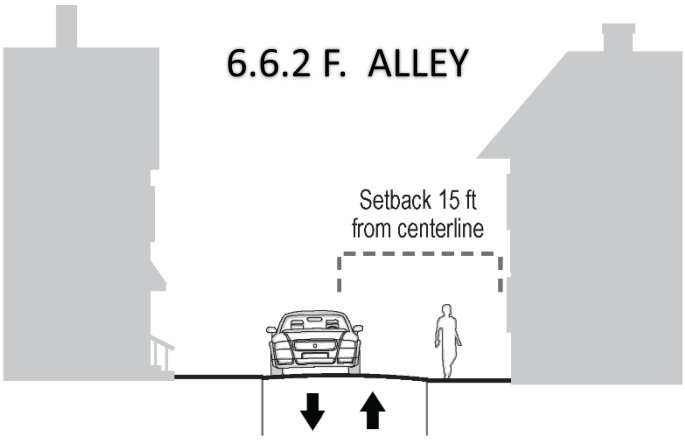
- Right-of-way width: Minimum 40 feet. (Curb and Gutter), 50 ft. (Open Drainage)
- Pavement Widths: Minimum 20 feet. (27 ft. with parking)
- Traffic Lanes: generally, two lanes (one in each direction)
- Parking Lanes: parking on one side *(Ref. Sec. 6.7.11)*
- Curb Type: Vertical Curb and Gutter or LID (Low Impact Development) *(Ref. Sec. 12.5)*
- Curb Radius: 15 feet at street intersection *(Ref. Sec. 6.7.6)*
- Grades: *Maximum* Grade of 18% for a maximum length of 2,500 feet *(Ref. Sec. 6.7.4)*
- Design Speed: 40 mph
- Stopping Sight Distance: minimum 305 feet *(Ref. Sec. 6.7.1)*
- Walkway Type: 5 ft. sidewalk both sides (one side with environmental constraints *(Ref. Sec. 6.6.2.H))*
- Bicycle Facilities: Normal Lane with integrated bicycle traffic or Wide Lane of 3-5 foot improved or striped shoulder. *(Ref. Sec. 6.9.3)*
- Planter Type: Continuous planting strip 5 ft. (Curb) or 8 ft (Swale)
- Landscape Type: 1 per 40 ft. of street frontage (see 8.5.1)
- Subdivision Type: All Major Subdivisions

6.6.2 E. LANE



Definition: Lanes are small, traveled ways intended to provide direct access to the front of a limited number of residential structures and the number of lots served. Generally, they are very short; often less than four hundred (400) feet. Items including, but not limited to, traffic carrying capacity, topography, and connectivity, and emergency vehicle access, shall be a consideration when permitting a lane in lieu of a street.

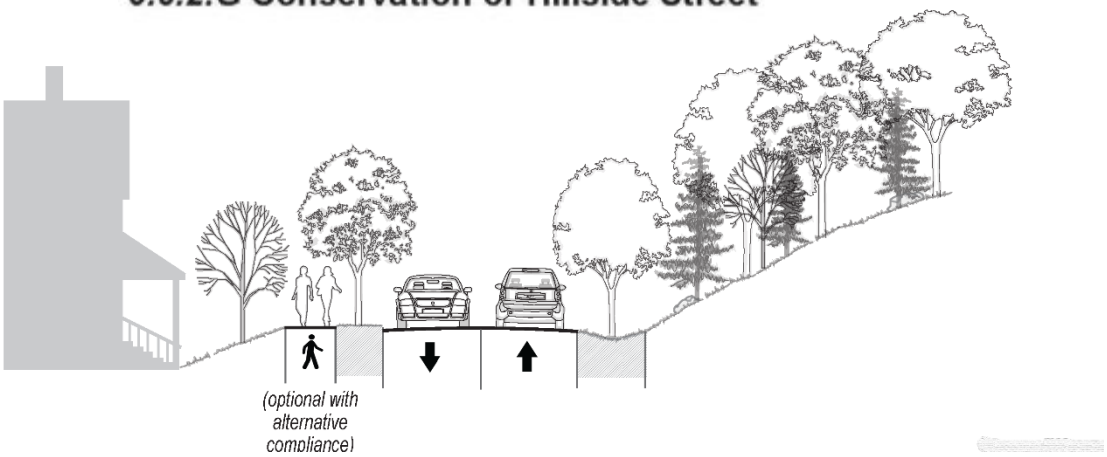
- Right-of-way width: Minimum 36 feet. (Curb and Gutter), 46 feet. (Open Drainage)
- Pavement Widths: *Minimum* 20 feet.
- Traffic Lanes: two lanes (one lane in each direction) or one lane as a one-way street or loop, as approved by fire code official.
- Parking Lanes: Parking on one side *(Ref. Sec. 6.7.11)*
- Curb Type: Vertical Curb and Gutter, Open Drainage or LID (Low Impact Development) *(Ref. Sec. 12.5)* (Additional right-of-way may be required for natural drainage sections)
- Curb Radius: 15 feet at street intersection *(Ref. Sec. 6.7.6)*
- Grades: *Maximum* Grade of 18% for a maximum length of 2,500 feet *(Ref. Sec. 6.7.4)*
- Design Speed: 35 mph
- Stopping Sight Distance: Minimum 250 feet *(Ref. Sec. 6.7.1)*
- Walkway Type: 5 ft. sidewalk one side *(4 feet. with environmental constraints)*
- Bicycle Facilities: Normal Lane with integrated bicycle traffic or Wide Lane of 3-5 foot improved or striped shoulder. Type N or W *(Ref. Sec. 6.9.3)*
- Planter Type: Continuous planting strip 5 ft. (Curb) or 8 ft (Open Drainage).
- Landscape Type: 1 per 40 ft. of street frontage *(Ref. Sec. 8.5.1)*
- Length: *Maximum* 800 ft. unless approved by the Administrator



Definition: Alleys are intended to provide indirect, limited access to the rear of properties but not to accommodate through traffic. Utilities, either above ground or underground, may be located in alleyways to provide service connections to rear elevations.

- Right-of-way width: 20-24 feet.
- Pavement Widths: *Minimum* 14 feet.
- Parking Lanes: None
- Curb Type: inverted Crown
- Curb Radius: Taper *at street intersection*
- Grades: As approved by Administrator *(Ref. Sec. 6.7.4)*
- Design Speed: 30 mph
- Stopping Sight Distance: 200 feet
- Walkway Type: Path optional
- Landscape Type: None
- Building Setback from Alley Centerline: 15 ft.
- Maximum Length: Approved by Administrator

6.6.2.G Conservation or Hillside Street



Definition: Streets designed to accommodate environmental constraints and to encourage minimal grading and adaption to the natural character of the land. This street standard can be applied when environmental issues, environmental protection and/ or conservation are a consideration. This standard can only be used with the pre-approval of the administrator.

- Right-of-way width: *Minimum* 36 ft. (Vertical Curb), 46 ft. (Open Drainage)
- Pavement Widths: Minimum 20 ft. (14 ft. in one-way sections with pull-out every 150 ft. or as allowed by Town Fire Officials)
- Traffic Lanes: 1 or 2 lanes
- Parking Lanes: None (off-road parking only)
- Curb Type: Vertical Curb, Open Drainage or LID (Low Impact Development) with Curb and gutter at intersections. (Additional right-of-way may be required for natural drainage sections) *(Ref. Sec. 12.5)*
- Curb Radius: 15 ft. at street intersection *(Ref. Sec. 6.7.6)*
- Grades: As approved by Administrator. *(Ref. Sec. 6.7.4)*
- Design Speed: 40 mph
- Stopping Sight Distance: Minimum 305 feet *(Ref. Sec. 6.7.1)*
- Walkway Type: 5 ft. (4 ft. with environmental constraints) sidewalk on one side. *(For Alternative Compliance Ref. Sec. 6.8C)*
- Bicycle Facilities: Optional Type N or W *(Ref. Sec. 6.9.3)*
- Planter Type: Continuous planting strip of 5 ft (Rolled Curb) or Open Drainage. *(For Alternative Compliance Ref. Sec. 6.8.1) (Ref. Sec 6.8C for Tree Conservation)*
- Landscape Type: 1 per 40 ft. of street frontage *(Ref. Sec. 8.5.1)*

6.7 Street Engineering Standards.

The following standards are intended to provide general clarity for most conditions in Waynesville. Deviations to these standards may be granted by the Administrator subject to generally accepted safety and engineering practices.

6.7.1 Stopping Sight Distances.

Stopping Sight Distance (SSD) is the forward view that a driver has at all times while driving the indicated maximum speed limit for each classification of Town Street. The SSD is greatly dependent on the approach grade. The values presented are for an assumed approach grade within a range of -3% to +3%. For approach grades outside this range, the design engineer shall be required to certify that SSD is met at all times along the street. ***Guidance obtained with reference to NCDOT Subdivision Manual, AASHTO (American Association of State Highway and Transportation Official), (Highway Capacity Manual, and NACTO (National Association of City Transportation Officials).***

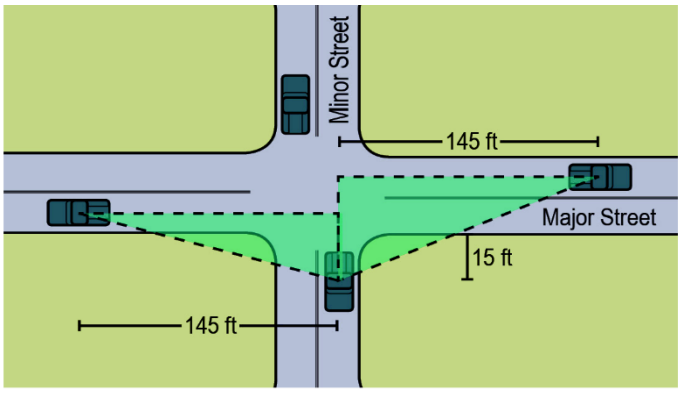
Minimum stopping sight distance should conform to the design speed of the roadway. *(Ref. Sec. 6.6.2).*

Street Classification	Design Speed	Stopping Sign Distance
Boulevard	50 mph	425 feet
Avenue	45 mph	360 feet
Residential or Conservation Street	40 mph	305 feet
Business District Street or Lane	35 mph	250 feet
Alley	30 mph	200 feet

The required sight distances set forth in this section should be provided by both vertical and horizontal alignment. Where grades vary from level conditions, stopping sight distances must be increased for downhill grades, but may be decreased for uphill grades. ***In cases where the speed limit is greater, refer to the latest published copy of AASHTO's "A Policy on Geometric Design of Highways and Streets."***

6.7.2 Sight Triangles.

The minimum sight triangle for stop conditions at a street intersection shall be one hundred forty-five (145) feet along the major road and fifteen (15) feet on the minor road approach from the edge of the traveled way. The 145 feet is measured in the center of the near lane looking left, and to the center of the far lane looking right. The intersection sight triangle shall be permanent right-of-way.



6.7.3 Intersections.

A. **Intersection Angles:** The most desirable intersections are those with angles of 75 to 90 degrees. Intersections with angles of 60 to 75 degrees are acceptable under extreme conditions.

B. **Intersection Offsets:**

1. **Intersection Offset Standards:** If intersections are offset they should be in accordance with the following:

   a. The offset should be to the left at major streets.

   b. At least one hundred and twenty (120) feet offset between centerlines is desirable.

2. **T-Intersection Preferred for Low Density Residential Streets:** For low density residential neighborhood, the use of two T-intersections with proper offset is preferable to using a standard four-way intersection as a means to calm traffic and highlight important views. The opposite side of the terminated street should have a strong visual presence to frame the view (e.g., civic space, civic building, vertical landscaping treatment, prominent architectural feature).

6.7.4 Grades.

A. **Vertical Curves:** K values for vertical curve design should be consistent with design speed and stopping sight distance. *(Ref. Sec. 6.7.1)*

B. **Maximum Grade for Residental Streets and Lanes:** Maximum Grade of 18% for a maximum length of 2,500 feet. Each 2,500-foot maximum grade section must be separated by a 500-foot section of 7% maximum grade. The maximum grade can be increased by 3% for distances less than 500 feet as long as there is a 500-foot "normal maximum grade" section between each "increased maximum grade" section.

C. **Maximum Grade for all other street types As approved by Administrator.** Must meet AASHTO guidelines.

D. **Minimum Street Grades:** No grades less than 0.5% should be used to facilitate water drainage (e.g., vertical slope, cross-slope, inverted crown).

6.7.5 Centerline Radius.

When determining the centerline radius for a new roadway, refer to the latest published copy of AASHTO's **"A Policy on Geometric Design of Highways and Streets".**

6.7.6 Curb Radii and Construction.

A. **Curb Radius (Minimum):** 15 feet

B. **Larger Radius May Be Required:** Where deemed necessary for safety by the Administrator, some intersections on avenues, main streets and boulevards may require a curb radius of up to twenty- five (25) feet. With these larger curb radii, sidewalks may be set back six (6) to ten (10) feet from curbs and on-street parking may be restricted thirty (30) feet back from the intersection on each street.

C. **Minimum Specifications:** All curbed streets shall be built in accordance with the specifications of the Town's Public Services Department.

D. **Minimum Gutter Dimension:** Unless otherwise approved by the Administrator or as stipulated below, gutters must be a minimum of eighteen (18) inches in width.

E. **Minimum Gutter Dimension (Lanes and Street Medians):** 1 foot.

F. **Ramps Required:** Wheel chair ramps shall be provided at all curb and gutter intersections and at other major points of pedestrian flow in accordance with ADA Accessibility Standards.

G. **Alternative Compliance.** Curbs – when the *permeable pavement is in use or when the direct stormwater runoff has less impact than the concentrated runoff of standard drainage systems. Low Impact Development (LID) stormwater controls may be used with approval by the administrator.*

1. Alternative Compliance: Alternative provisions for curbs meeting the intent of this section may be used where unreasonable or impractical situations would result from the application of these requirements or where an alternative drainage plan is preferred for stormwater management. Such situations may result from significant street trees, impending road widening, topography, utility easements, lot configuration or other unusual site conditions.

2. In districts such as Hillside Protection areas and Conservation Subdivisions, Low Impact Development (LID) or preservation of existing vegetation may be used with approval by the administrator. All alternative stormwater features shall be constructed in accordance with the standards in the latest edition of the North Carolina Environmental Quality's (NCDEQ) Stormwater Design Manual. *(Ref. Sec. 12.5).* The Administrator may approve an alternate plan that proposes different stormwater amenities provided that the intent of this section is fulfilled.

6.7.7 Pavement Standards.

A. **Minimum Specifications:** All street types, except alleys, shall be paved to meet the specifications of the Town's Public Services Department.

B. **Pavement Depth and Material:** Minimum design is eight (8) inches stone base and two (2) inches pavement surface.

C. **Alleys:** Pavement is not required for alleys. However, when alleys are proposed to be paved, the pavement shall meet the specifications of the Town's Public Services Department. Where alleys are to be unpaved, an appropriate concrete apron shall be installed to restrain all alley surfacing material from entering the street.

6.7.8 Utilities.

A. **Minimum Specifications:** All utility installations within rights-of-way shall be consistent with the specifications of the Town's Public Services Department and Section 6.11 of this Chapter.

B. **Horizontal Location:** Where there are curbed sections, poles and other above ground utilities shall be located behind sidewalks or as far back as practical from the edge of the traveled way with six (6) feet as a design safety guide. Where the section is not curbed (drainage stands, etc.), pole lines shall be located inside the right-of-way under an encroachment agreement. These lines shall be located as close as is practicable to the right-of-way line.

C. **Lighting:** Lighting shall be provided along new traveled ways in conformance with the standards set forth 10.3.5, Street Lighting.

6.7.9 Drainage Systems in Streets.

A. The Administrator shall review all drainage prior to acceptance of any facility to the town system. Drainage in easement areas are not considered a portion of the street facility. Permanent drainage easements may be established, however, the town does not accept maintenance responsibility for easement outside of the street right-of-way.

B. **Design Frequency:** The minimum design frequency is ten (10) years. However, the design frequency for cross drainage on thoroughfare routes (major and minor) shall be fifty (50) years. All storm drainage shall be adequate so that the street may be maintained at minimal cost and not cause flooding at the design frequency.

C. **Pipe Sizes:** Minimum cross pipe diameter shall be eighteen (18) inches. The minimum driveway culvert size shall be fifteen (15) inches.

D. **Subsurface Drainage:** Subsurface drainage shall be provided, if necessary, to maintain a stable subgrade.

E. **Retention/Detention Basins:** Retention/detention basins shall be located outside of the right-of- way.

F. **Bridges:** Bridges to be built by private interests for future acceptance shall be designed for a minimum live load of HS-20 and designed for hydraulic requirements in accordance with flood hazard areas. Materials of construction shall be pre-stressed concrete, reinforced concrete to the maximum extent feasible.

G. **Open Drainage:** Open drainage shall include rock dams every thirty (30) feet in the ditchline on slopes. The ditchline should be planted to help clean drain flows.

6.7.10 Islands or Short Medians at Subdivision Entrances.

A. **Administrator Approval:** The Administrator will review all requests for islands or short medians at subdivision entrances.

B. **Maintenance:** Maintenance shall be by the developer or property owner's association. The island or median section will be removed if not properly maintained.

6.7.11 Parking Spaces on Streets.

All mid-block parallel parking spaces shall be seven (7) feet in width by twenty-two (22) to twenty-six (26) feet in length and end of block spaces may be seven (7) feet by twenty (20) feet as determined by the Administrator subject to the constraint of the existing conditions. The dimension is measured from the face of the curb and may include the gutter. All on-street parking spaces must meet local fire code, the latest editions of the Architectural Graphic Standards, and the Manual on Uniform Traffic Control Devices (MUTCD) guidelines, and are subject to approval by the administrator.

6.8 Pedestrian Facilities.

The purpose and intent of this section is to establish criteria for the development of pedestrian facilities within the jurisdiction of the Town of Waynesville. These standards are set forth to:

1. Provide a safe and walkable pedestrian environment while considering local environmental constraints, low impact development standards, and public safety
2. Promote access for those who are mobility impaired or wheelchair dependent.
3. Improve connectivity and convenience among residential, recreational, and commercial areas.

6.8.1 Sidewalks.

A. **General Standards/Location:** Sidewalks are required in accordance with the street classifications in Section 6.6.2 as part of major site plans and major subdivisions, and wherever designated in the adopted pedestrian plan. Alternative facilities may be considered in the RL District and in areas where Hillside Protection standards apply (See Section 12.6) in accordance with C below. A payment in lieu may be considered in all districts in accordance with D below.

B. **Design Standards:**

1. Where existing sidewalk abuts an area where new sidewalk is to be developed, the new sidewalk shall be the same width as the existing sidewalk or meet the standards of the 6.6.2, whichever standard width is greater.
2. Within commercial areas and places with high pedestrian volumes, sidewalks should be designed to meet the anticipated pedestrian/traffic volume as well as accommodate outdoor seating areas.
3. Sidewalks shall be constructed of concrete or other approved materials (such as pavers) and built in accordance with the specifications of the Town's Public Services Department.
4. Where a sidewalk abuts a curb because of right-of-way, topographic or existing building limitation, the minimum width shall increase by 1 foot. Where a sidewalk abuts a wall the minimum width shall increase by 1 foot.

C. **Alternative Compliance:** Alternative provisions for pedestrian movement meeting the intent of this chapter may be used where unreasonable or impractical situations would result from application of these requirements. Such situations may result from significant street trees, impending road widening, topography, utility easements, lot configuration or other unusual site conditions. *Alternative pedestrian facilities may also be used as part of Low Impact Development (LID), development design, hillside, or within conservation and cottage development with approval by the administrator.*

1. In districts where trails are permitted in lieu of sidewalks (RL & Hillside Protection areas & Conservation Subdivisions), they shall be constructed in accordance with the standards in 6.8.2. Trails are generally allowed in very low density development, and are only required on one side of the road.
2. The Administrator may approve an alternate plan that proposes different pedestrian amenities provided that the intent of this section is fulfilled.

D. **Payments in Lieu:** In lieu of alternative compliance in C above, the Administrator may approve a payment in lieu (in accordance with an adopted annual fee schedule) where any one or a combination of factors render compliance impractical:

1. Steep slopes;
2. Absence of existing sidewalks along the corridor and in the general neighborhood;
3. Where sidewalks are not shown on an adopted Comprehensive Pedestrian Plan.

6.8.2 Trails.

Trails, if provided, shall comply with the following standards:



A. **Width:** 6—14 ft.

B. **Right-of-way/Easement Width:** 18—20 ft.

C. **Connections:** Trail stubs at property lines should be placed in areas that are easily accessible for future connectivity through adjacent parcels.

D. **Materials:** Compact gravel, concrete, or asphalt or other material approved by the Administrator.

6.8.3 Pedestrian Crosswalks.

Mid-block crossings, bulb-outs, raised crosswalks and similar crossing techniques should be commonly used to accommodate pedestrians when appropriate for traffic conditions and site specific situations as directed by the Administrator. All designs shall be consistent with the Town's adopted Pedestrian Plan.

6.9 Bicycle Facilities.

6.9.1 Requirement for Installation.

A. Bike lanes or separate off-street multi-use paths shall be installed on developer-built or modified roadways where designated for such by the Town of Waynesville Transportation Plan or similarly adopted plan; and/or as specified in Section 6.9.3 below where the adopted plan does not provide sufficient guidance.

B. Where a proposed development does not include new or widening of existing collector or thoroughfare streets, the developer shall reserve right-of-way sufficient to accommodate the appropriate bikeway facility.

6.9.2 Design Standards.

Bike lanes and bike paths shall be designed according to the North Carolina Bicycle Facilities Planning and Design Guidelines published by NCDOT and shall include all appropriate signage and pavement markings.

Variations from the NCDOT standards may be allowed subject to approval from the Administrator based on the standards below.

6.9.3 Applicability of Bicycle Facilities.

Bicycle facilities shall be included in the cross-sections of Section 6.6.2, Town Street Classification based on the matrix below. Motor vehicle volumes shall be based on projected motor vehicle volumes in a 20-year time horizon. Speeds shall be based on the design speed of the proposed roadway.

		Projected Motor Vehicle Volumes (Average Daily Traffic)					
		< 2,500 ADT	2,500—5,000 ADT	5,000—10,000 ADT	10,000—20,000 ADT	20,000—40,000 ADT	> 40,000 ADT
Roadway Design Speed							
	< 25 mph	N	N	W	BL	BL	BL
	25 mph	N	W	BL	BL	BL	BL
	30 mph	N	W	BL	BL	BL	S
	35 mph	W	W	BL	BL	BL	S
	40 mph	W	BL	BL	BL	BL	S
	45 mph	W	BL	BL	BL	S	S
	> 45 mph	S	S	S	S	S	S

N Normal Lane, 9—12 feet wide. Cyclists would operate in mixed traffic near the middle of the lane.

W Wide Lane, 13—15 feet wide. Cyclists would generally operate in the right most portion of the lane. MUTCD-approved shared lane markings shall be used.

BL Bike Lane, 4—6 feet wide (striped/marked) or narrow shoulder. In general, bike lanes should be at least 5 feet wide at higher traffic volumes (over 20,000 ADT) and higher speeds (40 mph and higher) and 6 feet wide next to on-street parking.

S Separated Lane. Anything wider than 6-foot bike lane, including wide bike lanes/shoulders or parallel multi-use paths.

6.10 Transportation Impact Analysis.

The Transportation Impact Analysis (TIA) is a specialized study that evaluates the effects of a development's traffic on the surrounding transportation infrastructure. It is an essential part of the development review process to assist developers and government agencies in making land use decisions involving annexations, subdivisions, rezonings, special land uses, and other development reviews. The TIA helps identify where the development may have a significant impact on safety, traffic, roadway operations, and provides a means for the developer and government agencies to mitigate these impacts. The TIA should address issues such as transportation network safety, operation, access management, and bicycle/pedestrian facilities. Ultimately, the TIA can be used to evaluate whether the scale of development is appropriate for a particular site and what improvements may be necessary to provide safe and efficient access and traffic flow. The TIA may show improvements being necessary on the development site or off site on the surrounding transportation network.

6.10.1 When Required.

The Town of Waynesville requires a Traffic Impact Analysis using its own thresholds, parameters, and mitigation requirements. The Town's requirements may not reflect the same requirements as NCDOT. According to the NCDOT TIA Guidelines, municipal TIA requirements take precedence over NCDOT TIA requirements, if more restrictive.

A TIA shall be required for a rezoning, subdivision plan, site plan, special use permit, certificate of zoning compliance, or preliminary plat for developments under the following conditions:

A. **Trip Generation Threshold:** A TIA is required when a development is anticipated to generate 500 trips per day or 50 trips in the peak hour. (Trips do NOT equal cars. One car leaving and then returning equals 2 trips). Examples of common land uses that approximate this threshold include:

- 50 single-family homes
- 70 apartments / townhomes
- 100 room hotel
- 30,000 square foot office building
- 20,000 square foot shopping center

B. **Other Thresholds:** A TIA is also required at 70% of the Trip Generation threshold (350 daily trips or 35 peak hour trips) when one or more of the following conditions are met:

1. Site is within 1 mile of a school greater than 250 students with a school access directly or indirectly (1 turn away) on the same road of at least one of the site access points.
2. If the Town determines that an impacted street is substandard due to safety or operation.

6.10.2 Pre-submittal Meeting

An applicant for development authorization for any project expected to meet or exceed the TIA thresholds specified in Section 6.10.1 above, shall schedule a pre-submittal meeting with the Development Services Director. The engineering firm expected to prepare the TIA shall attend this meeting which will establish the study area, the TIA scoping assumptions and to discuss any existing conditions, geometric concerns and other considerations related to the project's location, context, and nearby land uses. The outcome of the meeting should include an agreement between the Town and the applicant on the TIA assumptions and focus areas.

6.10.3 TIA Contents and Requirements.

The details of a traffic impact analysis report shall be determined based on the pre-submittal meeting and should follow the "Guidelines for TIA Submissions" document available through the development Services Department. The report shall include existing conditions, background conditions, buildout conditions, and horizon conditions, as well as any focus concerns within the study area identified in the pre-submittal meeting.

The study area is initially defined as encompassing the site access point or points to a point where the background volume of peak hour traffic on any approach will be increased by 10% due to traffic generated from the development. The study area can include stretches of roadway if deemed applicable by the Town in the pre-submittal meeting. Any changes to the study area should be discussed during the pre-submittal meeting before the study is commenced or prior to the TIA report being submitted.

A TIA will vary in range and complexity depending on the type and size of the proposed development and based on the scope determined during the pre-submittal meeting. Reports shall be sealed by a qualified North Carolina licensed engineer to provide such analysis and recommendations. The submission shall include all pertinent traffic data and computations affecting the design proposal and study area.

6.10.4 Improvements May Be Required.

Based on the findings of the analysis, mitigation measures may be required to improve adjacent roadways such as the creation of turn lanes, bridge replacement, crosswalks, road widening, or other physical improvements. The TIA could also involve strategies other than roadway construction or other physical improvements such as changes to traffic signal timing or phasing, and transportation demand management strategies.

6.10.5 Thresholds for Mitigation.

The Town requires consideration of roadway and/or operational improvements when the proposed development causes changes to the roadway Level of Service (LOS), causes increased queuing, or creates an atmosphere for increased roadway crashes.

Mitigation Thresholds:

1. No mitigation will be necessary if the approach Level of Service (LOS) remains an "A" or "B" between Background and Horizon conditions AND if safety and operational concerns do not exist based on sight distance, blocking, queuing, or crash history.
2. If the approach LOS at Background is a "C," "D," "E," or "F" and the delay increases more than 15% at Horizon conditions, mitigation is required to reduce the increased delay to less than 15%.
3. If the individual movement LOS is a "C," "D," "E," or "F" and the delay increases more than 25% at Horizon conditions, mitigation is required to reduce the increased delay to less than 25%.
4. If the site-generated traffic causes an increased queue from Background to Horizon Conditions of 25% or more on any individual movement, mitigation is required to reduce the queue increase to less than 25%.
5. If the crash history shows greater than 3 similar crashes within a 12-month period "preventable" mitigation to reduce the chances of similar crashes involving site-generated traffic may be required.
6. Mitigation should include references to the available right-of-way, potential constraints, project phasing, and innovative techniques to achieve the required mitigation goals.

6.10.6 Alternative to a Traffic Impact Analysis

If a TIA is not required according to the Town's thresholds, the Town may still require an alternate traffic study to validate the safety and operation of the street system at or near the proposed site or to address a substandard street issue within the predetermined study area. Alternate studies may include:

1. Left of Right Turn Lane warrant analysis at the site access points. This analysis should be conducted using NCDOT methodology found in the current edition of the NCDOT Driveway manual.
2. Sealed Technical Memorandum addressing only the site access point including operation, safety, and trip impact to the adjacent roadway.
3. Sealed Safety Study along a stretch of street impacted by the site to address construction traffic, roadway width adequacy, pavement adequacy, etc.

The Town will use the submitted TIA as a tool to determine mitigation or improvements on the street network. The Town reserves the right to require less than or more than what is recommended in the TIA based on the right of way availability, safety, community concerns, or other factors.

6.10.7 Payments-in-Lieu of Improvements.

The Town Council may, at its discretion, accept either mitigation measures to be completed by the developer or a fee paid to the Town in lieu of mitigation. The fee shall be equal to the costs of the required mitigation measures, as determined by the Administrator. A combination of mitigation measures and payments-in-lieu of dedication may be permitted. Payments-in-lieu of dedication shall be approved as part of the Development Plan.

6.11 Utilities.

6.11.1 Purpose and Scope.

A. The purpose of this section is to establish minimum utility design standards within the Town of Waynesville, its extraterritorial planning jurisdiction and other areas to which the Town of Waynesville provides public utilities.

B. Except as provided elsewhere in this chapter, it shall be unlawful for any person to begin the installation of any utilities without first obtaining a certificate of land development standards compliance from the Administrator.

C. **All Utilities to be Underground:** All major developments must place all utilities underground in accordance with the standards set forth in this section.

D. Additional permits may be necessary pursuant to the regulations of the State of North Carolina.

6.11.2 General Standards

A. Construction plans for utilities must be submitted meeting all of the standards required on the applicable development application.

B. Where utilities are provided within the rights-of-way of lanes, streets, main streets and avenues, underground utilities may cross under or run longitudinally under the pavement, provided future utility stub-outs are installed prior to paving. For boulevards and state highways, underground utilities may cross under but may not run longitudinally under the pavement, except in cases of unusual circumstances as approved by the Administrator.

C. Where utilities are installed outside of the rights-of-way, utilities, either above ground or underground, may be located in alleyways. If utilities are not to be placed in the alleyways or streets rights-of-way, developers are required to provide an additional five (5) feet minimum utility easement behind the sidewalk.

D. Pipeline materials shall be approved by the Administrator.

E. All nonferrous pipeline shall be installed with a locator wire (exception - sewer lines).

F. All structures shall be water-rated.

6.11.3 Water Systems.

A. All development applications must be accompanied by satisfactory evidence as to the proposed method and system of water supply.

B. In no case shall water lines be extended beyond the Urban Services Boundary line established in the Town of Waynesville Land Development Plan unless approved by the Town Council.

C. The installation of all water systems (except for individual wells) shall be required prior to final plat approval or the issuance of a certificate of occupancy unless otherwise permitted in this chapter.

D. Public Water Systems:

1. Where connection is proposed to the public water system, the proposed system shall be installed according to town specifications and standards and designed by a registered engineer. Plans shall be reviewed and approved by the Administrator and any appropriate state agency. A letter of approval from the Administrator and appropriate state agency must accompany the development application.

2. Connection to the public water system shall be required as set forth below depending on the number of dwelling units proposed in a development and the distance the development is located from existing public water supply systems.

    a. One unit - connection required if development is within two hundred (200) feet of a public system.

    b. Two units - connection required if development is within four hundred (400) feet of a public system.

    c. Three units - connection required if development is within six hundred (600) feet of a public system.

    d. Four units - connection required if development is within eight hundred (800) feet of a public system.

    e. Five units or more - connection required if development is within one thousand (1,000) feet of a public system.

3. Where a water line six (6) inches or greater in diameter is required in a public water system, fire hydrants shall be installed on the line. The hydrants shall be spaced so that coverage to all building sites along the line may be provided with not more than five hundred (500) feet of hose and shall be located to facilitate access, hose laying and drainage.

E. Private Systems: Where private individual systems are proposed for a development, a written statement or letter of approval from the Haywood County Health Department shall be submitted with the development application indicating that each lot has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply.

6.11.4 Sanitary Sewer Systems.

A. All development applications must be accompanied by satisfactory evidence as to the proposed method and system of sanitary sewer.

B. In no case shall sanitary sewer lines be extended beyond the Urban Services Boundary line established in the Town of Waynesville Land Development Plan unless approved by the Town Council.

C. The installation of all sanitary sewer systems (except for individual septic systems) shall be required prior to final plan approval or the issuance of a certificate of occupancy unless otherwise permitted in this ordinance.

D. Public Sewer Systems:

1. Where connection is proposed to the public sewer system and dedicated to the Town of Waynesville, the proposed system shall be installed according to the specifications of the Town's Public Services Department and designed by a registered engineer. Plans shall be reviewed and approved by the Public Works Department for the Town of Waynesville and any applicable state agency. A letter of approval from the Public Works Department and appropriate state agency must accompany the development application.

2. Connection to the public sewer system shall not be required for developments on slopes exceeding 30% average.

3. Installation of sewer lines requiring the Town of Waynesville to pump sewage is not permitted.

4. Connection to the public sewer system shall be required as set forth below depending on the number of dwelling units proposed in a development and the distance the development is located from existing public sewer system.

    a. One unit - connection required if development is within two hundred (200) feet of a public system.

    b. Two units - connection required if development is within four hundred (400) feet of a public system.

    c. Three units - connection required if development is within six hundred (600) feet of a public system.

    d. Four units - connection required if development is within eight hundred (800) feet of a public system.

    e. Five units or more - connection required if development is within one thousand (1,000) feet of a public system.

E. Private Systems:

1. Private sanitary systems are not permitted.

2. Private treatment systems resulting in discharges to surface waters are not permitted.

3. Individual on-site systems are permitted.

4. Where individual systems are proposed for a development, a written statement or letter of approval from the Haywood County Health Department shall be submitted with the development application. Such approval must indicate that each lot in the development has adequate land area and soil conditions suitable to accommodate the proposed methods of water supply and sewage disposal.

5. When individual, on-lot systems are approved, each lot so served shall be of a size and shape to accommodate the necessary length of a leach field at a safe distance from and at a lower elevation than the proposed building(s). Such lot size and shape shall conform to the requirements of the land development district in which they are located.

6.11.5 Electricity, Telephone, and Cable.

A. Electricity and telephone service shall be provided to all developments.

B. Cable service shall be required where reasonably accessible.

C. Telephone, electric, cable and street lighting wires shall be constructed underground in accordance with the requirements set forth for the applicable land development district. When such utilities are required to be placed underground, the Administrator may exempt developments from such a requirement where it is determined that topographic, bedrock or underground water conditions would result in excessive costs to the developer to provide underground utilities.

D. Overhead utility lines, where permitted, shall be located at the rear of all lots unless the Administrator, upon the recommendation of the utility company, provides reasons that justify the location of easements at another location. The width of the easement to be provided shall be determined by the Administrator.

E. Whenever a sanitary sewer line and electric and/or telephone line are each placed underground in the same utility easement, the total easement width shall not be less than twenty (20) feet.

F. Pole lines where permitted inside the right-of-way shall be at or as close to the right-of-way line as is possible.

G. Electric and communications facilities shall conform to the current National Electric Safety Code.

H. Joint use poles are required.

I. Vertical clearances shall be no less than eighteen (18) feet. For boulevards and highways the minimum clearance shall be twenty-two (22) feet.

J. The minimum depth of cover shall be three (3) feet for primary and three (3) feet crossing under grade. Two (2) foot minimum cover is required for all other installations.

6.11.6 Stormwater Drainage Facilities.

A. See Section 12.5 for stormwater drainage facilities system requirements.

6.12 Improvement Guarantees.

6.12.1 General.

A. In lieu of requiring the completion, installation and dedication of all improvements prior to final plat or site development approval, the town may enter into an agreement with the developer whereby the developer shall agree to complete all required improvements.

B. Once the agreement is signed by both parties and the required security is provided, the final plat may be approved by the Administrator.

C. **Duration:** The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration (160D-804.1(1a)).

D. **Extension.** If the improvements are not completed before the guarantee is likely to expire, the Administrator may extend the performance guarantee, or the developer may provide a new performance guarantee, for an additional period. An extension under this section shall only be for a duration necessary to complete the required improvements. If the extension is granted, the amount of the renewed performance guarantee shall not exceed 125% of the improvements yet to be completed. The new amount must be reduced for improvements that have already been completed (160D-804.1(1b)).

6.12.2 Types of Guarantees.

To secure this agreement, the developer shall provide, subject to the approval of the Administrator and Town Attorney, either one or a combination of the following guarantees, not to exceed or be less than one hundred and twenty-five (125%) percent of the estimated cost of improvements.

A. **Surety Performance Bond:**

1. The developer shall obtain a performance bond from a surety bonding company authorized to do business in the state of North Carolina.

2. The bond shall be payable to the town in an amount equal to one hundred and twenty-five (125%) percent of the total cost of the remaining improvements, as estimated by the developer and approved by the Administrator.

B. **Letter of Credit:**

1. The developer may obtain a letter of credit issued by any financial institution licensed to do business in North Carolina.

2. A satisfactory, irrevocable letter of credit as approved by the town attorney and deposited with the town clerk shall be submitted, containing the following information:

   a. Indication that the Town is the sole beneficiary,

   b. The amount (of the letter of credit) as approved,

   c. Account number and/or credit number that drafts may be drawn on,

   d. List of improvements that shall be built that the letter is guaranteeing,

   e. Terms in which the town may make drafts on the account,

   f. Expiration date of the letter.

C. **Cash or Equivalent Security:**

1. The developer shall deposit cash or other instrument readily convertible into cash at face value either with the town or in escrow with a financial institution designated as an official depository of the town.

2. The use of any instrument other than cash shall be subject to the approval of the Town Manager and Town Attorney.

3. The amount of deposit shall be equal to one hundred and twenty-five (125%) percent of the cost of the remaining improvements, as estimated by the developer and approved by the Administrator.

4. If cash, or other instrument, is deposited in escrow with a financial institution, the developer shall file with the Town Manager an agreement between the financial institution and the developer guaranteeing that:

   a. The escrow account shall be held in trust until released by the town manager, and may not be used or pledged by the developer in any other matter during the term of the escrow.

   b. In the case of a failure on the part of the developer to complete the improvements, the financial institution shall, upon notification by the town manager, immediately either pay to the town all funds in the account, or deliver to the town any other instruments fully endorsed or otherwise made payable in full to the town.

6.12.3 Relevant Provisions.

A. **Default by Developer:**

1. Upon default, meaning failure on the part of the developer or surety to make timely completion of the required improvements, the Town Council may require the developer, the surety, or the financial institution holding the escrow account to pay all or any portion of the bond or escrow account fund to the town.

2. Upon payment, the Town Council, in its discretion, may expend such portion of the funds as it deems necessary to complete all or any portion of the required improvements.

B. **Release of Guarantee:**

1. The Town Manager may release a portion of any security posted as the improvements are completed and recommended for approval by the Administrator.

2. Within thirty-two (32) days after approval of all improvements by the Administrator, the Town Manager may release the security guarantee.

C. **Warranty Against Defects:**

1. Prior to the approval of the Final Plat or acceptance by the Town of any improvements in any subdivision or site development project, the developer shall furnish to the Town a written warranty against defects which shall guarantee the material and workmanship of required improvements for a period of not less than one year from the date of such acceptance. Such warranty shall be accompanied by a financial guarantee payable to the Town equal to at least 10 percent of the cost of the installation of such improvements as determined by the Town Manager. Such financial guarantee shall be in the form of financial guarantee as provided for in A or B above.

2. **Release of Warrantee:** Upon successful performance of the improvements, as determined by the Town Manager, the financial guarantee shall be returned to the developer. Upon the failure of an improvement to perform within the generally accepted standards for the type improvement as determined by the Town Manager, the developer shall be notified and given a reasonable period of time to correct the defects. Should the developer fail to act, fail to act in a timely manner, or otherwise fail to correct the defect(s), the Town Manager shall find the developer in default and proceed in the same manner as provided for in Subsection C above. Although other town owned/managed utilities and services as are required in this ordinance (e.g., electric, natural gas) are not included in this warranty against defects, any grading, boring, cutting or other disturbances in public easements or rights-of-way associated with the installation or such facilities shall be restored prior to the release of this financial guarantee.

D. **Coverage:** The performance guarantee shall be used only for the completion of the required improvements. It shall not be used for repairs or maintenance after initial completion (160D-804.1(4)). If the project has common areas that require maintenance, the developer or the entity to which the property has been officially transferred is responsible for maintaining these common areas.

E. **Exclusion:** Performance guarantees associated with erosion control and stormwater control are not subject to the provisions of this section.

THIS PAGE INTENTIONALLY LEFT BLANK

CHAPTER 7 - CIVIC SPACE

7.1 Purpose and Intent.

It is the intent of this ordinance to require that new development provide centrally-located, unencumbered land as neighborhood civic spaces for human use. Civic spaces, as defined by this Section are distinct from those areas that are environmentally significant and must be otherwise protected from human transgression as noted in Section 12. Civic space adds to the visual character and uniqueness of each development and is intended for recreational and aesthetic enjoyment by the residents of the development unless it is designated as a public space.

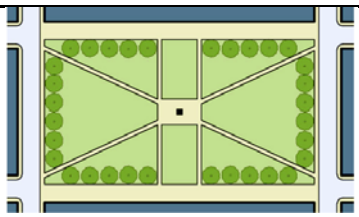
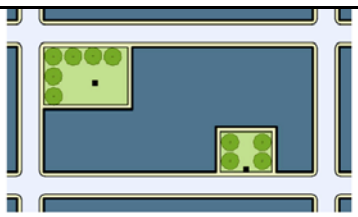
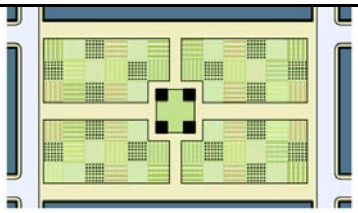
7.2 Civic Space Standards.

All land dedicated for required civic spaces shall meet the criteria below in this section. Stormwater facilities cannot be counted towards civic space. Delineated wetlands and required stream buffers can be counted towards civic space only when adjacent to, or a part of, a greenway or designated preserve.

7.2.1 Required Civic Space Types.

Civic space, as required by the district provisions, shall conform to one or more of the following typologies.

A.	**Park/Greenway:** A natural preserve available for unstructured recreation. Its landscape shall consist of paths and trails, meadows, waterbodies, woodland and open shelters, all naturalistically disposed. Parks may be linear, following the trajectories of natural corridors as part of a greenway. The minimum size shall be .16 acre (except with Greenways where there is no minimum).	
B.	**Green:** An open space available for unstructured recreation. A Green may be spatially defined by landscaping rather than building frontages. Its landscape shall consist of lawn and trees, naturalistically disposed. The minimum size shall be .16 acre.	
C.	**Preserve:** Natural preserves include any area of existing or restored open lands such as riparian corridors and wetlands, unique geological formations, important habitats, or substantial groupings of important plant types. The goal is to protect and maximize intact and undisturbed spaces that provide valuable ecosystem services for the community, support preservation goals, and enhance the aesthetics and amenities of the area. Active recreation, such as trails and paths, can be a part of these areas. The minimum size is 1 acre of contiguous preserved area.	

D.	**Square:** An open space available for unstructured recreation and civic purposes. A Square is spatially defined by building frontages. Its landscape shall consist of paths, lawns and trees, formally disposed. Squares shall be located at the intersection of important streets. The minimum size shall be .16 acre.	
E.	**Playground:** An open space designed and equipped for the recreation of children. A playground shall be fenced and may include an open shelter. Playgrounds shall be interspersed within Residential areas and may be placed within a block. Playgrounds may be included within other civic spaces. There shall be no minimum or maximum size.	
F.	**Community Garden:** A grouping of garden plots available for small-scale cultivation, generally to residents of apartments and other dwelling types without private gardens. Community gardens should accommodate individual storage sheds. There shall be no minimum or maximum size.	
G.	**Greenway:** A linear parcel of land set aside to contain a trail for non-motorized transportation and/or recreation, usually connecting to a planned corridor. There shall be no minimum or maximum size.	
H.	**Dog Park:** An off-leash dog area. A dog park shall be enclosed with a galvanized or coated chain link fence or metal fence measuring four (4) to six (6) feet in height and include a double gate entry system (like a sally port). The dog park shall also have a designated waste disposal facility, signage with applicable rules, a shade area (with either a structure or mature shade trees). The area may also include a plumbed drinking water station. There shall be no minimum or maximum size.	
I.	**Community Area:** Designated indoor or outdoor facilities to support social and recreational activities of the residents. Examples include a pavilion, fire pit, picnic area, grill area, gym, pool, community building, club house, basketball court, tennis court, golf course, or similar amenities determined to be appropriate by an Administrator. There shall be no minimum or maximum size.	

7.2.2 Accessibility.

A. All civic spaces shall be conveniently accessible to all residents of the development, and shall have at least 60 feet of frontage on at least one public street within the development.

B. No residential unit within a development shall be further than ¼ mile (1,320 feet) from a civic space as defined above or other publicly-accessible park facility.

7.2.3 Location.

A. Land for civic spaces shall be centrally and internally located so as to serve the needs of the residents of the neighborhood or the residents of the immediate area within which the development is located.

B. Required civic spaces shall provide focal points for developments and the Town.

C. Areas described in the Waynesville Land Development Plan or any other adopted plan as park, recreation, and open space land or greenways shall be preserved and dedicated where practical and feasible.

7.2.4 Usability.

A. At least one-quarter (¼) of the total land dedicated shall be located outside areas of special flood hazard, including the one hundred year floodplain. All land dedicated shall be outside of wetlands subject to State or Federal regulatory jurisdiction. Within the area proposed for dedication, sufficient engineering data and/or detail shall be indicated to insure compliance with this section.

B. Areas including ponds, lakes, wetlands, or easements for public utility transmission lines shall not receive credit in the computation for the amount of civic space required.

C. Topography: The average slope of land for active recreation shall not exceed 7½%.

7.2.5 Minimum Amenities.

A. Required civic space shall be planned, improved, and usable by persons /entities which own it. Improved shall mean cleared of underbrush and debris and shall contain two or more of the following enhancements: landscaping, walls or pathways, fences, walks, utilities, irrigation, fountains, ball fields, and/or playground equipment.

B. Minimum Amenities: All civic spaces shall include park furnishings, such as benches, trash receptacles, landscaping, grills, and picnic areas, as appropriate to the size and type of the civic space.

C. Minimum Amenities (Parks): At least 25% of the civic space land shall be dedicated to active recreation purposes such as playgrounds, tennis courts, ball fields, volleyball courts, etc. The remainder of the park may be designed for passive recreation purposes such as walking, jogging, cycling, relaxation, etc. Preservation of natural or cultural resources such as steep slopes, rock outcroppings, mature woodlands or water resources may also be counted towards passive recreation provided there is some method for public enjoyment and appreciation of such resources.

D. Minimum Amenities (Playground): Playground equipment shall be equivalent to the standards established by the Town for playgrounds.

E. Minimum Amenities (Greenway): A greenway path is credited toward the minimum civic space dedication requirement at a rate equal to the length of the path times 20 feet in width. The minimum width of the paved path shall be 10 feet.

7.2.7 Plan Compatibility.

For developments which abut or include areas designated as parks or open spaces on an adopted plan, the Town may require that the civic space be located in accordance with the proposed site or portion of an existing site as shown thereon. For developments that abut or include areas designated as future greenways on an adopted plan, the Administrator shall require a dedicated 20-foot minimum width public pedestrian and non-motorized vehicle easement be dedicated along all such areas.

7.2.8 Ownership and Maintenance.

Ownership: Dedicated civic space land shall be separately deeded to either a homeowner's association, a non-profit land trust or conservancy, Haywood County, to the Town of Waynesville (upon approval by the Town Council), or may be held in private ownership with conservation easements recorded in the Haywood County Register of Deeds in a form approved by the Town. A metes and bounds description of the space to be preserved and limits on its use shall be recorded on the development plan, in homeowner covenants, and on individual deeds when open space lands are not held entirely in common. Alternative means of permanent open space preservation may include acceptance by a land conservation trust or a unit of government. Private management alternatives will also be permitted.

Maintenance: The owner or lessee of the property designated for civic space is responsible for its maintenance. Landscaped areas shall be maintained in good condition and the entire area shall be kept clear of debris. All civic space shall require documentation recorded with the final plat that outlines the ongoing maintenance plans. Documents such as covenants for a homeowners' association, bylaws, charter for a non-profit entity, or similar agreements and guarantees shall be filed with the final plat.

Dedication to the Town or other public entity is subject to acceptance by and at the sole discretion of the Town or other public entity. If the civic space land is dedicated to the Town and accepted for public use, this land will be maintained by the Town.

7.3 Civic Space Dedication.

The amount of civic space required for dedication shall be as follows:

<table>
<tr><th>District Category</th><th>Applicable Districts</th><th>Required Civic Space*</th></tr>
<tr><td colspan="3">Residential Districts:</td></tr>
<tr><td>Residential—Low Density (RL)</td><td>CC-RL, EN-RL, FC-RL, HT-RL</td><td rowspan="4">0-14 units/lots- 5%
15-30 units/lots- 10%
31-60 units/lots- 13%
61 + lots/units- 15%</td></tr>
<tr><td>Residential—Medium Density (RM)</td><td>CP-RM, D-RM, HM-RM, SW-RM</td></tr>
<tr><td>Neighborhood Residential (NR)</td><td>AC-NR, LL-NR, MS-NR, N-NR, PS-NR, PC-NR, RC-NR, SS-NR, WS-NR</td></tr>
<tr><td>Urban Residential (UR)</td><td>EW-UR, H-UR, HM-UR</td></tr>
<tr><td colspan="3">Mixed-Use/Non-Residential Districts:</td></tr>
<tr><td>Neighborhood Center (NC)</td><td>PS-NC, NM-NC, RC-NC</td><td rowspan="4">0-14 units/lots- 5%
15-30 units/lots- 10%
31-60 units/lots- 13%
61 + lots/units- 15%
Business District (BD) and Commercial Industrial (CI) are exempt from civic space requirements.</td></tr>
<tr><td>Business District (BD)</td><td>CBD, H-BD, SM-BD</td></tr>
<tr><td>Regional Center (RC)</td><td>DJ-RC, HC-RC, RA-RC</td></tr>
<tr><td>Commercial Industrial (CI)</td><td>CI</td></tr>
</table>

* % of the total acreage of the site

7.3.1 Credit for Proximity to Existing Civic Space.

For developments that are proximate to an existing publicly-accessible civic space, they may count all such lands, as follows:

A. Adjacent: Credit of area of adjacent civic space area up to 50% of required civic space dedication.

B. Within ¼ mile: Credit of area of adjacent civic space area up to 25% of required civic space dedication.

7.3.2 Exemptions.

A. Very Low Density Developments: Civic Space is not required in any residential development with an overall density of 2 units/acre or less.

B. Small Developments: Developments with 7 units or less in all phases shall not be subject to the requirements of this Chapter.

C. Non-residential and Mixed-Use Development: Civic space is required only for those areas that are exclusively residential. Commercial and vertically mixed-use buildings and associated areas are exempt from these standards.

7.4 Payment in Lieu of Civic Space Dedication.

Any person developing and/or subdividing property subject to this Chapter, and upon approval of the Town Council, may make a payment in lieu of any required dedication of public recreational space.

7.4.1 Value Determination.

A. Payment in lieu of dedication shall be the product of the post-development appraised value of the land (per gross acre) to be developed multiplied by the number of acres to be dedicated. The following formula shall be used to determine the fee:

Post Development Appraised Value of Entire Development (per gross acre) X Required Civic Space Dedication **=Payment in Lieu Dedication Fee**

B. The Post Development Appraised Value of the Entire Development shall be established prior to Preliminary Plat approval by an Appraiser who is a Member of the Appraisal Institute (MAI) or a North Carolina General Certified Appraiser.

C. Any disagreement in the amount of required payment shall be resolved by conducting a professional appraisal of the fair market value of the property. The professional appraiser shall be mutually agreed upon by the developer and Town. An appraiser shall be appointed by the Town, at the developer's expense, should an agreement not be reached.

7.4.2 Payment-in-lieu Required.

A. The Town Council may, at its discretion, accept either an equitable amount of land in another location or a fee paid to the Town in lieu of dedication. A combination of park, recreation, and open space land dedication and payments-in-lieu of dedication may be permitted.

B. All payments made in lieu of dedication shall be made at the time of Final Plat approval or prior to the issuance of the first Certificate of Occupancy (whichever comes first as appropriate). Failure to submit the required fee along with such applications will delay approval of such submissions until payment is rendered. All funds received for payment in lieu of dedication shall

be deposited in a special fund or line item to be used only for the acquisition, development, or redevelopment of public recreation space by the Town.

C. Reasons for payments in lieu of dedication may include, but are not limited to, proximity to existing public parks and/or existing topographic or geographic conditions.

CHAPTER 8 - TREE PROTECTION, LANDSCAPING AND SCREENING

8.1 Purpose.

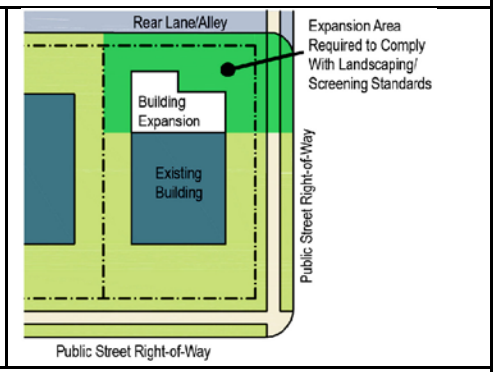
The appropriate use of existing and supplemental landscaping enhances the aesthetic appearance of Waynesville. This Chapter is intended to establish minimum standards for the design of landscapes to enhance Waynesville's visual and environmental character to:

- Encourage the preservation of existing trees and vegetation and replenish removed vegetation.
- Improve the visual quality of the Town of Waynesville and minimize the potential impacts of development such as noise, dust, and glare of lights.
- Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and to preserve the character and value of a property and provide a sense of privacy.
- Require the maintenance of landscaping installed to ensure that the landscaping continues to thrive and meet these stated objectives.

8.2 Applicability.

8.2.1 Applicability Matrix.

The standards contained in this Chapter shall apply to the following development conditions:

Development Condition	Applicability
New Construction (Except Single-family and Two-Family Dwellings on Previously Platted Lots)	All standards apply
Expansion of Parking Areas (Less than 40% of Total Existing Area or less than 12 spaces)	All standards apply only to the parking lot expansion areas.
Expansion of Parking Areas (40% or Greater of Total Existing Area or 12 spaces or more)	All new and existing parking area conditions and non-conforming street frontages per Section 8.6 shall be made conforming.
Building Expansion/Reconstruction (Less than 50% of Existing Floor Area)	All standards shall apply only to the area around the addition that is parallel to any edge of the expansion area and extending to the property line or street pavement edge. (See diagram) 
Building Expansion/Reconstruction (50% or Greater of Existing Floor Area)	The entire site shall be brought into full compliance with this Chapter.
Change of Use (From Residential to Non-Residential)	The entire site shall be brought into full compliance with this Chapter.
Building Interior or Exterior Renovation Only	Compliance with this Chapter is not required.

8.2.2 Landscape Plan Required.

Prior to obtaining a certificate of land development standards compliance, an applicant must receive approval of a landscaping plan that shall be prepared in accordance with the requirements of this chapter.

8.2.3 Revisions to Landscape Plan.

Due to lack of plant availability, approved landscape plans may require minor revisions. Minor revisions to landscape plans may be approved by the Administrator if:

A. There is no reduction in the quantity of plant material.

B. There is no significant change in size or location of plant materials.

C. The new plants are of the same general category (i.e., canopy trees, understory trees, shrubs, groundcover) and have the same general design characteristics (mature height, crown spread) as the materials being replaced.

8.2.4 Alternative Compliance.

A. Alternative landscaping plans may be used where unreasonable or impractical situations would result from application of the landscaping requirements. Such situations may result from streams, natural rock formations, topography or other physical conditions; or from lot configuration, utility easements or unusual site conditions.

B. The Administrator may approve an alternate plan which proposes different plant materials or plans, provided that quality, effectiveness, durability, and performance are equivalent to that required by this section.

C. Decisions of the staff regarding alternate methods of compliance may be appealed to the Board of Adjustment.

8.2.5 Compliance and Maintenance.

A. Landscaping must be installed prior to the issuance of a final certificate of occupancy. A temporary certificate of occupancy accompanied by a bond as noted in B below may be granted to permit installation of required landscaping subsequent to occupancy of the building.

B. If the season or weather conditions prohibit planting, the developer may provide a bond, an irrevocable letter of credit, or other financial surety in an amount equal to one hundred twenty-five (125) percent of the cost of installing the required landscaping to guarantee the completion of the required planting. The financial surety shall be canceled and/or returned upon completion of the required landscaping.

C. The owner of the property where required landscaping is planted shall be responsible for the maintenance and protection of all plant and screening materials. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall shall constitute a violation of this chapter.

D. If existing vegetation is to be used in complying with any part of this section, a plan for the protection of this vegetation during construction must be submitted to, and approved by the Administrator.

8.3 General Provisions.

8.3.1 Existing Vegetation.

A. **Existing Vegetation, Fences, Walls, and Berms:** The use of existing trees or shrubs to satisfy the landscaping requirements of this Chapter is expected. Significant existing vegetation within landscaped areas shall be preserved and credited toward required landscaping. Existing berms, walls, or fences within the landscaped area, but not including chain link fencing, may be used to fulfill the standards for the type of landscaping required, provided that these elements are in good condition.

B. **Protection of Vegetation During Design:** The Town expects new development, through the protection of trees and existing vegetation, to be creative in design and placement of buildings, structures, parking and other impervious surfaces as to preserve natural features and to complement the existing topography. Additionally, Major Subdivisions and Major Site Plans shall preserve 5% of the existing trees on site. Tree preservation areas (native species with no obvious damage/decline) with adequate protection measures from construction activities shall be shown on the landscape plan. Tree preservation can be counted towards the required buffers, screens, and/or street trees as specified in 8.3.1. C.

C. **Landscape Credits:** The preservation of existing trees, where possible is strongly encouraged. In order to encourage such preservation, preserved trees may be credited towards compliance with the requirements of this section at the rate of:

2”—6” caliper tree = 2 trees

7”—12” caliper tree = 4 trees

13”—18” caliper tree = 5 trees

19”—24” caliper tree = 6 trees

25” + caliper tree = 7 trees

In order to receive credit, preserved vegetation must be in good health and condition. Trees designated for preservation must be indicated on the landscape and grading plans and protected (with barriers) during grading and construction.

D. **Replacement of Preserved Trees:** If a preserved tree dies within twenty-four (24) months of completion of the project, it must be replaced with the total number of trees which were credited to the existing tree.

8.3.2 Restrictions on Landscape Areas.

A. **Easements and Right-of-Ways:** Nothing shall be planted or installed within an underground or overhead utility easement or a drainage easement without the consent of the Administrator and the easement holder at the time of site plan approval.

B. **Building Setbacks:** Required building setbacks (as listed in Chapter 2) shall supersede any Landscape Yard requirements.

8.3.3 Tree Trimming and Removal.

A. **Tree Trimming:** Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 8 feet above the surface of the sidewalk or parking area and 13 feet above any travelway. Said owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute

a menace to the safety of the public. The Town is authorized to remove and/or trim trees and shrubs from public properties and public rights-of-way. The North Carolina Department of Transportation is authorized to remove and or trim trees and shrubs in the public rights-of-way owned by the State of North Carolina. Approval from the Administrator is required to trim a tree in a tree save area, required landscaping area, or buffer yard more than 25 percent of its overall canopy.

B. **Trimming and Removal by Utility Companies:** Trees to be removed from the public right-of-way by electric utilities and other overhead utilities must be replaced by such entity in equal quantity and minimum caliper size with an approved species.

C. **Tree Topping:** Tree topping and/or shearing shall be prohibited on all trees on public property, designated rights-of-way, required tree save areas, landscaping, and buffer yards unless otherwise approved by the Administrator. Trees severely damaged by storms or other causes, or certain trees under utility lines or other obstructions where other pruning practices are impractical may be exempted from this Chapter at the determination of the Administrator.

D. **Removal of Dead Trees on Public Property:** Approval by the Administrator shall be required for removal of trees that are dead, infected by disease, or determined to be a hazard to public safety and welfare.

E. **Tree Removal on Private Property:** The Town shall have the right to cause the removal of any dead or diseased trees on private property when such trees constitute a hazard to life and property, or harbor insects or disease which constitutes a potential threat to other trees in the Town. The Administrator or their designee will notify in writing the owner(s) of such trees. Removal shall be done at the owner(s) expense within 90 calendar days after the date of service of notice. In the event of failure of the owner(s) to comply with such provisions, the Town shall have the authority to remove such trees and charge the cost of removal to the owner.

F. **Protection during Surveying:** No tree greater than 12 inches in diameter at breast height (DBH) located on public property or within a required tree protection area shall be removed for the purpose of surveying without an approval from the Administrator.

8.4 Buffer Yards.

Buffer yards are planting areas located parallel to the side and rear lot lines. The purpose and intent of buffer yard requirements are to preserve landscape and provide a buffer as a mitigation measure for potential development impacts. They are designed to separate incompatible adjacent uses, or to provide privacy and protection against potential adverse impacts of an adjoining use or zoning district.

8.4.1 Required Buffer Yards.

A. **Required Yards by District:** The size of a buffer shall be determined both by the zoning district of the proposed development and by the adjacent zoning district(s). Buffer yards shall be required in accordance with the table below when any use is being established on a property that abuts an existing developed lot or less intense zoning district.

		Adjacent Zoning District					
		RL/RM	**NR/UR**	**NC**	**BD**	**RC**	**CI**
District of Proposed Development	RL/RM	X	X	X	X	A[1]	A[1]
	NR/UR[2]	C	X	X	X	X	X
	NC[2]	B	C	X	X	X	X
	BD	C	C	X	X	X	X
	RC	A	A	B	C	X	X
	CI	A	A	A	A	B	X
	[1] Only required where adjacent, more intense use is pre-existing and no equivalent buffer is provided on the adjacent property						X = No Buffer Required
	[2] Only multifamily and non-residential uses shall provide buffers between adjacent single family uses in detached homes						

B. **Additional Buffer Yard Requirements:** A type B Buffer Yard is required along the side and rear lot lines, not including road frontage, of new major subdivisions of 15 or more units and special use permits in all districts, except where the above table has a stricter requirement or as part of a conservation subdivision.

C. **Location:** Buffer yards are intended to be constructed along the perimeter of the property; however, when there is irregular topographic conditions such as the perimeter of the property is at a lower grade than the use being screened, the Administrator may require the relocation of the required buffer yard in order to better serve its purpose.

D. **Relationship to Required Yards and Setbacks:** Where front, side and rear yards are required by this chapter, buffer yards may be established within such yards. If a yard requirement is less than the minimum buffer requirement, the buffer width requirement shall override the minimum yard requirement.

E. **More Restrictive to Apply:** Where a proposed use or development type abuts multiple use types or zoning districts along the same side or rear year[yard], the largest buffer will apply.

F. **Buffer Location Restrictions:** Buffers shall not be located on any portion of any existing or proposed street right-of-way. Buffers shall be permitted to intersect utility easements or run parallel with them; however, they shall not be permitted to run linear with and superimposed on them.

8.4.2 Buffer Yard Types.

A. Type A Buffer Yard	*A Type A buffer yard is intended to provide a very dense all season sight barrier to significantly separate uses and zoning districts. It is intended to reduce intrusive lighting and noise from adjacent properties.*			
	Minimum Depth	**Minimum Plantings per 100 linear feet**	**Wall, Fence, or Berm**	**Required Opacity**
1. Option A	40 feet	4 Evergreen Trees 4 Canopy Trees 4 Understory Trees 48 Shrubs	Not Required	Completely opaque (i.e., having no horizontal openings from the ground to a height of 8 feet within two 2 years of planting)
2. Option B	25 feet	2 Evergreen Trees 1 Canopy Tree 1 Understory Tree 12 Shrubs	Wall or Berm	
3. Option C	10 feet	1 Evergreen Tree 1 Canopy Tree 3 Understory Trees 12 Shrubs	Wall	

B. Type B Buffer Yard	*A Type B buffer yard is medium density screen which is intended to create a visual separation between uses and zoning districts.*			
	Minimum Depth	**Minimum Plantings per 100 linear feet**	**Wall, Fence, or Berm**	**Required Opacity**
1. Option A	20 feet	2 Evergreen Trees 1 Canopy Tree 2 Understory Trees 12 Shrubs	Not Required	Semi opaque (i.e., having only seasonal horizontal openings not exceeding 10% of the total width from the ground to a height of 8 feet within two 2 years of planting)
2. Option B	10 feet	1 Evergreen Tree 1 Canopy Tree 3 Understory Trees 24 Shrubs	Not Required	

C. Type C Buffer Yard	*A Type C buffer yard is a planting strip intended to separate uses, provide vegetation in densely developed areas and enhance the appearance of individual properties.*			
	Minimum Depth	**Minimum Plantings per 100 linear feet**	**Wall, Fence, or Berm**	**Required Opacity**
1. Option A	20 feet	1 Canopy Tree 2 Understory Trees 8 Shrubs	Not Required	Semi opaque (i.e., having only seasonal horizontal openings not exceeding 25% of the total width from the ground to a height of 6 feet within two 2 years of planting)
2. Option B	10 feet	2 Canopy Trees 2 Understory Trees 12 Shrubs	Not Required	

8.4.3 Additional Buffer Requirements.

A. **Fences and Walls:** Any required 6-foot tall privacy fence or wall shall be made of treated and stained wood, brick, stone, or other composite material as approved by the Administrator and maintained in a like-new manner. All required vegetation shall be placed on the side of the fence or wall of the adjacent property.

B. **Berms:** All berms, if provided, shall not exceed a slope with maximum rise of 1 foot to a run of 2 feet (a ratio of 1:2) and a maximum height of 4 feet. All berms, regardless of size, shall be stabilized with a ground cover or other suitable vegetation or permanent slope retention device. Berms taller than 4 feet shall be approved by the Administrator on a case by case basis.

C. **Existing Vegetation:** Existing vegetation within the buffer yard which meets or exceeds the standards of this section shall be maintained and may receive partial or total credit toward buffer yard requirements.

8.5 Street Tree Plantings.

It is the desire of the Town to maintain tree-lined, pedestrian-friendly streets throughout the community. Street trees shade the pedestrian realm of the street, encourage cars to move more slowly, improve pedestrian safety by creating a buffer between the moving cars and the sidewalk, absorb stormwater, absorb pollutants from tailpipe emissions, and add value to the fronting properties.

8.5.1 Planting Requirements.

A. Street trees shall be planted in the right-of-way, between the street and the sidewalk in accordance with the table below:

District or Location	Requirement
Rural Districts	Not required
RL/RM/NR/UR Districts	Rate: 1 Canopy Tree for every 40 feet of street frontage Spacing: Maximum of 50 feet on-center Location: In Planting Strip (5-foot minimum width)
NC/BD/RC/CI Districts	Rate: 1 Canopy Tree for every 50 feet of street frontage Spacing: Maximum of 50 feet on-center Location: In Planting Strip (5-foot minimum width) or Tree Well (25 square foot minimum area)
NC/BD/RC Districts with On-Street Parking and Ground Floor Retail	Rate: 1 Canopy Tree for every 40 feet of street frontage Spacing: Maximum of 50 feet on-center Location: Tree Well (25 square foot minimum area)
Alleys	Not Required
Existing Development with Non-Conforming Frontages	See Section 8.2

B. **Overhead Power Lines:** Where overhead power lines are present, small maturing trees (thirty (30) to forty (40) feet in height at maturity) must be utilized. One small maturing tree is required for every thirty-five (35) feet of property abutting a street (utility lines such as cable and phone do not constitute a hazard and large maturing trees should be used if only these are present).

C. **Existing Town-Adopted Streetscape/Tree Planting Plan:** Where a town-approved existing tree pattern exists on a street, the placement of new trees shall be compatible with the established pattern/species.

8.5.2 Specifications.

A. Where street trees are required, such trees shall be planted in a planting strip parallel to the street edge (street yard) or in tree wells located along the street/sidewalk.

B. Tree wells shall provide a root aeration zone around the base of a tree. If the adjacent sidewalk is less than 6 feet in width, tree grates shall be provided to cover the exposed area of soil and to widen the pedestrian passage zone along the sidewalk.

C. Street trees must (unless approved by the Administrator) maintain the same species, spacing, and distance from the street along both sides of the street.

D. No street tree can be planted farther than eight (8) feet from the edge of the traveled way to count as a street tree, or it must be in between the sidewalk and the street. Exceptions may be granted by the Administrator along NCDOT streets.

E. All planter strips must be covered with living material, including ground cover and/or shrubs, except for mulched areas directly around the trees so that no soil is exposed.

F. Planter strips must always be placed between the sidewalk and the traveled way except where the Administrator determines that this is impossible due to road conditions or topography.

8.6 Parking Lot Landscaping.

8.6.1 Parking Lot Screening.

A. **Required Screen:** Parking lots shall be screened from sidewalks, streets, and adjacent properties by a semi-opaque screen that incorporate a low screen from the ground to at least a height of 3.5 feet along with canopy trees planted with a maximum spacing of 30 feet on-center for screening of car lights and glare. Effective screening devices may include solid decorative brick walls, wood fences, earth berms, architectural features (e.g., façade extension, pergolas) and tight evergreen hedges which shall reach the required height within two years of planting, or any combination of the above.

B. **Minimum Width of Required Screen:** 7 feet.

C. **Permitted Openings for Driveways and Pedestrians:** A 6-foot opening shall be allowed every 150 feet to permit pedestrian passage where a formal connection to a sidewalk or pathway is provided. Openings for permitted driveways and their associated sight triangles are also permitted.

8.6.2 Interior Parking Lot Plantings.

A. **Applicability:** Parking lot plantings are required for all parking lots containing more than six (6) spaces.

B. **Performance Standard:** No parking space shall be more than 40 feet from the base of a canopy tree (parking lots using bioretention areas, as outlined in the section below, are exempt from this requirement). The use of existing vegetation to satisfy this requirement is encouraged.

C. **Minimum Additional Plantings:** One canopy tree per 12 parking spaces.

D. **Planting Areas:** Plantings shall be in a planting area within the parking lot measuring at least 64 square feet and a minimum of eight feet in width and protected by curbs or wheel stops. Planting areas may have no bare soil.

E. **Small Lots (Less than 24 Spaces):** Trees and shrubs may be planted at the end of parking rows or in planting strips as defined above.

F. **Credits for Existing Trees:** Landscape credits for existing trees in parking areas shall be given at a rate of one tree per each 4 inches DBH of existing plant preserved.

G. **Tree Clusters:** In lieu of individual planters, up to 50% of the required parking lot trees may be clustered in larger islands internal to the parking lot.

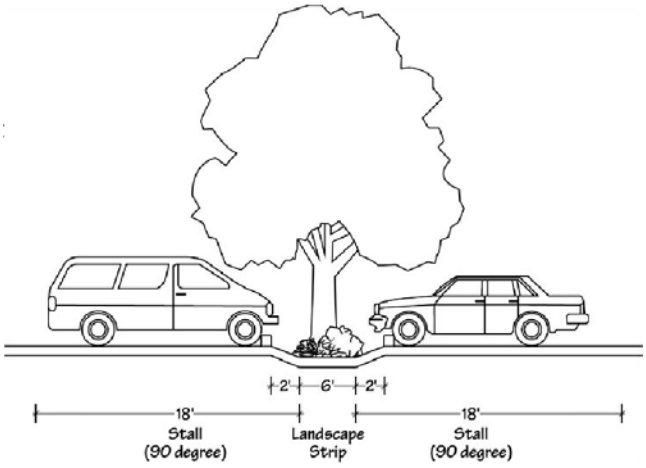
8.6.3 Curbing.



Example of discontinuous curbing around parking lot bio-retention area

All parking areas and landscaped islands shall either be curbed using a vertical curb or wheel stops. Curbing may be discontinuous or perforated allowing stormwater to enter landscaped areas constructed for bioretention (rain gardens). Where bioretention areas are constructed, wheel stops may be used in place of curbing. Where landscaping is above grade, curbing must be continuous to prevent landscaping material from eroding into the parking area.

8.6.4 Bioretention Areas/Rain Gardens.



Required parking landscaped areas may include up to 2 feet of the front of a parking space as measured from a line parallel to the direction of the bumper of a vehicle using the space, as shown.

A. **Rain Gardens Permitted:** Required parking lot landscaping may be incorporated with one or more consolidated bioretention areas (rain gardens). Bioretention areas shall be located where it is most practical to capture stormwater, manage parking lot traffic and facilitate pedestrian use, including adjacent to and connecting with vegetated areas on the perimeter of a parking lot. Bioretention areas shall be designed and landscaped to trap and mitigate runoff from paved surfaces consistent with the description and intent of EPA Storm Water Technology Fact Sheet - Bioretention (EPA 832-F-99-012, September 1999;), or equivalent, including NC Cooperative Extension Bulletin, Designing Rain Gardens (Bio-Retention Areas), 2001.

B. **Parking Dimension Bonus:** A portion of the space devoted to motor vehicle parking may be landscaped instead of paved, as follows:

1. A landscaped area may include up to 2 feet of the front of the parking space as measured from a line parallel to the direction of the bumper of a vehicle using the space, as shown at right. The landscape strip shall be a minimum of 6 feet in width.

2. The landscaped area within the parking space counts toward parking lot landscaping requirements and toward any overall site landscaping requirements.

3. In order to utilize this parking dimension bonus, landscaping must be below grade and designed as a bio-retention area.

8.7 Screening of Dumpsters, Loading Docks, Outdoor Storage Areas, and Utility Structures.

8.7.1 Required Screening.

A. All dumpsters, loading docks, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening buffer yard.

B. All unenclosed outdoor storage areas greater than one hundred (100) square feet shall also be screened from adjacent properties and streets.

C. Screening may be created through the use of: a continuous hedge of evergreen and/or densely twigged deciduous shrubs or by a fence or wall.

8.8 General Installation and Maintenance Standards.

8.8.1 Plant Material Specifications.

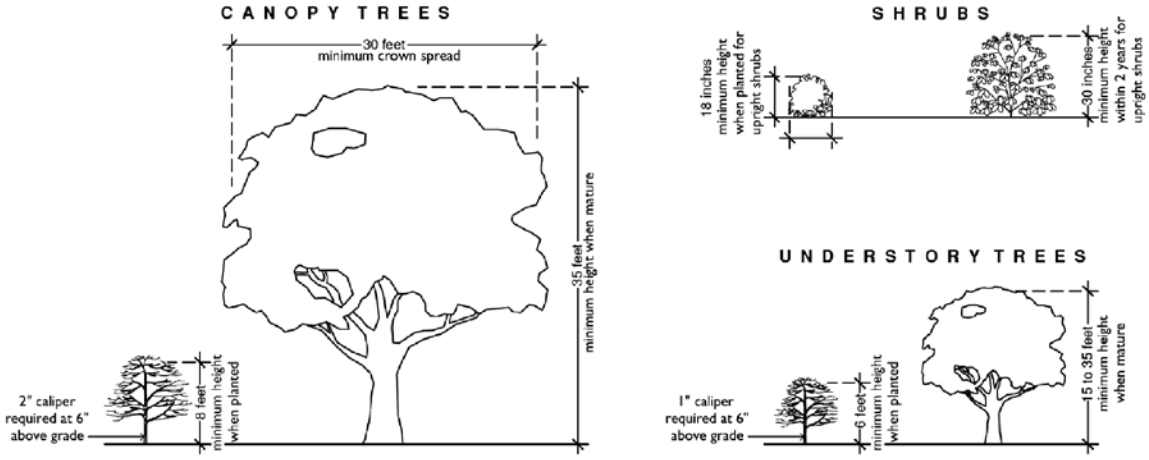
A. **Evergreen Trees:** Evergreen trees must be a locally adapted species with a green foliage that lasts through all seasons with an expected mature height of 20 feet or greater. Evergreen trees, existing or planted, must be a minimum of 8 feet high, and have a minimum caliper of 2 inches measured 6 inches above grade.

B. **Canopy (Large Shade) Trees:** Canopy trees must be a locally adapted species with an expected mature height of 35 feet or greater and an expected mature crown spread of 30 feet or greater. Canopy trees, existing or planted, must be a minimum of 8 feet high, and have a minimum caliper of 2 inches measured 6 inches above grade. Multi-stemmed trees shall have at least 3 stalks and be at least 8 feet in height.

C. **Understory (Small) Trees:** Understory trees must be a minimum of 6 feet high and 1-inch in caliper, measured 6 inches above grade when planted. When mature, understory trees should have an expected height of 15 to 35 feet.

D. **Shrubs:** All shrubs shall be a minimum of 1½ feet in height when planted. All shrubs shall reach a height of 36 inches and a minimum spread of 30 inches within two years of planting.

E. **Groundcover:** All required groundcover type plants must be a minimum of 1½ to 2½-inch pots with a 4-inch minimum length. Groundcover must be planted with on-center spacing equivalent to the average mature spread for each particular species.



8.8.2 Plant Standards.

A. **General Material Standards:** All plant materials shall be installed in accordance with the standards found in the latest edition of American Standards For Nursery Stock published by the American Association of Nurserymen. After installation, plant materials shall be mulched with a 2 to 3-inch layer of appropriate material.

B. **Recommended Species List:** Plant materials utilized in meeting the requirements set forth in this section may be chosen from the Recommended Species List maintained by the Administrator. This list encourages the use of plant materials which are indigenous to this region and which are readily available from local nurseries. Plant materials which are not on the list may also be used following approval by the Administrator. [154.303.G]

C. **Native or Locally Adapted Species Required:** The use of drought tolerant vegetation that is native to the area is encouraged to reduce dependency upon irrigation.

8.8.3 General Construction Standards.

A. **Grading and Development in Required Landscape Areas:** The required landscaping shall not contain any development, impervious surfaces, or site features that do not function to meet these standards or that require removal of existing significant vegetation. If grading within a planting yard is proposed, slopes of 3:1 or less are encouraged to ensure the proper transition of grades to the adjacent property and to facilitate landscaping and maintenance.

B. **No Bare Soil Permitted:** All portions of the landscaping area not planted with shrubs and trees or covered by a wall or other screening device shall be planted with ground cover and/or grass, or covered with natural mulch with a minimum depth of 2 inches.

C. **Sight Distance:** All trees planted within the sight distance triangle at an intersection, or driveway access point as defined by this Ordinance shall be limbed up to provide for clear sight lines between 2 feet and 7 feet above the finished grade. (Exception: NCDOT has separate provisions for state-maintained roadways).

8.8.4 Protection of Existing Trees During Construction.

A. Protective barricades shall be placed around all trees designated to be saved, prior to the start of development activities or grading. Protective barricades shall remain in place until development activities are completed. The following conditions are required:

    1. Barricades may consist of 2 x 4 inch posts with 1 x 4 inch rails, orange safety fence, or a similar treatment and shall remain in place until development activities are complete.

    2. The barricaded area shall remain free of all building materials, stockpiled soil or other construction debris.

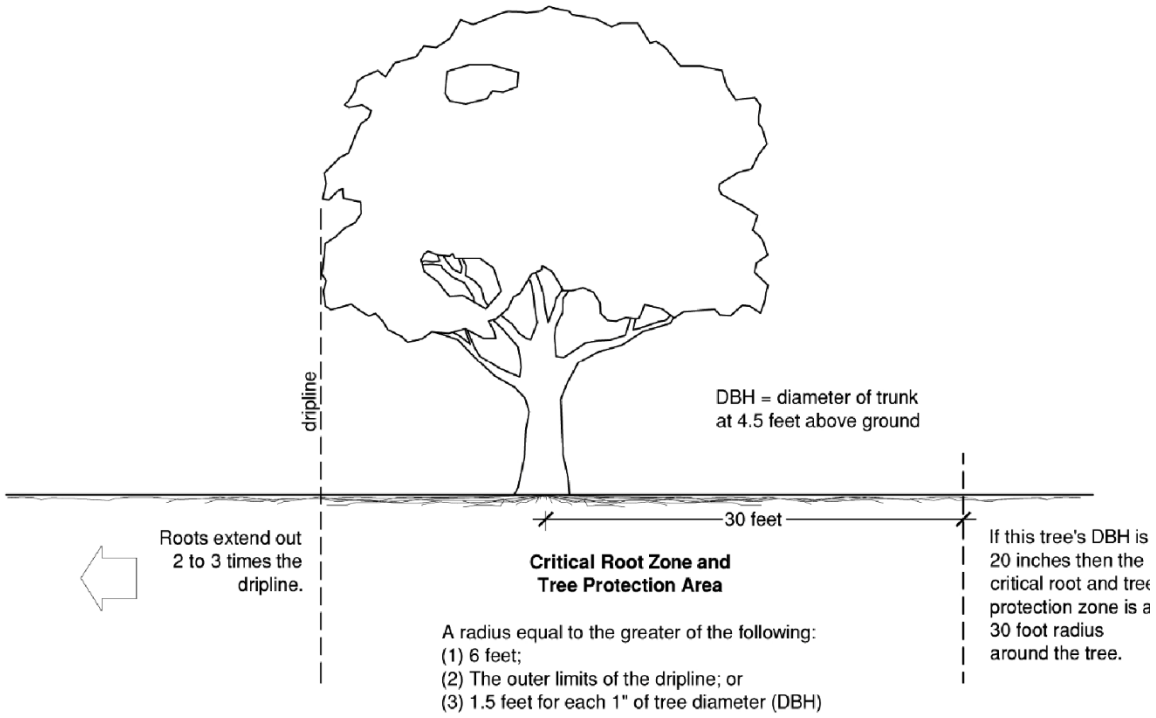
    3. Construction traffic, storage of vehicles and materials, and grading shall not take place within the protective areas of the existing trees.

B. Barricades shall be erected at a recommended minimum distance from the base of protected trees according to the following standards:

    1. For trees 10 inches or less in caliper: Place at a minimum distance of 6 feet from the base of each protected tree, or outside the dripline, whichever is greater.

    2. For trees greater than 10-20 inches in caliper: Place at a minimum distance equal to 1.5 feet for each 1 inch in caliper, or outside the dripline, whichever is greater.

    3. For trees 20 inches or greater in caliper: Place at a minimum distance of 30 feet from the base of each protected tree.



C. Land disturbance within a tree dripline is prohibited except for driveway access points, sidewalks, curb and gutter.

D. Where grading within a tree dripline cannot be avoided, cut and fill shall be limited to ¼ to ½ of the area within the dripline, and tree roots must be pruned with clean cuts at the edge of the disturbed area. (No fill shall be placed within the dripline of a tree without venting to allow air and water to reach the roots.)

8.8.5 Maintenance.

A. **Maintenance:** All vegetation and other screening devices shall be maintained so as to continue their effectiveness. The owner shall replace any required plantings, which die or otherwise fail to satisfy the requirements of this Chapter, within 180 calendar days with an equal or similar species and size. When plant material is severely damaged due to unusual weather conditions or other acts of God, the owner shall have up to two years to replant with submittal of a guarantee.

B. **Inspection of Site:** The Administrator may inspect the site once a year after the issuance of a permanent certificate of occupancy in order to ensure compliance with the approved site plan and to ensure that the landscape is properly maintained. The Administrator may issue a Notice of Violation to comply with the provisions of this ordinance if warranted upon an inspection under the provisions of Chapter 16 of this Ordinance.

8.8.6 Replacement of Disturbed and Damaged Vegetation.

The disturbance of any landscaped area or vegetation required by this Code shall constitute a violation of the site or sketch plan. All disturbed landscaped areas and vegetation shall be replanted to meet the standards of this section as well as the approved site or sketch plan.

CHAPTER 9 - PARKING AND DRIVEWAYS

9.1 Purpose and Intent.

Parking lots and similar facilities are necessary elements in the urban environment. However, these facilities have been known to cause the following negative impacts:

- Increased storm water volume and velocity;
- Increased surface pollutants;
- Increased surface level heat and glare;
- Reduction in the efficiency of the connecting street system; and
- Reduction in the operations of the surrounding pedestrian and bicycle network.

9.2 Required Parking Standards.

Permanent off-street parking (including on-street parking in accordance with the requirements below) is required subject to the table below. If required, parking shall be provided at the time of erection, alteration, enlargement, establishment or change of use of any building or open use of land which require additional off-street parking.

9.2.1 Parking Requirements by Use Table.

The following table details the required minimum and maximum (where applicable) parking ratios by major land use. All area calculations use gross leasable area (GLA). For uses not covered in this table, the parking requirements shall be those of the most similar use as determined by the Administrator. For bicycle parking, the use of a single "inverted U" bicycle parking rack will count as two bicycle parking spaces. The minimum required shall be two spaces or one rack and the maximum required shall be 20 spaces.

Use Category	Minimum Required Auto Spaces	Bicycle Parking Spaces Required
Residential		
Dwelling—Single-Family and Two-Family	One per unit	No requirement
Dwelling—Townhome and Multifamily	1.5 per unit	1 per 20 auto spaces
Dwelling—Accessory	One space per unit	No requirement
Live—Work Units	One per 600 s.f.	1 per 20 auto spaces
Residential Care Facilities	One per 2 units	1 per 20 auto spaces
All Other Residential Uses	No requirement	No requirement
Lodging		
All Lodging Uses	One per room	1 per 50 auto spaces
Office/Service		
Child/Adult Day Care Centers (More than 8 persons)	One space per employee	1 per 20 auto spaces
Medical Services	One per Examination Room	1 per 20 auto spaces
All Other Office/Service Uses	One per 600 s.f.	1 per 20 auto spaces
Commercial		
Restaurant	One per eight (8) seats	1 per 20 auto spaces
All Other Commercial Uses	One per 600 s.f.	1 per 20 auto spaces
Entertainment/Recreation		
Amusements (Indoor)	No requirement	1 per 20 auto spaces
Amusements (Outdoor)	No requirement	1 per 20 auto spaces
Recreational Facility (Indoor)	No requirement	1 per 20 auto spaces
Theater (Indoor & Outdoor)	One (1) per eight (8) seats	1 per 20 auto spaces
All Other Entertainment/Recreation Indoor Uses	No requirement	1 per 20 auto spaces
All Other Entertainment/Recreation Outdoor Uses	No requirement	1 per 20 auto spaces
Civic/Institutional		
Religious Institution (Town Centers & Regional Mixed-use Districts)	No requirement	1 per 20 auto spaces
Religious Institution (All Other Districts)	One per 8 seats in the main assembly hall	1 per 20 auto spaces
All Other Civic/Institutional Uses	No requirement	1 per 20 auto spaces
Manufacturing/Wholesale/Storage		
Mini-Warehouses	No requirement	No requirement
All Other Manufacturing/Wholesale/Storage Uses	No requirement	1 per 50 auto spaces
Agricultural		
All Agricultural Uses	No requirement	No requirement
Infrastructure		
All Infrastructure Uses	No requirement	No requirement

9.2.2 Exemptions and Adjustments.

A. Exemptions: Uses in the Central Business District are exempt from the minimum parking requirements of this subsection.

B. Commercial Uses in N Districts: All commercial uses in RL, RM, NR, and UR Districts shall provide all required parking on-site at a rate of 1 space per 400 square feet. The use of on-street spaces shall not be permitted in this calculation.

C. Residential Care Facilities: The Administrator may authorize a reduction in off-street parking requirements for multifamily dwellings that provide Residential Care Facilities (including duplexes and multifamily buildings of four or more units) to no less than three (3) off-street parking spaces for each four dwelling units or fraction thereof. Should a change of use occur such that the building is no longer providing Residential Care Facilities as the primary use, parking requirements shall meet the minimum ratio for residential uses as required in the table above.

D. Tree Preservation: The minimum number of parking spaces required may be adjusted by the Administrator when it has been determined that the reductions are necessary to preserve a healthy tree or trees (with a 12-inch or greater diameter at breast height) from being damaged or removed, and where the site plan provides for the retention of said tree or trees.

9.2.3 Remote Parking.

A. If the off-street parking spaces required by this section cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within six hundred (600) feet. Such measurement shall be taken from the edge of the parking area on the lot to the entryway of the remote parking area.

B. Parking for Permitted Uses Only: If remote parking is utilized to fulfill parking requirements, the owner or authorized agent for the land upon which such remote parking is located shall restrict the use of such parking area for parking only in connection with the use or structure for which such remote parking is provided. Such restriction shall be recorded by a declaration of restrictions properly filed with the Register of Deeds of Haywood County, which may be released only by written consent of the town. Remote parking for a particular use shall not be established in any district that does not allow that use.

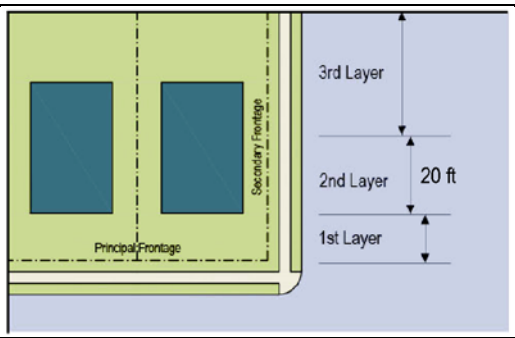
9.2.4 Accessible Parking.

Accessible parking shall be provided in accordance with Chapter 4 of the North Carolina Accessibility Code, as amended.

9.3 Permitted Parking Locations.

The following table details the permitted parking locations (by Building Type/District Category):

	Civic/Monument	House—Street	House—Alley	Townhouse	Apartment	Mixed-Use	Commercial	All Other Bldgs
RL	IV	V	II	III	—	—	—	—
RM	IV	V	II	III	III	III	—	—
NR	IV	V	II	II	II	II	—	—
UR	IV	V	II	II	II	II	—	—
NC	IV	V	II	II	II	II	II	—
BD	IV	—	II	II	II	II	II	—
RC	IV	—	II	III	III	IV	IV	—
CI	V	—	—	—	—	V	V	V



II 2nd and 3rd Layer Only

III 2nd and 3rd Layer permitted and parking in 1st Layer restricted to one drive aisle with one bay

IV 2nd and 3rd Layer permitted and parking in 1st Layer restricted to one drive aisle with one bay, except that more parking in the 1st Layer may be achieved with a Special Use Permit (3.10.7)

V Unrestricted

9.4 Off-Street Parking Design Specifications.

All off-street parking areas shall conform to the following standards.

9.4.1 Surfacing.

Off-street parking areas developed to meet the minimum requirements of this section and all off-street parking facilities in the Central Business District, shall be properly graded, marked and located on improved lots or within parking structures. The material for surface parking spaces and corresponding access drives required by this section, except for single-family detached and duplex residences, shall consist of suitable material as set forth below.

A. Suitable paving material for required parking areas includes, but is not limited to asphalt, porous asphalt, concrete, compacted stone (road bond), and gravel.

B. Accessible Spaces: All accessible spaces and corresponding access paths shall consist of concrete or asphalt.

C. Gravel Containment: When gravel is used it must be maintained on site with a concrete apron at the traveled way.

D. Pervious Surfaces: Porous paving blocks and pervious paving materials are permitted and encouraged as material for parking lots. The use of grass as a parking lot surface is permitted for overflow parking.

E. Parking Space Marking: The individual parking spaces in a lot shall be delineated in all parking lots except those utilizing road bond, gravel, grass or other vegetative surfacing.

F. Residential Parking Areas: Parking for single family and duplex residences shall be on prepared surfaces only. Prepared surfaces include concrete, asphalt, brick, gravel, or other similar materials, but shall not include landscaped areas or dirt. No more than 25 percent of the front yard or the width or two parking spaces (20 feet), whichever is less, may be used for motor vehicle parking.

G. Exceptions: The following situations are exempted from the paving requirements of this Section:

1. A parking lot used only for occasional use (Use that occurs on two or fewer days per week) or is temporary in nature (not exceeding 24 months).

2. Whenever a proposed development involves only one of the following: an accessory structure, or, a change in use which will not increase the number of required parking spaces by more than 25 percent and the existing parking lot is not paved.

3. Up to 75 percent of the required employee parking spaces in an Commercial Industrial zone provide that the employee parking area is not visible, either by effective buffer screening or because of the grade of the site, from any public right-of-way or a residentially or commercially zoned property.

H. Non-paved Areas: Whenever a permanent parking area is exempt from the paved parking requirements or otherwise not required to be paved, the Administrator shall:

1. Require that landscape aisles or spatial separations be provided where it finds it is desirable to ensure that the parking spaces will be readily identifiable to the users; and,
2. Require the perimeter of the parking area encompassing the parking stalls and the side of any unpaved drive or aisle leading to said stalls, to be edged with brick, pressure treated timbers, or cast in place concrete, and anchored into place. Alternate borders may be considered on a case by case basis.



Pervious pavers and other pervious paving techniques allow stormwater to infiltrate into the ground below.

9.4.2 Layout and Circulation.

A. Size of Spaces: The minimum size of one parking space shall be nine (9) feet in width and eighteen (18) feet in depth. Refer to Architectural Graphic Standards, latest edition, or a similarly recognized reference manual for additional guidance regarding parking space design.

B. Maneuvering and Circulation: All parking areas shall be designed so that there is sufficient area for access to all parking spaces and safe maneuvering within the parking area.

1. The minimum aisle width for ninety (90) degree parking shall be twenty (20) feet. Widths for other parking arrangements shall conform to industry-standard specification and approved by the Administrator.

2. Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency, utility, and other public service vehicles without posing a danger to pedestrians or impeding the function of the parking area.

3. Except for single-family and duplex dwellings with separated parking areas and driveways, parking and maneuvering areas shall be arranged to allow vehicles to enter and leave the premises or parking areas in a forward motion. When more than two required spaces are provided in a single parking area, then entering and leaving in a forward motion is required.

C. Maneuvering into Public Right-of-Way from off-Street Parking Space Prohibited: All off-street parking areas, with the exception of parking areas for single-family and two-family residences, shall be designed so that vehicles will not be required to back onto or maneuver in the public right-of- way.

D. Encroachment: Off-street parking areas shall be designed so that parked vehicles do not encroach upon or extend onto public rights-of-way or sidewalks; or strike against or damage any wall, vegetation, utility, or other structures.

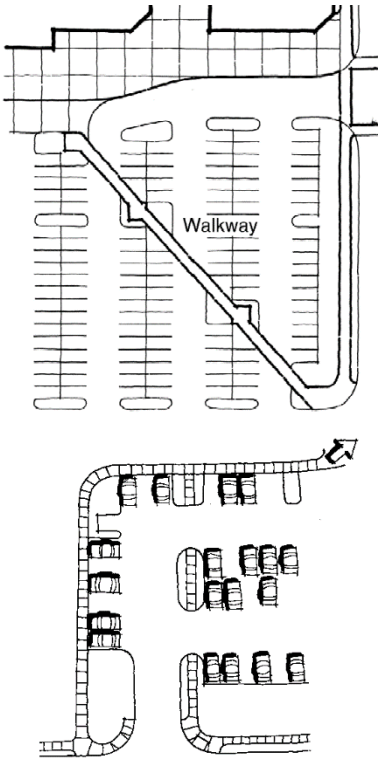
9.4.3 Connectivity.

A. Adjoining parking lots serving (or potentially serving) non-residential buildings shall be interconnected as follows:

1. The parking lot under development has a minimum of 24 parking spaces or equivalent parking area.
2. At least 1 connection is provided at all lot lines that are coincident for at least 60 feet with another lot zoned for non-residential use.
3. The connection is at least 22 feet in width and at least 23 feet from a street line.
4. If applicable, the connection aligns with a connection that has been previously constructed on an adjacent property.
5. The connection has a slope of no greater than 15 percent.
6. The connection is not placed where a building on an adjacent property is within 50 feet of the lot line which would hamper traffic movements within the parking lot.
7. The connection is placed in an area which will not require the removal of significant natural features such as wetlands or trees with a caliper of six inches or more.
8. In the event these conditions cannot be met without undue hardship, or if such connections would create undesirable traffic flow, the Administrator may waive the connection requirement.

B. Where a parking lot connection is required an easement for ingress and egress to adjacent lots shall be recorded by the property owner with the Haywood County Register of Deeds.

9.4.4 Pedestrian Corridors in Parking Lots.



Suggested options for pedestrian access in parking lots. Diagrams courtesy of the City of Fort Collins, CO.

Parking lots shall be designed to separate pedestrian travel from vehicles and include protecting pedestrian walkways within parking areas that lead to business/office/store entrances. For lots of 36 spaces or greater, sidewalk corridors shall be provided within the parking area and/or along the perimeter to provide safe building access for pedestrians.

A. Perimeter sidewalks and interior parking lot pedestrian corridors may be utilized to provide the required pedestrian access.

B. Pedestrian pathways (if provided) must be a minimum five (5) feet in width.

C. Where parking is located between a public entrance and the fronting sidewalk, a pedestrian pathway must be provided following the shortest practical route across the parking lot between at least one such entrance on each side of the building facing a public street.

D. Pedestrian pathways must be clearly delineated. This may be accomplished with the use of paving materials that differ from that of vehicular areas, striping or other similar methods.

9.4.5 Landscaping.

Landscaping shall be provided in accordance with Section 8.6, Parking Lot Landscaping.

9.4.6 Lighting.

Lighting of parking lots shall be in accordance with Section 10.3, Lighting, Design Standards.

9.5 Bicycle Parking Standards.

Bicycle parking is required to encourage the use of bicycles for personal transportation and to provide for bicycle access to employment, retail, and other destinations in Waynesville.

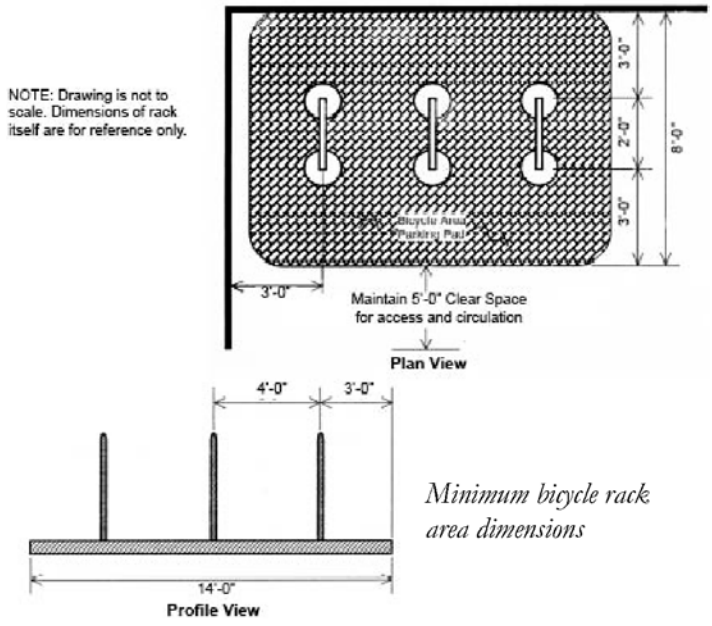
9.5.1 Required Racks.



Inverted "U" bicycle rack

Where bicycle racks are used, "Inverted U" type racks or other racks that support the bicycle at two points on the bicycle frame are required.

9.5.2 Rack Location and Dimensions.

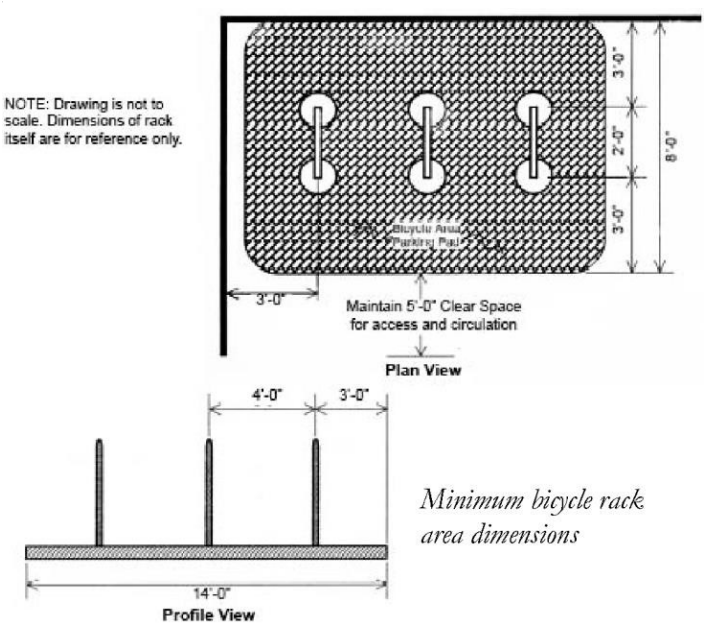


Minimum bicycle rack area dimensions

A. Bicycle racks installed on sidewalks should provide for a clear, unobstructed width of at least 5 feet for pedestrians and should be installed parallel to and at least 3 feet from the face of curb.

B. Bicycle racks shall be placed a minimum of 4 feet from existing street furniture (i.e. mailboxes, lightpoles, benches) and be no closer than 12 feet from the edge of fire hydrants.

C. Racks should be placed along a major building approach line and clearly visible from the approach and no more than 100 feet from building entrances. Rack placement shall allow for visual monitoring by people within the building and/or people entering the building.



Minimum bicycle rack area dimensions

D. If required bicycle parking is not visible from the street or main building entrance, a sign shall be posted at the main entrance indicating the location of the parking.

E. Bicycle racks installed on sidewalks should provide for a clear, unobstructed width of at least 5 feet for pedestrians and should be installed parallel to and at least 3 feet from the face of curb.

F. Bicycle racks shall be placed a minimum of 4 feet from existing street furniture (i.e. mailboxes, lightpoles, benches) and be no closer than 12 feet from the edge of fire hydrants.

G. Racks should be placed along a major building approach line and clearly visible from the approach and no more than 100 feet from building entrances. Rack placement shall allow for visual monitoring by people within the building and/or people entering the building.

H. If required bicycle parking is not visible from the street or main building entrance, a sign shall be posted at the main entrance indicating the location of the parking.

9.5.3 Shared Bicycle Parking.

Any property owner required to have bicycle parking may elect to establish shared bicycle parking with any other property owner within the same block to meet the combined requirements.

9.6 Structured Parking.

9.6.1 Screening Required.

Where an above-ground parking structure fronts a public street, the ground level shall be screened in such a way that cars are not visible from the street (e.g., structure should be wrapped by retail, office or some other active use along the primary façade).

9.6.2 High Quality Materials Required Along Frontage.

Along pedestrian oriented streets, parking structure façades shall be treated with high quality materials and given vertical articulation and emphasis compatible with the principle structure. The façade shall be designed to visually screen cars.

9.6.3 Clear Pedestrian Entries.

Pedestrian entries shall be clearly visible.

9.6.4 Bicycle Parking is Required.

Parking structures shall provide bicycle parking within the structure. It shall be located on the level closest to the street and/or a primary building entrance.

9.7 Parking of Large Vehicles in Residential Areas.

Parking for recreational vehicles, utility trailers, oversized commercial vehicles (including freight hauling trucks), construction equipment and boats shall be restricted to the rear yards in all Residential districts except on lots greater than 2 acres in size.

9.8 Driveway Access.

9.8.1 Purpose and Applicability.

A. The standards contained in this section are designed to ensure that access to development in the Town of Waynesville does not impair the function of adjacent roadways or public safety.

B. All proposed vehicular access points connecting to a public or private street shall conform to the provisions of this section as well as to the driveway construction standards of the Town, or as determined by the Public Services Director.

C. Driveways should be designed for their intended use and traffic, located for safety, and consistent with their context with respect to sidewalks, drainage, landscape, and other characteristics of the roadway to which they connect.

9.8.2 Driveway Permit.

A. **Permit Requirement:**

1. Before any proposed vehicular access point connecting to a public or private street may be constructed, a driveway permit must be obtained from the Administrator, unless deemed exempt by the Public Services Director.

2. The North Carolina Department of Transportation (NCDOT) is required to review all connections to state system streets. Driveway permits on state system streets should be submitted to NCDOT for the initial review. Upon NCDOT approval, the driveway permit will be forwarded to the Town of Waynesville for its approval. Where a conflict arises with respect to these standards, the more restrictive access standards shall apply.

B. **Existing Driveway Approaches:**

1. Existing driveway approaches shall not be relocated, altered, or reconstructed without a permit approving the relocation, alteration or reconstruction and such driveway approaches shall be subject to the provisions of this section.

2. When the use or layout of any property is changed, making any portion or all of the driveway approach unnecessary, the owner of the property, shall, at his expense, replace all necessary curbs, gutters, and sidewalks, or correct all nonconforming features.

9.8.3 Driveway Standards.

A. General Guidelines:

1. The width, in feet, of a driveway approach shall be within the minimum and maximum limits as specified below. Required driveway width pertains to the measurement at the sidewalk. At other points in the driveway the width may vary.
2. Any driveway access to a state-maintained roadway shall comply with NCDOT's "Policy on Street and Driveway Access to North Carolina Highways."
3. Driveway approaches must cross the sidewalk area at the sidewalk grade established by the Administrator and to accommodate ADA compliance in accordance with the driveway permit.
4. All driveway approaches shall be a concrete apron section ("ramp" type), except that street type driveway entrances may be required by the Administrator for large parking lots and along high volume roadways.
5. All aprons shall be installed to the right-of-way line or at least ten (10) feet from the edge of the traveled way and built to the specifications of the Administrator. Apron section materials other than concrete must be determined appropriate and approved by the Administrator.
6. Driveway access to state highways shall not be permitted for parking or loading areas that require backing maneuvers onto the public street right of way. Driveway access to town-maintained streets for non-residential and multi-family developments shall not be permitted for parking or loading areas that require backing maneuvers onto a public street right-of-way.
7. Where feasible, road access for corner lots shall be provided to the street or road with the lowest traffic volume.
8. Driveways shall not interfere with municipal facilities such as street lights, traffic signal poles, signs, fire hydrants, crosswalks, drainage structures or other necessary street structures.

B. Residential Driveways:

1. Driveways serving single family and duplex residences should have a minimum width of 10 feet and shall not exceed a maximum width of 18 feet.
2. The minimum distance between the front wall or garage door of a residential dwelling to the back of sidewalk along the driveway length shall be at least 25 feet to permit vehicular parking without blocking the sidewalk.
3. Joint Use or Shared Driveways are encouraged. Driveways serving adjacent residential properties shall have easement agreements among owners, and shall not serve more than three single-family or duplex structures. Rights of Way serving more than 3 structures should comply with LDS Chapter 6 Infrastructure Standards.
4. A shared driveway that serves 3 or fewer dwelling unit structures shall be managed to provide emergency access and fire protection and shall conform to the following:

- Right-of-way width: Minimum 18 feet.
- Surface Widths: Minimum 10 feet for driveways less than 150 feet in length; and a minimum of 14 feet in width if a driveway length exceeds 150 feet, or as approved by the Fire Code Official.
- May be paved, gravel, or natural compacted surface.
- Parking for units served by the shared driveway must be provided outside of the shared driveway right-of-way so that access to structures is not blocked.
- Shared driveways do not require curbs, pedestrian connections, or landscaping, but must be designed for stormwater management and safety as approved through the driveway permit.
- Length: Maximum 150 feet, subject to other requirements as determined and approved by the Fire Code Official.
- Only 3 dwelling unit structures (single family or duplex) may be served off of a single shared driveway accessing a public street. Shared driveways may be converted to alleys, lanes, or other roadway types and uses with approval of the Administrator and Fire Code Official.

C. Non-Residential and Multi-Family Driveways:

1. Driveway Widths:

a. One-way drives shall have a minimum width of 12 feet and shall not exceed a maximum width of 18 feet.

b. Two-way drives shall have a minimum width of 18 feet and shall not exceed a maximum width of 24 feet.

c. Commercial driveways shall have a radius of 20 to 50 feet, or per engineering judgment based on the adjacent roadway.

d. All driveways shall have an internal stem length of 25 feet or greater unless otherwise approved by the Administrator.

e. Two-way drives serving a major site plan containing a multi-family development shall have a minimum paved width of 20’ and shall include a sidewalk or other pedestrian connection.

f. Driveways entering industrial property may be up to 36 feet in width with the approval of the Administrator.

2. Joint Use Driveway: Wherever feasible, the Administrator shall require the establishment of a joint use driveway serving two (2) abutting non-residential properties. When a property is developed before an abutting property is developed, the site shall be designed to ensure that its driveway and circulation may be modified to create a joint use driveway and interconnected parking with abutting properties or to connect to a shared driveway for the purpose of access management.

D. Driveway Spacing:

1. Access separation between driveways shall be measured from inside edge to inside edge of driveways. Access separation between a driveway and intersecting street shall be measured from the nearest edge of the driveway to the intersection right-of-way lines.

2. Residential Driveways shall be spaced from other drives and from intersecting streets as set forth for the land development district in which the property is located.

3. Non-Residential and multi-family driveways shall be spaced from other driveways and from intersecting streets in accordance with the chart below, or per AASHTO's "A Policy on Geometric Design of Highways and Streets," at the determination of the Administrator. All driveways shall be located as far from signalized intersections as feasible.

4. The use of alleys to access the rear of properties is strongly encouraged. therefore, A minimum separation of ten (10) feet between adjacent property lines and the alley intersection is required. A forty (40) feet separation is required between alleys and the intersection of streets.

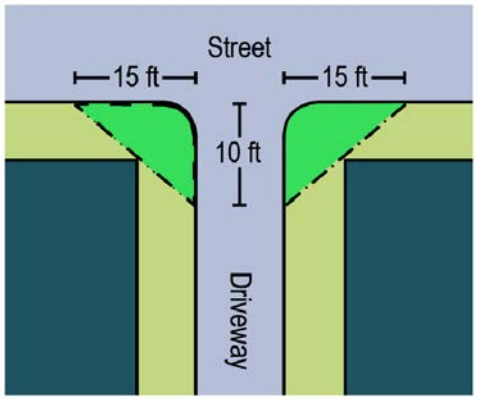
5. As determined by the Administrator, engineering judgment shall override the required dimensions set forth in district standards if warranted by

    - pre-existing environmental conditions (such as a rock outcrop, steep slope, stream or protected area),
    - Recommendations of a Traffic Impact Analysis,
    - Low traffic volumes on adjacent streets,
    - Cumulative impact of adjacent land uses, and
    - Safety of vehicles and pedestrian users.

6. Driveway Minimum Spacing Chart:

District Category	Applicable Districts	Driveway Spacing (Min)
Residential—Low Density (RL)	CC-RL, EN-RL, FC-RL, HT-RL	40 ft. (75 ft. between driveways and streets)
Residential—Medium Density (RM)	CP-RM, D-RM, HM-RM, SW-RM	No minimum.
Neighborhood Residential (NR)	AC-NR, LL-NR, MS-NR, N-NR, PS-NR, PC-NR, RC-NR, SS-NR, WS-NR	No minimum.
Urban Residential (UR)	EW-UR, H-UR, HM-UR	No minimum.
Neighborhood Center (NC)	PS-NC, RC-NC, NM-BD	100 ft. (100 ft. between driveways and streets) or as determined by AASHTO Standards or NCDOT permit.
Business District (BD)	CBD, SM-BD, H-BD	**50** ft. (100 ft. between driveways and streets) or as determined by AASHTO Standards or NCDOT permit.
Regional Center (RC)	RA-RC, DJ-RC, NC-RC	150 ft. (250 ft. between driveways and streets) or as determined by AASHTO Standards or NCDOT permit.
Commercial Industrial (CI)	CI	50 ft. (150 ft. between driveways and streets) or as determined by AASHTO Standards or NCDOT permit.

A. Sight Visibility Triangles:



1. At all driveway approaches, a sight area shall be maintained. Within the sight area no fence, wall, sign or other structure, no slope or embankment, no parked vehicle, no hedge, no foliage or other planting and no other object or structure shall be placed, erected or maintained which will obstruct visibility within the sight area.
2. Sight areas are triangular areas formed by a ten-foot side measured along the edge of the driveway approach and a fifteen-foot side measured along the edge of the traveled way.

(Ord. No. O-01-15 , §§ 6, 7, 1-27-2015)

CHAPTER 10 - LIGHTING

10.1 Purpose and Intent.

The standards set forth in this section are designed to achieve several purposes. It is the intent of this section to:

- Minimize light pollution, glare and light trespass.
- Conserve energy and resources while maintaining night-time safety and utility.
- Curtail the degradation of the night-time visual environment.
- Enhance and preserve mountain and valley vistas.

This section shall apply to all new development in the Town of Waynesville unless otherwise specified.

10.2 Applicability.

The standards contained in this Chapter shall apply to all new lighting unless specifically exempted herein or as specified in Sections 13.2 and 13.7.

10.2.1 Nonconforming Lighting.

Any nonconforming lighting fixture lawfully in place or approved by the Town prior to the adoption of this Ordinance shall be exempt from these requirements. Routine maintenance, including changing the lamp, ballast, starter, photo control, lens, and other required components, is permitted for all existing fixtures. At the time that a nonconforming fixture, which was installed prior to the adoption of this Ordinance, is replaced, moved, upgraded, or otherwise changed, the fixture must be replaced by either:

A. The same type of fixture that emits an equal or less amount of lumens as the original fixture; allows the trespassing of an equal or less amount of light onto neighboring properties; and restricts uplighting to an equal or less amount than the original fixture. OR

B. A fixture that is in compliance with this Ordinance.

10.3 Design Standards.

10.3.1 Control of Glare—Luminaire Design Factors.

A. Any luminaire with a lamp or lamps rated at a total of more than 1,000 lumens shall be full-cutoff type fixtures.

B. Any luminaire with a lamp or lamps rated at a total of more than 1,000 lumens shall be mounted at a height equal to or less than thirty-two (32) feet above finished grade.

C. Exceptions:

1. Non-cutoff decorative post-mounted fixtures equipped with a solid top and mounted 18 feet or less above ground and other non-cutoff dusk to dawn utility type fixtures mounted 25 feet or less may be used. The maximum initial lumens generated by each fixture shall not exceed 9500 initial lamp lumens.

2. All metal halide, mercury vapor, fluorescent, and other white-colored light source lamps used in non-cutoff fixtures (excluding flood lights) shall be coated with an internal white frosting inside the outer lamp envelope.

3. All metal halide fixtures equipped with a medium base socket must utilize either an internal refractive lens or a wide-body refractive globe so that light rays emitted by the light fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted.

10.3.2 Lighting Use Regulations for Specific Areas.

A. Other than floodlights, flood lamps, and spotlights all outdoor lighting fixtures of more than 2,000 lumens shall be full-cutoff type fixtures. Any fixture that is not full-cut off shall be a directional fixture (such as flood lights) and may be used provided they shall be aimed and fully shielded.

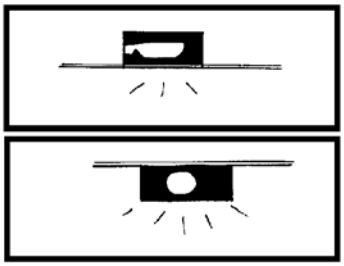
B. The mounting height of all outdoor lighting, except outdoor sports field lighting and outdoor performance area lighting, shall not exceed thirty-two (32) feet above finished grade.

1. Outdoor Display Areas:

a. The mounting height of outdoor display area fixtures shall not exceed thirty-two (32) feet above finished grade.

b. All light fixtures shall meet the IESNA definition of full cutoff fixtures. Forward throw fixtures (type IV light distribution, as defined by the IESNA) are required within twenty-five (25) feet of any public street right-of-way. Alternatively, directional fixtures (such as flood lights) may be used provided they shall be aimed and fully shielded.

2. Lighting for Vehicular Canopies: Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or more of the following:



a. Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface of the vehicular canopy.

b. Surface mounted fixture incorporating a flat lens that provides a cutoff or shielded light distribution.

c. Other method approved by the administrator.

C. Lighting Standards by District:

1. District Lighting Standards in Footcandles (FC).

	RL	**RM, NR, UR**	**NC, BD**	**RC, CI**
Trespass	0.1	0.3	0.8	1.5
Display/Canopy	8	12	20	20
Parking Areas	4	4	6	6

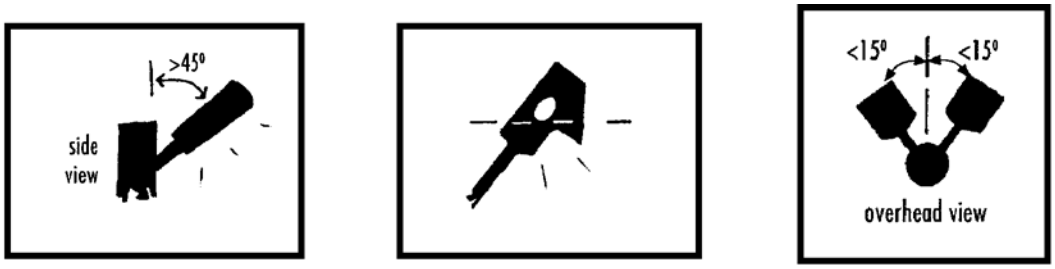
2. The values of the preceding Subsection for Trespass and Display/Canopy area lighting shall represent the maximum point of illuminance.

3. The values of the preceding section for Parking Area shall represent the average point of horizontal illuminance, provided that in all districts the maximum uniformity ratio shall be 4:1 minimum to average.

10.3.3 Security Lighting.

A. Motion activated security lights; unshielded flood and spotlights, with 45 watts or less, installed for security and activated by motion sensor, are permitted. These unshielded lights must be mounted and aimed in a manner that minimizes up-lighting and light trespass.

B. All floodlights shall be installed such that the fixture shall be aimed down at least forty-five (45) degrees from vertical flood lights and display lights shall be positioned such that any such fixture located within fifty (50) feet of a public street right-of-way is mounted and aimed perpendicular to the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed fifteen (15) degrees from perpendicular to the right-of-way.



C. All flood or spot lamps emitting 1,000 or more lumens shall be aimed at least sixty (60) degrees down from horizontal or shielded such that the main beam from the light source is not visible from adjacent properties or the public street right-of-way.

D. Landscape and decorative lighting using incandescent lighting of 40 watts or less is permitted, provided that the light is installed and aimed to prevent lighting build up and light trespass and shielded to prevent view from the public right-of-way.

E. Area "dusk to dawn" open-bottom lights are permitted. These lights must be full cutoff.

10.3.4 Outdoor Recreational Lighting.

A. Lights shall be shielded and positioned so as not to shine onto adjacent properties.

B. All fixtures used for event lighting shall be fully shielded or be designed or provided with Manufacturer's Glare Control Package, so as to minimize up-light, spill-light, and glare.

C. Fixtures for outdoor recreational facilities must not exceed eighty feet (80') in mounting height (this includes bases and/or other mounting structures) above finished grade.

D. Fixtures shall be fitted with a manufacturer's glare control package.

E. Fixtures shall be designed and aimed so that their beams fall within the primary playing area and the immediate surroundings, so that off-site direct illumination is significantly restricted (spillover levels at the property line must not exceed 1.5 footcandles).

10.3.5 Street Lighting.

Street lighting shall be placed on all streets by the developer to allow for the safe use of streets by both cars and pedestrians. All street lighting shall be placed in accordance with the following minimum design standards

A. Minimum average street light spacing:

	RL, RM	NR, UR	NC, BD RC	CI
Minimum Average Street Light Spacing (on-center)	n/a	300 ft.	150 ft. (pedestrian-scaled)	300 ft.

B. Lighting shall be placed at street intersections and is preferred at street curves.

C. Pedestrian-scaled lighting (no taller than 18 feet) shall be prioritized over automobile lighting. Lighting shall be placed in a manner to limit the casting of shadows on sidewalks.

D. All lighting shall utilize a cutoff fixture. Where buildings are close to the street (less than 15 feet from the right-of-way), full cutoff fixtures are required to limit glare and light spillage on upper levels.

E. Alleys are excluded from the spacing and lighting requirements of this Section.

10.3.6 Building Façade Lighting.

Floodlights, spotlights, or any other similar lighting shall not be used to illuminate buildings or other site features unless approved as an integral architectural element on the development plan. On-site lighting may be used to accent architectural elements but not used to illuminate entire portions of building(s) or sign(s). Where accent lighting is used, the maximum illumination on any vertical surface or angular roof surface shall not exceed 5.0 average maintained footcandles. Building facade and accent lighting will not be approved unless the light fixtures are carefully selected, located, aimed, and shielded so that light is directed only onto the building facade and spillover light is minimized.

10.4 Exemption and Prohibitions.

10.4.1 Exemptions.

A. Luminaires used for public-roadway illumination may be installed at a maximum height of thirty-seven (37) feet and may be positioned at that height up to the edge of any bordering property.

B. All temporary emergency lighting needed by the Police or Fire Departments or other emergency services, as well as all vehicular luminaires, shall be exempt from the requirements of this ordinance.

C. All hazard warning luminaires required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaires used must be red and must be shown to be as close as possible to the federally required minimum lumen output requirement for the specific task.

D. Individual residential lighting that is not part of a site plan or subdivision plan for street or other common or public area outdoor lighting.

E. Lighting associated with landscape/holiday/festive/temporary uses.

F. Lighting of public art that has been permitted or otherwise approved by the Town.

G. Other Municipal or State lighting installed for the benefit of public health, safety, and welfare.

H. All fixtures installed or temporarily used by public agencies, their agents, or contractors for the purpose of illuminating public streets.

I. Lighting of US Flags provided the flag standard does not exceed the maximum permitted building height for that district.

10.4.2 Prohibitions.

A. Laser Source Light - The use of laser source light or any similar high intensity light for outdoor advertising or entertainment is prohibited.

B. Searchlights - The operation of searchlights for advertising purposes is prohibited.

C. Flashing Lights - Lights that flash, move, revolve, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation are prohibited.

D. Awning and Canopy Lighting - Awnings and canopies used for building accents over doors, windows, and etc. shall not be internally lit (i.e. from underneath or behind) so as to visually turn a translucent material into an internally illuminated material. Lighting may be installed under canopies that lights the sidewalk, or downlights onto the architectural features of a building.

10.5 Administration.

10.5.1 Light Measurement Technique.

Light level measurements shall be made at the property line of the property upon which the light to be measured is being generated. If measurement on private property is not possible or practical, light level measurements may be made at the boundary of the public street right-of-way that adjoins the property of the complainant or at any other location on the property of the complainant. Measurements shall be made at finished grade (ground level), with the light-registering portion of the meter held parallel to the ground pointing up. The meter shall have cosine and color correction and have an accuracy tolerance of no greater than plus or minus five (5) percent. Measurements shall be taken with a light meter that has been calibrated within the year. Light levels are specified, calculated and measured in footcandles (FC).

10.5.2 Compliance.

While not required to be provided with the submission of the site plan, projects may be required to provide the following information upon request by the Administrator:

A. Point-by-point footcandle arrays in a printout format indicating the location and aiming of illuminating devices. The printout shall indicate compliance with the maximum maintained footcandles required by this Ordinance.

B. Description of the illuminating devices, fixtures, lamps, supports, reflectors, poles, raised foundations and other devices (including but not limited to manufacturers or electric utility catalog specification sheets and/or drawings, and photometric report indicating fixture classification [cutoff fixture, wall pack, flood light, etc.]).

THIS PAGE INTENTIONALLY LEFT BLANK

CHAPTER 11 - SIGNS

11.1 General Purpose and Intent.

The purpose of this section and the other sign standards contained in this chapter, is to support and complement the various land uses allowed in the Town of Waynesville by the adoption of standards concerning the placement of signs. These standards are adopted under the zoning authority of the Town to achieve the following:

- To encourage the effective use of signs as a means of communication in the Town while preserving the rights of free speech under the First Amendment to the United States Constitution.
- To maintain and enhance the aesthetic environment and the Town's ability to attract sources of economic development and growth.
- To improve pedestrian and traffic safety.
- To minimize the possible adverse effect of signs on nearby public and private property.

11.2 Applicability.

11.2.1 Permits Required.

Except as provided by this section, it shall be unlawful for any person to erect, construct, enlarge, move or replace any sign without first obtaining a sign permit from the Administrator. Additional permits may be necessary pursuant to the regulations in the state building code or other sections of this ordinance.

11.2.2 Alteration of Sign Face.

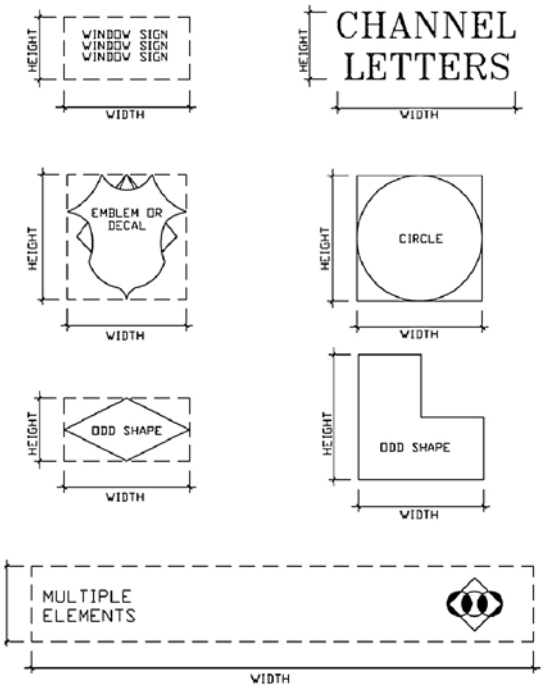
Repainting of a sign, if in conformance with the applicable standards of this chapter, shall be considered maintenance or repair and shall not require a permit. The changing of tenant name panels on multiple-tenant development signage shall not require a permit.

11.2.3 Compliance Required.

Existing nonconforming signs shall be brought into full compliance subject to the requirements of Sections 13.2 and 13.7.

11.3 Computation of Signage Area.

11.3.1 Computation of Sign Face.



A. The area of a sign face shall be deemed to be the entire area within the smallest square or rectangle that will encompass the extreme limits of the writing, representation, emblem, or other display on the sign.

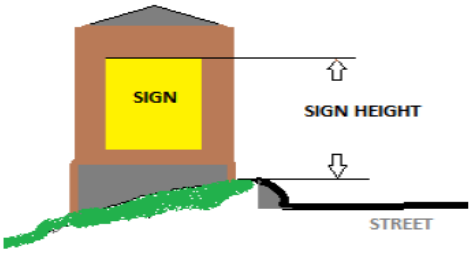
B. The area shall also include any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed.

C. Frames or structural members not bearing informational or representational matter shall not be included in computation of the area of a sign face.

D. Signs attached to walls (other than building walls) or fences shall be treated as ground signs and allowed only where ground signs are permitted. Only that portion of that wall or fence onto which the sign face or letters are placed shall be calculated in the sign area.

11.3.2 Computation of Height.

The height of a sign shall be measured from the highest point of a Sign Face to the highest adjacent grade at the base of the sign, provided that height of the sign structure shall not exceed the height of the Sign Face by greater than twenty percent (20%).



(Ord. No. O-15-13 , 11-26-2013)

11.4 General Provisions.

11.4.1 Standards Applicable to All Permitted Signs.

Permitted signs shall be located outside of the street right-of-way, behind sidewalk areas and outside of the site triangle as per Sections 6.7.2 for streets and 9.8.3 for driveways.

11.4.2 Noncommercial Messages.

Any sign, display or device allowed under this chapter may contain, in lieu of any other copy, any otherwise lawful noncommercial message.

(Ord. No. O-15-13 , 11-26-2013)

11.5 Signs Not Requiring a Permit.

11.5.1 Governmental Signs.

A. Signs posted by various local, state and federal agencies in the performance of their duties such as, but not limited to, regulatory signs, welcome signs and traffic signs.

B. Signs installed under governmental authority which note the donation of buildings, structures or streetscape materials (such as, but not limited to benches, park facilities, etc.).

11.5.2 Flags, Etc.

Flags or insignia of any nation, organization of nations, state, county or municipality, any religious, civic or fraternal organization, or any educational or cultural facility and/or any one corporate flag per lot provided the height of any pole shall not exceed the maximum building height for the district.

11.5.3 Temporary Holiday Decorations.

Temporary decorations or displays, when such are clearly incidental to and are customarily and commonly associated with any national, local or religious holiday/celebration.

11.5.4 Window Displays.

Merchandise, pictures or models of products or services that are incorporated as an integral part of a window display.

11.5.5 Building Marker/Identification Signs.

A sign cut or etched into masonry, bronze or similar material on a building that identifies the building and is a permanent and integral part of the building.

11.5.6 Legal and Warning Signs.

A. Signs erected to warn of danger or hazardous conditions such as signs erected by public utility companies or construction companies.

B. Signs required for or specifically authorized for a public purpose by any law, statute or ordinance.

C. Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular piece of property shall be located on the premises to which the information pertains. No advertising may be affixed to such a sign.

11.5.7 Occupant/Street Number Signs.

Signs affixed to structures, mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or occupant. All such signs must be placed in such a manner as to be visible from the street.

11.5.8 Vending Machine/Automatic Teller and Gasoline Pump Signs.

Signs attached to and made an integral part of a vending machine, automatic teller machine or gasoline pump if advertising or giving information about the products or services dispensed or vended by that machine.

11.5.9 Directional Signs.

A. Directional signs must be located on the premises to which directions are indicated.

B. Such signs may not exceed three (3) feet in height if freestanding.

C. Directional signs may not exceed four (4) square feet per face.

D. Such signs may contain no copy other than directional information and either company name or logo.

E. Illumination of such signs shall be as permitted for on-premises signs in the land development district where the sign is located.

F. No more than two (2) signs per entrance or exit shall be permitted.

11.5.10 Incidental Signs.

A. Signs containing information necessary or convenient for persons coming on a premises shall be located on the premises to which the information pertains.

B. No advertising may be affixed to such a sign.

C. Such signs must be single-faced only and wholly attached to a building (may be located on windows or doors).

11.5.11 Temporary Signs are allowed for uses permitted by Section 4.6 provided that the duration shall be the same as that of the specific, permitted temporary use and for the purpose of yard sales, real estate, mobile vendors, special events or other signage of a temporary nature not otherwise addressed elsewhere in this ordinance.

A. General Requirements for temporary signs:

1. Such signage shall be limited to the time period for the project or purpose it describes and must be installed no more than 10 days before an event and removed within ten (10) days upon completion of the project or event, unless otherwise permitted or as specified in this section.

2. Such signage shall not be placed on any Town property or Park without the permission of the Town Manager.

3. Off-premises signs are prohibited.

4. Temporary signs that encroach in a public or private right-of-way shall not create a safety hazard or impediment to use of the right-of-way, including:

a) Such signs shall not be placed in a way as to interfere with pedestrians, cyclists, or motorists' access along rights-of-way, nor be placed so as to interfere with the line-of-sight of any motorist, or be placed in any way that creates a safety hazard for any mode of transportation.

b) Such signs shall be placed a minimum of three (3) feet from any curb or edge of pavement.

c) Such signs shall not be placed within a Town maintained sidewalk or greenway.

d) Such signs shall not be attached to trees or utility poles.

e) Such signs shall not be illuminated unless they are part of an existing billboard or compliant sign structure that is already illuminated.

f) Such signs shall be of break-away or flexible material unless they are part of an existing billboard or compliant sign structure.

g) Such signs shall be limited to six (6) square feet in area and four (4) feet in height, or the maximum of the District in which it is located, whichever is less.

5. Regulations regarding temporary signs on private property shall comply with the dimensional requirements for a permanent sign of the same type in the district in which the sign is erected.

6. One (1) per property per street frontage.

7. May be either a Ground Sign, or Attached Sign.

8. Moveable Signs are expressly prohibited.

9. Banner type signs shall not be permitted within any district listed on the National Register of Historic Places.

B. Window Signs: Temporary signs which are affixed to the inside of a window. Such signs shall not exceed 50% of the window area except within designated National Register Historic Districts where such signs shall not exceed 25% of the window area.

C. Vehicular Signs: Temporary signs not prohibited under Section 11.8.11 displayed on vehicles and equipment which are being operated in the normal course of business, such as signs indicating the name of the owner or business and which are affixed or painted onto such vehicles or equipment, provided that when not being so operated, such vehicles are parked or stored in areas appropriate to their use as vehicles and in such a manner and location so as to minimize their visibility from any street to the greatest extent feasible.

D. Ball Field Fence Signs: nonprofit organizations, i.e., local ball leagues, may attach signage to ball field fences providing the following requirements are met:

1. Sign panels must be of uniform size and weather durable material and cannot exceed three feet by five feet in dimension.

2. Signage must be attached to the interior (ball field) of the chain link fencing, have advertising copy on only the interior (ball field) side of fencing and cannot be self-illuminated.

3. Where adjacent properties are in residential use the back (exterior) side of the sign must be a dark solid color and be uniform in color with all the other signs.

4. All signs must be kept clean and in good repair.

5. Signage cannot exceed one per fence panel.

6. Sign must be uniform in height.

7. Signage can be erected two weeks prior to the beginning of the ball season and must be taken down within two weeks from the conclusion of the season.

8. The organization or tenant leasing the property will be responsible for installing and removing the signs.

E. Decorative Flags (except American Flags) shall be counted towards the maximum signage square footage for Attached Signs permitted in the district. Only one (1) flag for every 25 feet of linear building frontage is permitted. All such flags on a single building face shall count as one of the three (3) permitted Attached Signs permitted on that building face.

11.5.12 Political Signs (rev. 9/11/12).

A. Duration: such signs may be displayed during a period beginning thirty (30) days prior to the beginning date of "one-stop" early voting under G.S. 163-227.2 and concluding ten (10) days after the primary or election day immediately following.

B. Placement:

1. No sign shall be permitted in the right-of-way of a fully controlled access highway.
2. No sign shall be closer than three (3) feet from the edge of pavement of the road.
3. No sign shall obscure motorist visibility at an intersection.
4. No sign shall be higher than 42 inches above the edge of pavement of the closest road.
5. No sign shall be larger than sixteen (16) square feet.
6. No sign shall obscure or replace another sign.
7. No sign shall be attached to a utility pole.

C. Illumination: such signs may not be illuminated.

11.5.13 Reserved.

11.5.14 Temporary Signs.

A. Window Signs: Temporary signs which are affixed to the inside of a window. Such signs shall not exceed 50% of the window area except within designated National Register Historic Districts where such signs shall not exceed 25% of the window area.

B. Special Event Signs: Signs may be erected by public or non-profit organizations such as schools and churches for promoting special events as follows:

1. Signs for public events such as fund drives, fairs, festivals, sporting events, etc. may be displayed for a period of thirty (30) days.
2. The maximum size and height shall be the same as established for a permanent sign of the same type in the district in which the sign is erected.

C. Yard Sale Signs:

1. Such signs may be located on-premises only and may not be located within a public right-of-way nor placed on a tree, street sign or utility pole.
2. Such signs may not be illuminated.
3. Yard sale signs are limited to four (4) square feet in area and four (4) feet in height.
4. One (1) yard sale sign is allowed per street frontage.
5. Such signs may be displayed no more than one day in advance of the sale and be removed the day following the sale.

D. Vehicular Signs: Signs not prohibited under Section 11.8.11 displayed on vehicles and equipment which are being operated in the normal course of business, such as signs indicating the name of the owner or business and which are affixed or painted onto such vehicles or equipment,

provided that when not being so operated, such vehicles are parked or stored in areas appropriate to their use as vehicles and in such a manner and location so as to minimize their visibility from any street to the greatest extent feasible.

E. Ball Field Fence Signs: Nonprofit organizations, i.e., local ball leagues, may attach signage to ball field fences providing the following requirements are met:

1. Sign panels must be of uniform size and weather durable material and cannot exceed three feet by five feet in dimension.
2. Signage must be attached to the interior (ball field) of the chain link fencing, have advertising copy on only the interior (ball field) side of fencing and cannot be self-illuminated.
3. Where adjacent properties are in residential use the back (exterior) side of the sign must be a dark solid color and be uniform in color with all the other signs.
4. All signs must be kept clean and in good repair.
5. Signage cannot exceed one per fence panel.
6. Sign must be uniform in height.
7. Signage can be erected two weeks prior to the beginning of the ball season and must be taken down within two weeks from the conclusion of the season.
8. The organization or tenant leasing the property will be responsible for installing and removing the signs.

F. Decorative Flags (except American Flags) shall be counted towards the maximum signage square footage for Attached Signs permitted in the district. Only one (1) flag for every 25 feet of linear building frontage is permitted. All such flags on a single building face shall count as one of the three (3) permitted Attached Signs permitted on that building face.

G. Promotional/Special Event Signs:

1. One (1) per property per street frontage.
2. May be either a Ground Sign, or Attached Sign.
3. The maximum size and height shall be the same as established for a permanent sign of the same type in the district in which the sign is erected.
4. Duration: may be displayed on one (1) occasion in any three (3) month period for a maximum of fourteen (14) consecutive days or on one (1) occasion in any six (6) month period for a maximum of thirty (30) consecutive days.
5. Permit required: a permit application shall be submitted indicating the size, content, location and dates of erection and removal. The permit fee shall be the same as that for a corresponding permanent sign as established by the Schedule of Fees and Charges except there shall be no fee for public or non-profit organizations such as schools and churches for promoting special events such as fund drives, fairs, festivals, sporting events.
6. Moveable Signs are expressly prohibited.
7. Banner type Promotion/Special Event Signs shall not be permitted within any district listed on the National Register of Historic Places.

H. Temporary Uses Signs for uses permitted by Section 4.6 shall be the same as Promotional/Special Event Signs in subsection G. of this section provided that the duration shall be the same as that of the specific Temporary Use.

(Ord. No. O-15-13 , 11-26-2013; Ord. No. O-01-15 , § 1, 1-27-2015; Ord. No. 03-17 , 3-28-2017)

11.6 Permitted Signage by District.

11.6.1 Permitted Signage by District.

The following permanently mounted signs and their related maximum dimensions are allowed subject to the issuance of a sign permit.

District	Ground Sign	Attached Sign	Permitted Illumination	Other Standards
Residential-Low Density (RL)	16 sq. ft.—4 ft. tall	16 sq. ft.	None permitted	
Residential-Medium Density (RM)	16 sq. ft.—4 ft. tall	16 sq. ft.	External illumination only	
Neighborhood Residential (NR)/Urban Residential (UR)	16 sq. ft.—4 ft. tall	16 sq. ft.	External illumination only	
Neighborhood Center (NC)	24 sq. ft.—6 ft. tall	10% of wall	External illumination only	Pedestrian Sign - 1 per business
Business District (BD)	24 sq. ft.—6 ft. tall Exceptions: Ground signs are not permitted on Main Street from Church Street to Russ Avenue; Ground signs shall be limited to 16 ft.—4 ft. tall along Wall Street from East Street to Howell Street	1 sq. ft. for each 1 linear ft. of wall frontage - maximum of 100 sq. ft.	Internal illumination permitted except within a National Register Historic District	Pedestrian Sign - 1 per business Marquee Sign - 11.7.6
Regional Center (RC)	48 sq. ft.—8 ft. tall	15% of wall	Internal illumination permitted	Pedestrian Sign - 1 per business
Commercial Industrial (CI)	48 sq. ft.—8 ft. tall	15% of wall	Internal illumination permitted	

11.6.2 Other Permitted Signage.

Development Type	Standard
Home Occupations (All Residential Districts)	8 sq. ft.
Master Development Sign (For Development 5 acres or greater) within RC and CI districts	160 sq. ft.—25 ft. tall—1 permitted per major road frontage
Master Development Sign (For Development 2 acres or greater) within NC and BD districts	48 sq. ft.—8 ft. tall—1 permitted per major road frontage
Neighborhood Entrance Signs	Subject to Planning Board design approval
Elementary and Secondary Schools	32 sq. ft.—8 ft. tall—May be Electronic Changeable Face Sign (See Section 11.7.4)—Must be static between one hour after dusk and one hour before dawn except during special events

(Ord. No. O-15-13, 11-26-2013; Ord. No. O-21-21 , § 1, 11-9-2021).

11.7 Signage Types.

11.7.1 Ground Signs.

A. All Ground Signs shall be located out of the street right-of-way or at least five (5) feet for [from] the edge of the Public Way whichever is greater.

B. No Ground Sign shall be located in any required buffer yard, within a sight triangle as established by Sections 6.7.2 for streets and 9.8.3 for driveways or within 10 feet of a side property line.

C. Ground signs shall include a base (min. 1 ft. in height) constructed of rock, brick, or other masonry material or permanent landscaping.

D. Residential Neighborhood and Business District Entrance Signs shall be professionally designed and produced using high-quality materials and shall be appropriate in size, number and location for the neighborhood or district being identified as approved by the Planning Board following a public hearing.

E. One (1) ground sign is permitted per building for and on each public street frontage provided that building directly fronts the public street, and no other principal building on the same property is situated between the building and the public street.

11.7.2 Attached (Includes Canopy, Projecting and Permanent Window Signs).



A. The maximum permitted aggregate area of Attached Signs includes the area of any permanent Window Signs.

B. Attached signage may not extend above the vertical wall to which the sign is attached or extend out into the street tree planting area or street side of the sidewalk.

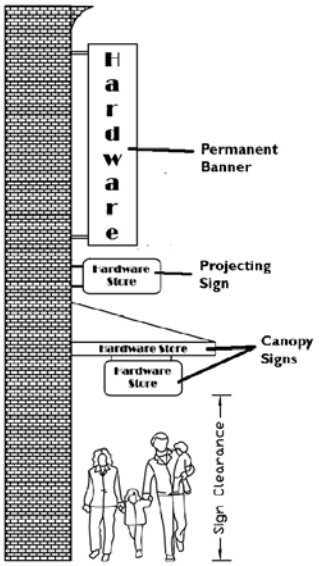
C. The preferred location for Attached Signs is between the first floor window and window sill of second floor, or on a sign frieze area of the building if original to the building. (Exception: Building identification which is an integral part of the building's design and architectural character shall not be considered a sign for the purposes of this standard.)

D. Signs on Windows and Doors: Signage posted on windows and doors shall not exceed 25 percent of the window/door area.

E. Maximum of 3 Signs Permitted: No more than three attached signs (excluding a single Pedestrian Sign where permitted) may be erected provided the total surface area permitted is not exceeded.

F. Canopy/Awning Signs: Signs on awnings shall be considered Attached Signs. Maximum Awning Sign Area: 50 percent of awning area.

G. Projecting Signs: Attached signs may not project more than four (4) feet from the façade of the building on which the sign is located.



H. Clearance Required: The bottom of any attached sign, if extended from the façade of a building shall be at least eight (8) feet above any pedestrian walkway.

I. Clearance from Curb/Street: Under no circumstance shall a sign or canopy/awning overhang any closer than 2 feet from the face of the existing curb.

11.7.3 Pedestrian.

A. Pedestrian signs shall be hung perpendicular to the sidewalk and be generally centered between the edge of the building façade and the outside edge of the canopy or awning. In no case shall the sign project beyond the outside edge of the canopy or awning.

B. The bottom of any pedestrian sign shall be at least eight (8) feet above any pedestrian walkway.

11.7.4 Electronic Changeable Face Signs (Permitted in RC and at Elementary and Secondary Schools Only).

Electronic changeable face signs are permitted as a component of otherwise permitted signage subject to the following standards.

A. No electronic changeable face sign may change its message or copy, or any pictures or images that are part of the message, more frequently than once every minute.

B. When the message of an electronic changeable face sign is changed mechanically, it shall be accomplished in three (3) seconds or less. When the message of an electronic changeable face sign is changed in an electronic manner, through the use of light emitting diodes, back lighting or other light source, the transition shall occur within two (2) seconds.

C. The portion of the sign face of an electronic changeable face sign which accommodates multiple messages shall not exceed 50 percent (50%) of the total sign face area and may not change its message or copy, or any pictures or images that are part of the message, more frequently than once every minute; the remaining portion shall be static.

D. Electronic changeable face signs which are illuminated or which use electronic lighting to display message shall be subject to the restrictions and limitation applicable to illumination in this ordinance.

E. There shall be located no more than one electronic changeable face sign per lot, and such sign shall be permitted only on a ground sign and not on any attached sign or window sign.

11.7.5 Portable Signs (Permitted in BD Only).

A. Permitted only in Business Districts (Central, Hazelwood and North Main).

B. Permitted only on properties where no Ground Signs exist.

C. A maximum of 1 sign per public entrance is permitted.

D. The maximum dimensions shall be:

   a. Area of 6 square feet.

   b. Height of 4 feet.

   c. Width of 2 feet.

E. A minimum sidewalk clear zone of 5 feet shall be maintained between the sign and any other sidewalk obstruction including but not limited to hydrants, light poles, planters, etc. If this clear zone cannot be met a sign is not permitted.

F. The signs shall be self-supporting and stable (designed to prevent tipping over or blowing away).

G. The sign shall be placed in front of the business not more than 3 feet from the front door or entry alcove.

H. Portable signs shall have a minimum spacing of 15 feet from each other.

I. Portable Signs shall not obstruct building entrances.

J. Portable Signs shall be removed daily at the end of each business day and shall not be displayed while the business is closed.

K. Shall not be attached to buildings or other structures.

L. Shall not be illuminated or contain any electrical component.

M. No objects shall be attached such as, but not limited to, balloons, banners, merchandise and electrical or mechanical devices.

N. The signs shall have a maximum of 2 faces on opposite sides.

O. The signs shall only contain information and advertising for the business at the sign location and shall not contain any endorsement or logos for any other business.

P. Sign design shall comply with the following:

   1. Materials shall be durable, weatherproof, and be finished with paint, stain or other decorative finish.

   2. Permanent lettering and logos shall be professionally painted or applied.

   3. Use of unique logos, shapes and art work related to the business is encouraged.

   4. Signs shall be maintained in good condition and repair.

Q. A sign permit shall be required. The permit application shall contain a diagram with the specific approved location for sign placement. The Town will supply a permit sticker which shall be displayed on each sign.

R. The Town of Waynesville may require the temporary removal of portable signs for special events.

11.7.6 Marquee Signs (Permitted in BD only).

A. Permitted only on properties where no Ground Signs exist.

B. May project up to a maximum extent permitted by the North Carolina Department of Transportation, but in no case shall project over the street-side edge of the sidewalk.

C. The maximum size for each face shall be the same as that for Attached Signs. However Marquee Signs shall be permitted up to three faces - one parallel and two generally perpendicular to the street, except within National Register Districts see Subsection E below.

D. Internal illumination shall meet the standards of Section 11.9.2, except within National Register Historic Districts see Subsection E below.

E. Within National Register Historic Districts the maximum size, lighting and design shall be in keeping with the period of significance of the district and building as approved by the Historic Preservation Commission, provided that the maximum illumination of any face shall not exceed the standards established by Section 11.9.2.H.2.

(Ord. No. O-15-13 , 11-26-2013; Ord. No. O-01-15 , § 8, 1-27-2015)

11.8 Prohibited Signs.

The following signs are prohibited:

11.8.1 Off-Premises Signs.

All off-premises signs unless specifically allowed elsewhere in this chapter are prohibited.

11.8.2 Movable Signs.

11.8.3 Roof Signs.

Roof signs are prohibited; provided however, that signs on the surfaces of a mansard roof or on parapets shall be permitted provided that the signs do not extend above the mansard roof or parapet to which they are attached.

11.8.4 Animated/Flashing Signs or Signs of Illusion.

Signs displaying blinking, flashing or intermittent lights, animation, and moving parts or signs giving the illusion of movement are prohibited.

11.8.5 Signs Resembling Traffic Signals.

Signs that approximate official highway signs, warning signs or regulatory devices are prohibited.

11.8.6 Signs on Roadside Appurtenances.

Signs attached to or painted on utility poles, telephone poles, trees, parking meters, bridges and overpasses, rocks, other signs, benches and refuse containers, etc. are prohibited unless specifically allowed elsewhere in this chapter.

11.8.7 Abandoned Signs or Sign Structures.

A. Signs that advertise an activity or business no longer conducted on the property on which the sign is located are prohibited.

B. Sign structures on which no sign is erected are prohibited.

C. Such signs or sign structures must be removed within sixty (60) days of becoming an abandoned sign or sign structure.

11.8.8 Pennants, Streamers, Balloons, Etc.

Signs containing or consisting of pennants, ribbons, streamers, balloons greater than twelve (12) inches in diameter, spinners or similar devices are prohibited.

11.8.9 Signs Obstructing Access.

Signs which obstruct free ingress or egress from a driveway or a required door, window, fire escape or other required exit way.

11.8.10 Facsimile Signs.

11.8.11 Signs on Vehicles.

Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying such sign, including any sign erected in the bed of trucks or trailers and any that project from the sides or top of any vehicle or trailer.

(Ord. No. O-15-13 , 11-26-2013)

11.9 Sign Illumination.

11.9.1 Generally.

All lighted signs shall have their lighting directed in such a manner as to illuminate only the face of the sign. If separate fixtures are used to illuminate a sign, lighting fixtures used to illuminate an outdoor advertising sign either shall be by directed ground lighting or mounted on the top of the sign, and shall be fully shielded.

11.9.2 Internal Illumination.

Where internally illuminated signs are permitted they must meet the following requirements:

A. Such signs shall consist of light lettering or symbols on a dark background.

B. The lettering or symbols shall constitute no more than forty (40) percent of the surface area of the sign.

C. The luminous transmittance for the lettering or symbols shall not exceed thirty-five (35) percent.

D. The luminous transmittance for the background portion of the sign shall not exceed fifteen (15) percent.

E. Light sources shall be fluorescent tubes, spaced at least twelve (12) inches on center, mounted at least 3.5 inches from the translucent surface material.

F. Channel letter type signs may use neon tubing as an internal illumination source, provided that the light source is shielded by translucent faces or that a silhouette type sign is used where the light source illuminates the sign background and the letters or symbols are opaque.

G. Outdoor advertising signs of the type constructed of translucent materials where the copy only is illuminated from within do not require shielding provided the light source or bulb is not showing.

H. Electronic changeable face signs shall comply with the following:

1. The outdoor advertising sign shall have an automatic dimmer (factory set to the illumination intensities set below) and a photo cell sensor to adjust the illumination intensity or brilliance of the sign so that it shall not cause glare or impair the vision of motorists, and shall not interfere with any driver's operation of a motor vehicle.

2. The sign shall not exceed a maximum illumination of 7,500 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits between dusk to dawn as measured from the sign's face at maximum brightness.

3. Any illumination devices shall be effectively shielded so as to prevent beams or rays of light from being directed at any portion of a street or highway. Illumination intensity or brilliance shall not cause glare or impair the vision of motorists, and shall not interfere with any driver's operation of a motor vehicle.

11.9.3 Conformance with Other Provisions.

All lighting shall be in conformance with Chapter 10, Lighting.

(Ord. No. O-15-13 , 11-26-2013)

11.10 Maintenance and Non-Conformities.

The following maintenance requirements must be observed for all signs visible from any public street or highway within the jurisdiction of the Town of Waynesville.

11.10.1 Surface Appearance.

No sign shall have more than twenty (20) percent of its surface area covered with disfigured, cracked, ripped or peeling paint or poster paper for a period of more than thirty (30) successive days.

11.10.2 Broken Displays.

No sign shall remain with a bent or broken display area, broken supports, loose appendages or struts or stand more than fifteen (15) degrees from the perpendicular for a period of more than thirty (30) successive days.

11.10.3 Illuminated Signs.

No indirect or internally illuminated sign shall have only partial illumination for a period of more than thirty (30) successive days.

11.10.4 Limitation on Non-Conforming Signs.

All legal nonconforming signs in existence as of the effective date of this chapter may be continued and shall be maintained in good condition. However, a nonconforming sign shall not be:

A. Changed to another type or shape of nonconforming sign; provided, however, the copy, content, or message of the sign may be changed so long as the shape or size of the sign is not altered.

B. Structurally altered so as to prolong the life of the sign.

C. Expanded.

D. Reestablished after discontinuance for sixty (60) days.

E. Reestablished after damage or destruction where the estimated expense of reconstruction exceeds fifty (50) percent of the appraised replacement cost of the sign in its entirety.

F. For change of use, parking area expansion and building expansion/reconstruction the Non-Conforming Sign removal requirements of Section 13.7.

(Ord. No. O-15-13 , 11-26-2013)

THIS PAGE INTENTIONALLY LEFT BLANK

CHAPTER 12 - ENVIRONMENTAL CONSERVATION STANDARDS

12.1 Purpose and Intent.

This Chapter sets forth standards for environmental protection and conservation in the Town of Waynesville's land use jurisdiction concerning a variety of different environmental issues. The Town of Waynesville possesses an abundance of unique natural assets. The standards set forth in this section address the enhancement and preservation of these important features. (Article VIII summary)

12.2 Land Suitability.

Land subject to flood hazard, improper drainage, erosion, landslides or that is for topographical or other reasons unsuitable for development as determined by the Town of Waynesville, shall not be platted or developed for residential use nor for any other uses that will continue or increase the danger to health, safety, or property unless the hazards are corrected or mitigated.

12.2.1 Landfill Development.

Areas that have been used for the disposal of solid waste shall not be subdivided into commercial or residential building sites. This includes areas that have been used for the disposal of trash, demolition waste, construction debris, stumps, and other waste materials.

12.3 Flood Damage Prevention.

12.3.1 Statutory Authorization, Findings of Fact, Purpose and Objectives.

A. **Statutory Authorization:** The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Articles 7, 9, 11, and 13 of Chapter 160D; and Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare.

Therefore, the Town Council of the Town of Waynesville, North Carolina, does ordain as follows:

B. **Findings of Fact:**

(1) The flood prone areas within the jurisdiction of the Town of Waynesville 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.

(2) 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.

C. **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:

(1) 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;

(2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;

(3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;

(4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and

(5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

D. **Objectives.**

The objectives of this ordinance are to:

(1) Protect human life, safety, and health;

(2) Minimize expenditure of public money for costly flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business losses and interruptions;

(5) 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;

(6) Minimize damage to private and public property due to flooding;

(7) Make flood insurance available to the community through the National Flood Insurance Program;

(8) Maintain the natural and beneficial functions of floodplains;

(9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and

(10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

12.3.2 General Provisions.

A. **Applicability.**

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including Extra-Territorial Jurisdictions (ETJs), of the Town of Waynesville and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

B. **Basis for Establishing the Special Flood Hazard Areas.**

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated April 3, 2012 for Haywood 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, and all revisions thereto.

The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:

Haywood County Unincorporated Area, dated July 15, 1984
Town of Waynesville, dated January 6, 1983

C. **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 12.3.2.B.

D. **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.

E. **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.

F. **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.

G. **Warning and Disclaimer of Liability.**

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes 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 Waynesville 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.

H. **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 Waynesville from taking such other lawful action as is necessary to prevent or remedy any violation.

12.3.3 Administration.

A. **Designation of Floodplain Administrator.**

The Land Development Administrator, or his or her 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.

B. **Floodplain Development Application, Permit and Certification Requirements.**

(1) **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:

(a) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

(i) 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;

(ii) The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 12.3.2.B, or a statement that the entire lot is within the Special Flood Hazard Area;

(iii) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 12.3.2.B;

(iv) The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 12.3.2.B;

(v) The Base Flood Elevation (BFE) where provided as set forth in Sections 12.3.2.B; 12.3.3.C; or 12.3.3.D;

(vi) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

(vii) The certification of the plot plan by a registered land surveyor or professional engineer.

(b) Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:

(i) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;

(ii) Elevation in relation to mean sea level to which any non-residential structure in Zone AE, A or AO will be floodproofed; and

(iii) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.

(c) If floodproofing, a Floodproofing Certificate (FEMA Form 81-65) 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.

(d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to:

(i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and

(ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Section 12.3.4.B(4)(c) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.

(e) Usage details of any enclosed areas below the lowest floor.

(f) 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.

(g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.

(h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 12.3.4.B, subsections (6) and (7) of this ordinance are met.

(i) 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.

(2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:

(a) 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.).

(b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 12.3.2.B.

(c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.

(d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.

(e) All certification submittal requirements with timelines.

(f) 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 12.3.4.F have been met.

(g) The flood openings requirements, if in Zones A, AO, AE or A1-30.

(h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).

(i) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(3) **Certification Requirements.**

(a) Elevation Certificates.

(i) An Elevation Certificate (FEMA Form FF-206-FY-22-152) 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 mean sea level. 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.

(ii) An Elevation Certificate (FEMA Form FF-206-FY-22-152) 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 mean sea level. 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.

(iii) A final as-built Elevation Certificate (FEMA Form FF-206-FY-22-152) 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 final 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.

(b) Floodproofing Certificate.

(i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a Floodproofing Certificate (FEMA Form FF-206-FY-22-153), with supporting 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.

(ii) A final Finished Construction Floodproofing Certificate (FEMA Form FF-206-FY-22-153), 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 Certificate 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.

(c) If a manufactured home is placed within Zone 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 12.3.4.B(3)(b).

(d) 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.

(e) 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:

(i) Recreational Vehicles meeting requirements of Section 12.3.4.B(6)(a);

(ii) Temporary Structures meeting requirements of Section 12.3.4.B(7); and

(iii) Accessory Structures less than 150 square or have a total cost of $5,000 or less and meet requirements of Section 12.3.4.B(8).

(4) **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:

(a) 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;

(b) 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;

(c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

(d) 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.

C. **Duties and Responsibilities of the Floodplain Administrator.**

The Floodplain Administrator shall perform, but not be limited to, the following duties:

(1) 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.

(2) 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.

(3) 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).

(4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.

(5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Section 12.3.4.F are met.

(6) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Section 12.3.3.B(3).

(7) 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 12.3.3.B(3).

(8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Section 12.3.3.B(3).

(9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 12.3.3.B(3) and Section 12.3.4.B(2).

(10) 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.

(11) When Base Flood Elevation (BFE) data has not been provided in accordance with the provisions of Section 12.3.2.B, 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 12.3.4.D(2)(b), in order to administer the provisions of this ordinance.

(12) When Base Flood Elevation (BFE) data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 12.3.2.B, 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.

(13) When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel in a Special Flood Hazard Area is above the Base Flood Elevation (BFE), advise the property owner of the option to apply for a Letter of Map Amendment (LOMA) from FEMA. Maintain a copy of the LOMA issued by FEMA in the floodplain development permit file.

(14) 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.

(15) 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.

(16) 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.

(17) 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.

(18) 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.

(19) Follow through with corrective procedures of Section 12.3.3.D.

(20) Review, provide input, and make recommendations for variance requests.

(21) Maintain a current map repository to include, but not limited to, the FIS Report, FIRM and other official flood maps and studies adopted in accordance with the provisions of Section

12.3.2.B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.

(22) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).

D. **Corrective Procedures.**

(1) 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.

(2) 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:

(a) That the building or property is in violation of the floodplain management regulations;

(b) 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

(c) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.

(3) 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 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.

(4) 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.

(5) 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 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

E. **Variance Procedures.**

(1) The Board of Adjustment as established by the Town of Waynesville, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.

(2) 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.

(3) Variances may be issued for:

(a) 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;

(b) Functionally dependent facilities if determined to meet the definition as stated in Section 17.5, provided provisions of Section 12.3.3.E(9)(b), (c), and (e) 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

(c) Any other type of development, provided it meets the requirements of this Section.

(4) 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:

(a) The danger that materials may be swept onto other lands to the injury of others;

(b) The danger to life and property due to flooding or erosion damage;

(c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(d) The importance of the services provided by the proposed facility to the community;

(e) The necessity to the facility of a waterfront location as defined under Section 17.5 as a functionally dependent facility, where applicable;

(f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

(g) The compatibility of the proposed use with existing and anticipated development;

(h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

(i) The safety of access to the property in times of flood for ordinary and emergency vehicles;

(j) 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

(k) 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.

(5) A written report addressing each of the above factors shall be submitted with the application for a variance.

(6) 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.

(7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (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 will 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.

(8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

(9) Conditions for Variances:

(a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.

(b) 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.

(c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(d) Variances shall only be issued prior to development permit approval.

(e) Variances shall only be issued upon:

(i) A showing of good and sufficient cause;

(ii) A determination that failure to grant the variance would result in exceptional hardship; and

(iii) 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.

(10) A variance may 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 provided that all of the following conditions are met.

(a) The use serves a critical need in the community.

(b) No feasible location exists for the use outside the Special Flood Hazard Area.

(c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.

(d) The use complies with all other applicable Federal, State and local laws.

(e) The Town of Waynesville has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

12.3.4 Provisions for Flood Hazard Reduction.

A. **General Standards.**

In all Special Flood Hazard Areas the following provisions are required:

(1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.

(2) 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.*

(3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.

(4) All new electrical, heating, ventilation, air-conditioning, plumbing, duct systems, and other building utility systems, equipment, and service facilities must be located at or above the Regulatory Flood Protection Elevation (RFPE) and/or specially designed to prevent water from entering or accumulating within the components and installed to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during the occurrence of flooding to the design flood elevation. Utility systems, equipment, and service facilities include, but are not limited to, HVAC equipment, water softener units, bath/kitchen plumbing fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, water heaters, fuel tanks, and electric outlets/switches.

a) Replacements part of a substantial improvement must also meet the above provisions.

b) 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 comply with the standards for new construction consistent with the code and requirements for the original structure.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) 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 floodwaters.

(7) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

(8) Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this ordinance, shall meet the requirements of "new construction" as contained in this ordinance.

(9) 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.

(10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 12.3.3.E(10). A structure or tank for chemical or fuel storage incidental

to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 12.3.3.B(3).

(11) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

(12) 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.

(13) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

(14) 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.

(15) 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.

(16) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

B. **Specific Standards.**

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 12.3.2.B, or Section 12.3.4.D, the following provisions, in addition to the provisions of Section 12.3.4.A, are required:

(1) 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 17.4.

(2) 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 17.4. 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. For AO Zones, the floodproofing elevation shall be in accordance with Section 12.3.4.G(2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 12.3.3.B(3), along with the operational plan and the inspection and maintenance plan.

(3) Manufactured Homes.

(a) 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 17.4.

(b) 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 NCGS 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 certification is required.

(c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 12.3.4.B(4).

(d) 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.

(4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:

(a) 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;

(b) Shall not be temperature-controlled or conditioned;

(c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and

(d) Shall include, in Zones A, AO, AE, and A1-30, 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:

(i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

(ii) 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;

(iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

(iv) 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;

(v) 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

(vi) 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) Additions/Improvements.

(a) 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:

(i) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.

(ii) 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.

(b) 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.

(c) 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:

(i) 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..

(ii) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(b) Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one-year period, the cumulative cost of which equals or exceeds 50 percent 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-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 the average, equals or exceeds 25 percent 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:

(i) 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.

(ii) Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(6) Recreational Vehicles. Recreational vehicles shall either:

(a) Be on site for fewer than 180 consecutive days and 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); or

(b) Meet all the requirements for new construction.

(7) 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:

(a) 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;

(b) The name, address, and phone number of the individual responsible for the removal of the temporary structure;

(c) The time frame prior to the event at which a structure will be removed (i.e., minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

(d) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and

(e) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.

(8) Accessory Structures. 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 structures 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 12.3.4.A(1);

(f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 12.3.4.A(4); 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 12.3.4.B(4)(c).

An accessory structure with a footprint less than 150 square feet or 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 12.3.4.B(2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with 12.3.3.B(3).

(9) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:

(a) 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;

(b) 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;

(c) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of 12.3.4.B(2) of this ordinance 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.

(d) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:

(i) 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

(ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.

(10) Other Development.

(a) 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 12.3.4.F of this ordinance.

(b) 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 12.3.4.F of this ordinance.

(c) 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 12.3.4.F of this ordinance.

(d) Commercial storage facilities are not considered “limited storage” as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

[C. **Reserved.**]

D. **Standards for Floodplains without Established Base Flood Elevations.**

Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 12.3.2.B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 12.3.4.A, shall apply:

(1) 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.

(2) The BFE used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:

(a) When Base Flood Elevation (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 12.3.4.A and B.

(b) 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 12.3.4.B and F.

(c) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 12.3.2.B and utilized in implementing this ordinance.

(d) When Base Flood Elevation (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 17.4. All other applicable provisions of Section 12.3.4.B shall also apply.

E. **Standards for Riverine Floodplains with Base Flood Elevations but Without Established Floodways or Non-Encroachment Areas.**

Along rivers and streams where Base Flood Elevation (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:

(1) Standards of Sections 12.3.4.A and B; and

(2) 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.

F. **Floodways and Non-Encroachment Areas.**

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 12.3.2.B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Sections 12.3.4.A and B, shall apply to all development within such areas:

(1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:

(a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood, 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

(b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained upon completion of the proposed encroachment.

(2) If Section 12.3.4.F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.

(3) No manufactured homes shall be permitted, except replacement manufactured homes in an existing manufactured home park or subdivision, provided the following provisions are met:

(a) The anchoring and the elevation standards of Section 12.3.4.B(3); and

(b) The no encroachment standard of Section 12.3.4.F(1).

G. **Standards for Areas of Shallow Flooding (Zone AO).**

Located within the Special Flood Hazard Areas established in Section 12.3.2.B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 12.3.4.A and B, all new construction and substantial improvements shall meet the following requirements:

(1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one (1) foot, or at least four (4) feet above the highest adjacent grade if no depth number is specified.

(2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 12.3.4.G(1) so that the structure, together with attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 12.3.3.B(3) and Section 12.3.4.B(2).

(3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

H. **Standards for Areas of Shallow Flooding (Zone AH).**

Located within the Special Flood Hazard Areas established in 12.3.2.B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations are derived from detailed hydraulic analyses are shown in this zone. In addition to 12.3.4.A and B, all new construction and substantial improvements shall meet the following requirements:

(1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

12.3.4 Legal Status Provisions.

A. Effect on Rights and Liabilities Under the Existing Flood Damange Prevention Ordinance.

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted November 10, 1981, as amended, and 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 Waynesville enacted on November 10, 1981, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Haywood County is July 15, 1984.

B. 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.

C. 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 effect the validity of the remaining portions of this Ordinance.

D. Effective Date.

This ordinance shall become effective upon adoption.

12.4 Sedimentation and Erosion Control (from 154.401).

12.4.1 Purpose.

This section is adopted in accordance with the North Carolina Sedimentation Pollution Control Act of 1973 as amended for the purpose of regulating certain land-disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution of water and other damages to watercourses and public and private property by sedimentation.

12.4.2 Applicability.

This section shall not apply to the following land-disturbing activities:

A. Activities, including the breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man.

B. Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the North Carolina Department of Environment, Health and Natural Resources. If not conducted in accordance with these guidelines, the provisions of this section shall apply to such activity and any related land disturbing activity on the tract.

C. Activities for which a permit is required under the North Carolina Mining Act of 1971, codified in Article 7 of Chapter 74 of the North Carolina General Statutes.

D. For the duration of an emergency, activities essential to protect human life.

E. Land disturbing activities conducted by the State of North Carolina; by the United States; by persons having the power of eminent domain; by local governments; or which are licensed or bonded, in whole or in part, by the State of North Carolina or the United States; all of which are under the exclusive regulatory jurisdiction of the State of North Carolina.

F. Those done for the purposes of fighting fires.

G. The stock-piling of fill dirt, raw or processed sand, stone or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage.

H. Individual gravesites.

I. Lawns, gardens and similar horticultural activities.

J. Activities undertaken on agricultural lands which do not exceed one thousand (1,000) square feet of land disturbance. In determining land disturbance, lands under diverse ownership being developed as a unit shall be aggregated.

12.4.3 General Requirements.

A. **Plan Required:** No person shall initiate any land-disturbing activity exceeding one thousand (1,000) square feet of land, without first having an approved sedimentation and erosion control plan as set forth in Section 154.088.

B. **Basic Control Objectives:** The basic control objectives of this section and approved sedimentation and erosion control plans are set forth below.

1. On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

2. All land-disturbing activities are to be planned and conducted to limit exposure to the shortest feasible time.

3. All land-disturbing activities are to be planned and conducted to limit the size of the area to be exposed at any one time.

4. Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

5. All land-disturbing activities shall be planned and conducted so as to prevent off-site sedimentation damage.

6. When the increase in the velocity of stormwater runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans must include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

12.4.4 Mandatory Standards for Land-Disturbing Activity.

No land-disturbing activity subject to the control of this section shall be undertaken except in accordance with the following mandatory standards:

A. **Buffer Zone around Water Bodies.**

1. No land disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five (25%) percent of the buffer zone nearest the land-disturbing activity.

2. Waters that have been classified as trout waters by the state environmental management commission shall have an undisturbed buffer zone twenty-five (25) feet wide or of sufficient width to confine visible siltation within the twenty-five (25) percent of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, the town may approve plans which include land-disturbing activity along trout waters when the duration of the disturbance would be temporary and the extent of the disturbance would be minimal. This subsection shall not apply to land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

3. Unless otherwise provided, the width of a buffer zone is measured from the edge of the water to the nearest edge of the disturbed area, with the twenty-five (25) percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.

4. The twenty-five (25) foot minimum width for an undisturbed buffer zoned adjacent to designated trout waters shall be measured horizontally form the top of the bank.

5. When a temporary and minimal disturbance is permitted as an exception, land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of ten (10) percent of the total length of the buffer zone within the tract to be disturbed such that there is not more than one hundred (100) linear feet of disturbance in each one thousand (1,000) linear feet of buffer zone. Larger areas may be disturbed with written approval of the Administrator.

6. No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations in these waters, as set forth in 15 NCAC 2B. 0211 "Fresh Surface Water Classification and Standards (available at the North Carolina Division of Environmental Management).

B. **Graded Slopes and Fills.**

1. The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures, and which can be demonstrated to be stable. Stable is defined as the condition where soil remains in its original configuration, with or without mechanical constraints.

2. In any event, slopes left exposed shall, within thirty (30) working days of completion of any phase of grading, be planted or otherwise provided with ground cover, devices or structures sufficient to restrain erosion.

3. Fill slopes greater than two (2) feet horizontal run to one (1) foot vertical rise (2:1) and higher than five (5) feet above adjacent grade, and cut slopes steeper than one and three-quarters (1.75) feet horizontal run to one (1) foot vertical rise and higher than five (5) feet above adjacent grade, shall be designed by a registered professional and upon completion shall be certified to be stable by a registered professional engineer or landscape architect.

4. All fill slopes shall be compacted full depth to not less than ninety-five (95) percent maximum density (Standard Proctor), shall be placed on a surface cleared of growth and debris, and be properly benched and drained. Such certification shall be required prior to issuance of any certificate of compliance for the site, and shall in any case be submitted within thirty (30) days of the slope reaching final grade.

5. Terracing or slope breaks should be used on steep slopes to reduce the length of cut and fill slopes to prevent erosion and formation of gullies. Benches should be five (5) feet wide, rounded at the edges, and spaced according to the following table:

Slope	Spacing
50% (2:1)	20 Vertical Feet
33% (3:1)	35 Vertical Feet
25% (4:1)	45 Vertical Feet

6. The use of gunite or similar materials is not allowed as a method for slope stabilization.

C. **Groundcover.**

1. Whenever any land-disturbing activity is undertaken, the person conducting the land-disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of the tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after the completion of construction or development.

2. Except as provided elsewhere in this section provisions for a ground cover sufficient to restrain erosion must be accomplished within thirty (30) calendar days following completion of construction or development, whichever period is shorter.

D. **Grading of Steep Slopes.**

1. Grading on residentially zoned property with a slope in excess of fifteen (15) percent shall be limited to disturbing not more than five (5) acres at a time.

2. Any one disturbed area must be brought into final compliance with the requirements of the standards set forth in this section.

3. For the purposes of this provision, non-contiguous areas located within one thousand five hundred (1,500) feet of each other and owned and/or developed by the same person(s) shall be considered the same project.

E. **Runoff:** Except as provided for elsewhere in this chapter, erosion and sediment control measures, structures and devices shall be so planned, designed and constructed as to provide protection from the calculated maximum peak rate of runoff from the ten-year storm.

F. **Operations on Natural Watercourses.**

1. Land-disturbing activity in connection with construction in, on, over or under a natural watercourse shall minimize the extent and duration of disruption of the stream channel.

2. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided.

G. **Access and Haul Roads:** Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

H. **Borrow and Waste Areas.**

1. When the person conducting the land-disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the North Carolina Mining Act of 1971, and waste areas for surplus materials other than landfills regulated by the North Carolina Department of Environmental, Health and Natural Resources, Division of Solid Waste Management shall be considered as part of the land-disturbing activity where the borrow material is being used or form which the waste material originated.

2. When the person conducting the land-disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land-disturbing activity.

3. The formal plan shall indicated if there will be borrowed or waste fill material used or deposited, where it originated or where it will be deposited, and what erosion control measures will be used to stabilize it.

12.4.5 Maintenance Requirements.

A. No land disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five (25%) percent of the buffer zone nearest the land-disturbing activity or 25 feet wide, whichever is greater. During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of the North Carolina Sedimentation Pollution Control Act, these regulations, or other local ordinances.

B. After site development, the land owner or persons in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement and which are accepted for maintenance by a governmental agency.

C. When sediment is transported onto a public road surface, the road shall be cleaned thoroughly at the end of each day. Sediment shall be removed from the roads by shoveling or sweeping and

transported to a sediment control disposal area. Street washing shall be allowed only after sediment is removed in this manner.

D. If the town must clean up off-site sedimentation or mitigate other erosion related public safety and environmental hazards, the person in violation will be charged for the cost of the cleanup in addition to the civil penalty that may be charged. The cleanup cost shall include personnel costs, equipment usage, and related administrative overhead. If the violator does not pay for the clean-up cost, revoked permits shall not be reissued and a lien shall be place on the violator's property until the cost is recouped by the town.

12.5 Stormwater Ordinance.

It is hereby determined that:

- This section shall be officially known as "the stormwater ordinance." It is referred to herein as "this section."
- Development and redevelopment alter the hydrologic response of local watersheds and increases stormwater runoff rates and volumes, flooding, soil erosion, stream channel erosion, nonpoint and point source pollution, and sediment transport and deposition, as well as reducing groundwater recharge;
- These changes in stormwater runoff contribute to increased quantities of water-borne pollutants and alterations in hydrology which are harmful to public health and safety as well as to the natural environment; and
- These effects can be managed and minimized by applying proper design and well-planned controls to manage stormwater runoff from development sites.

Therefore, the Town of Waynesville has established this set of water quality and quantity regulations to meet the requirements of state and federal law regarding control of stormwater runoff and discharge.

12.5.1 Purpose.

The purpose of this section is to protect, maintain, and enhance the public health, safety, environment, and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post development stormwater runoff and nonpoint and point source pollution associated with new development and redevelopment, as well as illicit discharges into the Town of Waynesville's municipal stormwater systems. It has been determined that proper management of construction-related and post development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety and general welfare, and protect water and aquatic resources. These requirements establish stormwater management requirements and controls to prevent surface water quality degradation to the extent practicable in the streams and lakes within the Town Limits and Extraterritorial Jurisdiction of Waynesville. This Section seeks to meet this purpose by fulfilling the following objectives:

- Minimize increases in stormwater runoff from new development or redevelopment to the maximum extent practicable for the applicable design storm in order to reduce flooding, siltation, streambank erosion, increases in stream temperature, and to maintain the integrity of stream channels and aquatic habitats.
- Minimize increases in non-point and point source pollution caused by stormwater runoff from development or redevelopment that would otherwise degrade local water quality. Minimize the total volume of surface water runoff that flows from any specific site during and following development in order to replicate pre development hydrology to the maximum extent practicable through the use of structural and nonstructural stormwater management Best Management Practices (BMPs).

- Establish minimum post development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality.
- Establish design and review criteria for the construction, function, and use of structural stormwater BMPs (also called stormwater control measures, or SCMs) that may be used to meet the minimum post-development stormwater management standards.
- Ensure that structural and nonstructural stormwater BMPs are properly maintained and pose no threat to public health or safety.
- Establishing provisions for the long-term responsibility for and maintenance of structural and nonstructural stormwater BMPs to ensure that they continue to function as designed, are maintained appropriately, and pose no threat to public safety.
- Control illicit discharges into the municipal separate stormwater system.

12.5.2 Applicability.

A. **Commencement Date:** Beginning with and subsequent to its effective date, the requirements of this section are applicable to all development and redevelopment located within the Town Limits and Extraterritorial Jurisdiction of Waynesville including, but not limited to, site plan applications, subdivision applications, and grading applications unless exempt pursuant to this section.

B. **Required Conformity:** No building, structure, or land shall be used, occupied, or altered and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in conformity with all the provisions of this section and all other applicable regulations except as otherwise provided in this Section.

C. **Minimum Development Thresholds:** The standards in this section shall apply to all new development and redevelopment projects that:

a. Cumulatively disturb one (1) acre or more.

b. Projects of less than one acre and that are a part of a larger common plan of development or sale, even though multiple, separate, or distinct activities take place at different times on different schedules.

c. Projects of less than one acre and that have a proposed increased impervious surface on completion of greater than 24,000 square feet.

All development and redevelopment shall direct stormwater runoff to landscaped areas and other pervious surfaces to the maximum extent possible. All built-upon areas shall be designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.

D. **Illicit Discharges Applicable to All Existing or New Development:** The non-stormwater discharge controls set forth in 12.5.9 of this section shall apply to all existing or proposed developments in the Town of Waynesville's jurisdiction.

12.5.3 Exemptions.

The following development applications are exempt from the standards of this section:

- Single-family and two-family developments on individual lots.
- All development in the Central Business District (CBD) zone.
- Development and redevelopment that cumulatively disturbs less than (1) one acre and is not part of a larger common plan of development or sale unless such activities are part of a larger common

plan of development or sale, even though multiple, separate, or distinct activities take place at different times on different schedules.

- Activities that are exempt from permit requirements of Section 404 of the Federal Clean Water Act as specified in 40 CFR 232 (primarily ongoing farming and forestry activities) are exempt from the provisions of this section.
- Redevelopment that results in no net increase in built-upon area and/or provides equal or greater stormwater control than the previous development is exempt from the provisions of this ordinance.

12.5.4 Administration.

Delegation of Authority: Any act authorized by this ordinance shall be carried out by the Development Services Director and may be carried out by his or her designee as a Stormwater Administrator. For the purpose of this section, the Stormwater Administrator shall mean any Development Services employee designated in this function.

The Administrator shall have the following powers and duties under this section:

- Review, approve, or disapprove applications for approval of plans.
- Make determinations and render interpretations of the requirements of this section.
- Establish application requirements and schedules for submittal and review of applications and appeals and to review and approve applications.
- Enforce the provisions of this section in accordance with its enforcement provisions.
- Make records, maps, and official materials as relate to the adoption, amendment, enforcement, or administration of this section.
- Provide expertise and technical assistance to the Town of Waynesville.
- Carry out the technical duties outlined in this section. The Stormwater Administrator may contract such services to another local government or private entity.
- Designate appropriate other person(s) who shall carry out the powers and duties of the Stormwater Administrator.
- Take necessary actions to administer the provisions of this section.

Map: The Stormwater Map shall be kept on file by the Development Services Department and shall be updated to take into account changes in the land area covered by this ordinance and the geographic location of all structural stormwater control measures permitted under this ordinance. In the event of a dispute, the applicability of this ordinance to a particular area of land shall be determined by reference to the North Carolina Statutes, the North Carolina Administrative Code, and local zoning and jurisdictional boundary ordinances.

Conformance to Stormwater Plans: The latest versions of the Town of Waynesville Stormwater Management Plan and Illicit Discharge Detection and Elimination Plan are herein incorporated by reference. Conformance to them is required in addition to the standards of this ordinance.

Conflict of Laws: This section is not intended to modify or repeal any other ordinance, rule, regulation, or other provision of law. The requirements of this section are in addition to the requirements of any other ordinance, rule, regulation, or other provision of law. Where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control.

Other Permits: No certificate of compliance or occupancy shall be issued by the Town of Waynesville Development Services without final as-built plans and a final inspection and approval by the Stormwater Administrator, except where multiple units are served by the stormwater practice or facilities, in which case the Development Services may elect to withhold a percentage of permits or certificates of occupancy until as-built plans are submitted and final inspection and approval have occurred.

12.5.5 Application Procedures and Requirements.

Cross Reference: Permit Procedures: See 15.7.3

Variance: See 15.13

12.5.6 Design Manual.

A. **Reference to Design Manual:** The Town of Waynesville shall use the policy, criteria, and information, including technical specifications and standards, in the ***North Carolina Department of Environmental Quality (NC DEQ) Stormwater Design Manual*** as the basis for decisions about stormwater plans and about the design, implementation, and performance of structural and nonstructural stormwater control measures.

The Design Manual includes a list of acceptable stormwater treatment practices, including specific design criteria for each stormwater practice. Stormwater treatment practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to meet the minimum water quality performance standards of the Phase II and other applicable stormwater laws.

B. **Right to Consult:** Stormwater management practices that are designed, constructed, or maintained in accordance with the Stormwater Design Manual are presumed to comply with these requirements. However, the Stormwater Administrator shall have the right to consult duly qualified professionals to impose any conditions or require any modifications deemed necessary to meet the purpose, intent, and requirements of this section.

C. **Relationship of Design Manual to Other Laws and Regulations:** If the specifications or guidelines of the Design Manual are more restrictive or apply a higher standard than other laws or regulations, that fact shall not prevent application of the specifications or guidelines in the Design Manual.

D. **Changes to Standards and Specifications.** If the standards, specifications, guidelines, policies, criteria, or other information in the Design Manual are amended subsequent to the submittal of an application for approval pursuant to this ordinance but prior to approval, then Section 15.16.1- Permit Choice will apply.

12.5.7 Standards.

A. **General Requirements:**

1. A Stormwater Management System Concept Plan is required for all development and redevelopment projects to which this section applies. This plan shall be prepared by a licensed professional engineer or landscape architect and meet the design specifications of the Town of Waynesville in addition to those standards set forth in this section. See Section 15.7.3 for the specific application process.
2. The use of natural vegetation and creative landscaping in establishing stormwater control measures is required if applicable. A developer must incorporate the use of natural topography and land cover such as wetlands, ponds, natural swales as they exist prior to development to the degree that they can accommodate the additional flow of water.

3. Developers are required to use the aforementioned natural measures as well as other BMPs (pervious pavement, discontinuous imperviousness, etc.) in developing property in the town's jurisdiction for the purpose of cleansing and diffusing surface water flow.
4. Developments shall be designed and constructed with a positive drainage flow away from buildings towards approved stormwater management facilities.
5. No utilities or habitable structures may be located within any impoundment area of any stormwater management facility. Structures may not be located over a storm drainage line.
6. All stormwater management facilities will be considered permanent.
7. No stormwater structure, or part thereof, shall project into the property setbacks as established for each zoning district in section 2.4- Dimensional Standards. If there is no setback or setback is less than 10 ft, then use a minimum distance of 10 feet from the perimeter lot line to a stormwater structure or any part thereof.
8. **Fencing:** All sections of stormwater structures shall be surrounded with a permanent, continuous fence or vegetation barrier at the top of the embankment with no opening wider than two (2) inches if a stormwater structure contains:
    - a proposed retaining wall higher than 4 feet, and/or
    - a 3:1 slope, and/or
    - a slope height from the toe of the SCM to the crest is greater than 5 feet.
9. Any stormwater structure with a continuous fence around the entire perimeter shall provide ingress and egress for SCM/pond maintenance but restricted by lockable gates of adequate size to allow for the easy passage of necessary maintenance equipment. **Fences shall be shown on all as-built plans.**
10. **Signage:** Any SCM that is designed as a pond must have warning signs posted for public visibility and at any major approach to the pond, identifying the area as a stormwater management site to raise public awareness of potential hazards of the site (i.e. no swimming, boating, skating, unsafe to enter, etc.).
11. **Conversion to Stormwater Management Structure:** After permanent stabilization of all disturbed contributory drainage areas and flushing of the storm drains, temporary sediment basins, if initially built and certified to meet permanent standards, may be converted to permanent stormwater management structures. To convert the basin from temporary to permanent use, the outlet structure must be modified in accordance with approved stormwater management design plans and inspected for watertight connections. Sediment and other debris should be removed to a contained spoil area. Regrading of the basin may be necessary to achieve the final design grades and to provide an adequate topsoil layer to promote final stabilization**. Final elevations and a complete description of any modifications to the riser structure's geometry should be shown on the approved plans.**

B. **Water Quality Design Requirements:**

1. All Low Density projects and High Density projects must have the built-upon area at a minimum of thirty (30) feet landward of all perennial and intermittent surface waters. This distance shall be measured horizontally from the edge of water. A perennial or intermittent surface water shall be deemed present if the feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture (USDA) 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). An exception to this requirement may be allowed when site-specific determination is made using NC Division of Water Quality-approved methodology.

2. In addition to the standards for stormwater management set out in this section, development and redevelopment that drains in whole or part to class TR waters shall design and implement stormwater best management practices that do not result in a sustained increase in the receiving water temperature, while still meeting the other requirements of this section.

3. The stormwater approval issued shall require recorded deed restrictions and protective covenants to ensure that future development activities maintain the stormwater management measures consistent with the approved project plans.

4. All Low Density Project sites must employ LID practices to analyze the infiltration capacity and natural drainages of the site and develop a system of controls which mimic the existing natural hydrology and which cumulatively capture and treat the runoff from the 1-year 1-hour storm event. Wherever LID practices are not achievable, or have not been demonstrated, the stormwater management measures shall be designed to control the stormwater runoff according to the requirements of this section.

5. All High Density projects, for both LID and conventional design approaches, shall include stormwater management measures designed to control the stormwater runoff according to the requirements of this section.

C. **Standards for Stormwater Control Measures:**

Owners of property subject to this ordinance and required to install structural stormwater control measures shall implement those measures in compliance with each of the following standards:

1. All structural stormwater control measures shall control and treat the runoff from the 1-year 1-hour storm event as determined by NOAA data for the Town of Waynesville.

2. All structural stormwater treatment management measures shall be designed to have an eighty-five (85) percent average annual removal for total suspended solids (TSS).

3. Areas designated as open space that are not or will not be disturbed, developed or redeveloped do not require stormwater runoff treatment.

4. Where any stormwater management treatment measure utilizes a temporary water quality storage pool as a part of its designed treatment system:

    a. The drawdown time shall be a minimum of 48-hours and a maximum of 120-hours.

    b. The minimum draw down orifice size shall be 2-inches or equivalent.

    c. The post development peak flow rates discharged shall not exceed the pre development 1-year 24 hour peak discharge rates.

5. No one BMP shall receive runoff from an area greater than three (3) acres. However, the total drainage area from BMPs used in series (i.e., integrated) can exceed this three (3) acre maximum.

6. Water quality BMPs may encroach into a required buffer as long as the encroachment does not disturb the majority of existing vegetation. Minor understory may be disturbed in order to accommodate water quality structures. Trees and shrubs shall be placed to maximize screening where the encroachment takes place.

7. General engineering for all projects shall be in accordance with 15A NCAC 2H.1008(c).

8. All stormwater control measures and stormwater treatment practices required under this ordinance shall be evaluated by the Stormwater Administrator according to the policies, criteria, and information, including technical specifications, standards, and the specific design criteria for each stormwater practice, in the Design Manual. The Stormwater Administrator shall determine whether proposed SCMs/BMPs will be adequate to meet the requirements of this ordinance.

D. **Water Quantity Design Requirements:**

1. For any development to which this section applies, stormwater management facilities, structures, devices and methods shall be designed and built with sufficient capacity to accommodate surface runoff caused by the development in excess of that runoff which would occur from the site if left in its pre development condition.
2. The calculated difference in the peak runoff rate from the post development peak flow rates, less the pre-development shall determine the size of detention structures.
3. The storage shall be sufficient to store all excess surface runoff up to the 10-year 24-hour storm event.
4. The post development peak flow rates discharged from any development that this section applies, shall not exceed the pre development peak discharge rates for the 2-year, 24-hour storm event and the 25-year, 24-hour storm event.
5. The temporary storage capacity shall be restored within 72 hours.
6. The emergency overflow outlet must be designed to safely pass the 50-year, 24-hour storm event peak discharge.
7. Requirements of the Dam Safety Act shall be met when applicable.
8. No one stormwater management facility shall receive runoff from a developed or redeveloped area greater than three (3) acres. However, the total drainage area from BMPs used in series (i.e., integrated) can exceed this three (3) acre maximum.
9. The impoundment of stormwater runoff may be incorporated in the design of stormwater conveyance structures, engineered stormwater BMPs, and ponds. These structures may be located on or off site.
10. In all instances engineered stormwater management facilities and devices shall be designed to complement a development and the surrounding community. If ponds are used, such areas shall be landscaped as amenities or hidden from view.

E. **Stormwater Conveyance Systems Design Requirements:**

1. Stormwater collection systems (drainage parallel to road, including ditches, swales and pipes) shall be designed to pass the peak flows from the 2-year, 24-hour storm event. The minimum allowable pipe size is 15-inches.
2. Cross drainage systems that do not convey intermittent or perennial streams shall be designed to pass the peak flow rates from the 10-year, 24-hour storm event.
3. Cross drainage systems conveying intermittent or perennial streams, shall be designed pass peak flow rates for the 50-year, 24-hour storm event. These structures shall consist of bottomless single span structures.
4. Inlet capacity and spread calculations must be provided. Roadway inlet locations, capacities, gutter spread, and storm drain pipe system shall be analyzed and designed using a 10-year discharge with a minimum time of concentration of 10 minutes. An intensity of 4

inches/hour should be used for calculating spread and determination of appropriate locations for inlet placement to collect roadway pavement runoff.

5. It is desirable that inlets be designed for 100% interception of runoff, but minor bypass discharge to a downstream inlet is acceptable if it is accounted for in design computations.
6. On grades, the curb opening can be ignored in determining inlet capacity. The grate efficiency may be assumed to equal that of a parallel bar grate.
7. Inlet capacity at sags should allow for debris blockage by providing twice the required computed opening (i.e. assume 50% blockage).
8. Inlet spacing shall be sufficient to limit spread as required for safe vehicle maneuverability. Allowable spread into the travel lane during temporary conditions (detours, phased construction, etc.) should be evaluated based on factors, such as traffic volume, road classification, posted speed limit, and lane width. For curb and gutter sections (with no side parking or bike lanes), the width of the gutter pan is considered the "shoulder."
9. If the design speed is less than or equal 45 mph, then the allowable spread is up to half the travel lane. If the design speed is greater than 45 mph, the allowable spread shall maintain in the shoulder.
10. All storm drain grates shall be perpendicular to the travel way.

F. **Uniform Watershed Analysis:**

1. Uniform Watershed Analysis is required for all developments. Calculations must be developed to show the development's impact on the greater watershed.
2. The requirements, or portions thereof, for detention may be waived by the Stormwater Administrator if it can be shown by detailed engineering calculations and analysis which are acceptable to the Administrator that one of the following exists:
    a. The installation of stormwater management facilities would have insignificant effects on reducing downstream flood peak flow rates and water surface elevations.
    b. Stormwater management facilities are not needed to protect downstream developments and the downstream drainage system has sufficient capacity to receive any increase in runoff for the design storm.
    c. It is not necessary to install stormwater management facilities to control post development peak discharge rates at the exit to a proposed development and installing such facilities would increase flood peak flow rates and or water surface elevations at some downstream locations.
    d. The Administrator determines that stormwater management facilities are not needed to control post development peak discharge rates and installing such facilities would not be in the best interest of the Town.
3. The requirements, or portions thereof, of this section may not be waived if the Administrator determines that not controlling peak flow rates would increase known flooding problems, or exceed the capacity of the downstream drainage system.
4. A waiver shall only be granted after a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed development or redevelopment. A separate written waiver request shall be required if there are subsequent additions, extensions, or modifications which would alter

the approved stormwater runoff characteristics of the development or redevelopment receiving a waiver.

5. Discharge velocities shall be reduced to provide a non-erosive velocity flow from a structure, channel, or other control measure or the velocity of the 2-year 24-hour design storm runoff in the receiving waterway prior to the development, whichever is greater.

6. For all stormwater management facilities, a hydrologic/hydraulic study shall be conducted showing how the drainage system will function with and without the proposed facilities. For such studies the existing and developed land use conditions shall be used. Existing land use data shall be taken from the most recent aerial photograph and field checked and updated.

7. For the design of the facility outlet structure, use developed land use conditions for the area within the proposed development and existing land use conditions for upstream areas draining to the facility.

8. For any analysis of flood flows downstream from the proposed development, use existing land use conditions for all downstream areas.

12.5.8 Exceptions to the 30-Foot Setback.

Exceptions from the 30-foot landward location of built-upon area requirement of all perennial and intermittent surface waters as well as the deed restrictions and protective covenants requirements shall be granted by the Administrator in any of the following instances:

A. When there is a lack of practical alternatives for a road crossing, railroad crossing, bridge, airport facility, or utility crossing (including water, sewer, or gas construction and maintenance corridors) as long as it is located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable through the use of BMPs.

B. When there is a lack of practical alternatives for a stormwater treatment measures. A lack of practical alternatives may be shown by demonstrating that, considering the potential for a reduction in size, configuration, or density of the proposed activity and all alternative designs, the basic project purpose cannot be practically accomplished in a manner which would avoid or result in less adverse impact to surface waters.

1. These measures shall be located, designed, constructed, and maintained to minimize disturbance, provide maximum nutrient removal, protect against erosion and sedimentation, have the least adverse effects on aquatic life and habitat, and protect water quality to the maximum extent practicable.

2. The implementation of the alternative stormwater treatment measures shall not disturb existing vegetation.

3. Minor understory trees may be disturbed in order to accommodate these measures. Trees and shrubs shall be placed to maximize screening where the encroachment takes place.

12.5.9 Illicit Discharges and Connections.

A. Illicit Discharges: No person shall cause or allow the discharge, emission, disposal, pouring, or pumping directly or indirectly to any stormwater conveyance, the waters of the State, or upon the land in manner and amount that the substance is likely to reach a stormwater conveyance or the waters of the State unless permitted by an NPDES Permit. Prohibited instances include but are not limited to: anti-freeze, chemicals, animal waste, paints, garbage, and litter. However,

non-stormwater discharges associated with the following activities are allowed provided that the do not significantly impact water quality:

- Dechlorinated swimming pool discharges.
- Landscape irrigation and lawn watering.
- Springs, diverted stream flows, rising ground waters, and flows from riparian habitats and wetlands.
- Filter backwash and draining associated with raw water intake screening and filtering devices.
- Condensate from residential or commercial air conditioning.
- Residential vehicle washing.
- Flushing and hydrostatic testing water associated with utility distribution systems.
- Discharges associated with emergency removal and treatment activities, for hazardous materials, authorized by the federal, state or local government on-scene coordinator.
- Uncontaminated ground water (including the collection or pumping of springs, wells, or rising ground water and ground water generated by well construction or other construction activities).
- Collected infiltrated stormwater from foundation or footing drains.
- Collected ground water and infiltrated stormwater from basement or crawl space pumps.
- Irrigation water.
- Street wash water.
- Flows from fire fighting.
- Discharges from the pumping or draining of natural watercourses or water bodies.
- Flushing and cleaning of stormwater conveyances with unmodified potable water.
- Wash water from the cleaning of the exterior of buildings, including gutters, provided that the discharge does not pose an environmental or health threat.
- Other non-stormwater discharges for which a valid NPDES discharge permit has been authorized and issued by the U.S. Environmental Protection Agency or by the State of North Carolina, provided that any such discharges to the municipal separate storm sewer system shall be authorized by the Town.

B. **Illicit Connections:** Connections to a stormwater conveyance or stormwater conveyance system which allow the discharge of non-stormwater, other than the exclusions described in subsection 12.5.11.A above, are unlawful. Prohibited connections include, but are not limited to: industrial/commercial floor drains, waste water from washing machines or sanitary sewers, wash water from commercial vehicle washing or steam cleaning, and waste water from septic systems.

1. **Prior Illegal Connections To Cease Within One (1) Year:** Where connections exist in violation of this section and said connections were made prior to the adoption of this provision or any other ordinance prohibiting such connections, the property owner or the person using said connection shall remove the connection within one (1) year following application of this regulation.
2. **Hazardous Material Connections to Cease Immediately:** The aforementioned one (1) year grace period shall not apply to connections that result in the discharge of hazardous

material. Nor shall the grace period apply to other discharges which pose an immediate threat to health and safety, or are likely to result in immediate injury and harm to real or personal property, natural resources, wildlife or habitat. For such connections, the Public Works Director shall designate the time within which the connection shall be removed. In setting the time limit for compliance, the director shall take into consideration: the quantity and complexity of the work; the consequences of delay; the potential harm to the environment, public health and to public and private property; and, the cost of remedying the damage.

C. **Spills:** Spills or leaks of polluting substances released, discharged to, or having the potential to released or discharged to the stormwater conveyance system, shall be contained, controlled, collected, and properly disposed. All affected areas shall be restored to their preexisting condition.

Persons in control of the polluting substances immediately prior to their release or discharge, and persons owning the property on which the substances were released or discharged, shall immediately notify the Town of Waynesville of the release or discharge, as well as making any required notifications under state and federal law. Notification shall not relieve any person of any expenses related to the restoration, loss, damage, or any other liability which may be incurred as a result of said spill or leak, nor shall such notification relieve any person from other liability which may be imposed by State or other law.

12.5.10 Operations and Maintenance Agreement.

A. **Private Development:** Prior to the conveyance or transfer of any private lot or building site to be served by a structural BMP pursuant to this section and prior to issuance of any permit for development or redevelopment requiring a structural stormwater BMP pursuant to this section, the applicant or owner of the site must execute an operation and maintenance agreement that shall be binding on all subsequent owners of the site, portions of the site, and lots or parcels served by the structural BMP. Until the transference of all property, sites, or lots served by the structural BMP, the original owner or applicant shall have the primary responsibility for carrying out the provisions of the maintenance agreement.

B. **Public Development:** BMPs that are constructed on public land within public rights-of-way and/ or within public easements shall be maintained by the public body with ownership/ jurisdiction of the subject property.

C. **Requirements for Homeowners' and Other Associations:**

1. For all structural BMPs required pursuant to this section and that are to be or are owned and maintained by a homeowners' association, property owners' association, or similar entity, the required operation and maintenance agreement shall include all of the following provisions:

2. Acknowledgment that the association shall continuously operate and maintain the stormwater control and management facilities.

3. Establishment of an escrow account, which can be spent solely for sediment removal, structural, biological or vegetative replacement, major repair, or reconstruction of the structural BMPs. If structural BMPs are not performing adequately or as intended or are not properly maintained, the Town, in its sole discretion, may remedy the situation, and in such instances the Town shall be fully reimbursed from the escrow account. Escrowed funds may be spent by the association for sediment removal, structural, biological or vegetative replacement, major repair, and reconstruction of the structural BMPs, provided that the Stormwater Administrator shall first consent to the expenditure.

4. Both developer contribution and annual deposits for future use of "sinking funds" shall fund the escrow account. Prior to plat recordation or issuance of construction permits, whichever shall first occur, the developer shall pay into the escrow account an amount equal to fifteen percent (15%) of the initial construction cost of the structural BMPs. Two-thirds (⅔) of the total amount of sinking fund budget shall be deposited into the escrow account within the first five (5) years and the full amount shall be deposited within ten (10) years following initial construction of the structural BMPs. Funds shall be deposited each year into the escrow account to cover the cost of maintenance. A portion of the annual assessments of the association shall include an allocation into the escrow account. Any funds drawn down from the escrow account shall be replaced in accordance with the schedule of anticipated work used to create the sinking fund budget.

5. The percent of developer contribution and lengths of time to fund the escrow account may be varied by the Town depending on the design and materials of the stormwater control and management facility.

6. Granting to the Town a right of entry to inspect, monitor, maintain, repair, and reconstruct structural BMPs.

7. Allowing the Town to recover from the association and its member's any and all costs the Town expends to maintain or repair the structural BMPs or to correct any operational deficiencies. Failure to pay the Town of its expended costs, after forty-five (45) days' written notice, shall constitute a breach of the agreement. The Town shall thereafter be entitled to bring an action against the association and its members to pay, or foreclose upon the lien hereby authorized by the agreement against the property, or both, in case of a deficiency. Interest, collection costs, and attorney fees shall be added to the recovery.

8. A statement that this agreement shall not obligate the Town to maintain or repair any structural BMPs, and that the Town shall not be liable to any person for the condition or operation of structural BMPs.

9. A statement that this agreement shall not in any way diminish, limit, or restrict the right of the Town to enforce any of its ordinances as authorized by law.

10. A provision indemnifying and holding harmless the Town for any costs and injuries arising from or related to the structural BMP, unless the Town has agreed in writing to assume the maintenance responsibility for the BMP and has accepted dedication of any and all rights necessary to carry out that maintenance.

D. **Agreement Requirements:**

1. The operation and maintenance agreement shall require the owner or owners to maintain, repair, and, if necessary, reconstruct the structural BMP and shall state the terms, conditions, and schedule of maintenance for the structural BMP. In addition, it shall grant The Town of Waynesville a right of entry in the event that the Stormwater Administrator has reason to believe it has become necessary to inspect, monitor, maintain, repair, or reconstruct the structural BMP; however, in no case shall the right of entry, of itself, confer an obligation on The Town of Waynesville to assume responsibility for the structural BMP.

2. The operation and maintenance agreement must be approved by the Stormwater Administrator prior to plan approval and it shall be referenced on the final plat and shall be recorded with the Haywood County Register of Deeds upon final plat approval. A copy of the recorded maintenance agreement shall be submitted to the Stormwater Administrator following its recordation.

E. **Construction of Stormwater Management Measures:**

1. Stormwater management facilities shall be constructed in accordance with approved plans and maintained in proper working condition. The applicant/ property owner is responsible for ensuring that the construction of drainage structures and stormwater management measures are completed in accordance with the approved plan and specifications.

2. Inspections which may be performed by the Town of Waynesville during construction will not relieve the developer of the responsibility to install stormwater management and drainage facilities in accordance with the approved plan.

3. Revisions which affect the intent of the design or the capacity of the system shall require prior written approval by the Stormwater Administrator.

12.5.11 Inspections.

A. **Function of BMP as Intended:** The owner of each structural BMP installed pursuant to this section shall maintain and operate it so as to preserve and continue its function in controlling stormwater quality and quantity at the degree or amount of function for which the structural BMP was designed.

B. **Right of Entry for Inspection:**

1. When any new BMP is installed on private property, the property owner shall grant to the Stormwater Administrator the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection.

2. Inspections may be conducted by the Stormwater Administrator on any reasonable basis, including but not limited to: routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspections of drainage basins or areas identified as higher than typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher than usual dischargers of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of State or Federal water quality standards or the NPDES Storm Water Permit; and joint inspections with other agencies inspecting under environmental and safety laws. Inspections may include, but are not limited to: reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in BMPs; evaluating the condition of BMPs and storm water management practices.

3. If the owner or occupant of any property refuses to permit such inspection, the Stormwater Administrator shall proceed to obtain an administrative search warrant pursuant to G.S. 15-27.2 or its successor. No person shall obstruct, hamper or interfere with the Stormwater Administrator while carrying out his or her official duties.

C. **Annual Maintenance Inspections and Report:** Inspections shall be conducted as prescribed by the Operations and Maintenance Agreement. The person responsible for maintenance of any structural BMP installed pursuant to this section shall submit to the Stormwater Administrator an inspection report from one of the following persons performing services only in their area of competence: a qualified registered North Carolina professional engineer, landscape architect, soil scientist, aquatic biologist, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance. The inspection report shall contain all of the following:

1. The name and address of the land owner;

2. The recorded book and page number of the lot of each structural BMP;

3. A statement that an inspection was made of all structural BMPs;

4. The date the inspection was made;

5. A statement that all inspected structural BMPs are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this section; and

6. Signature and seal of a registered engineer, landscape architect, or person certified by the North Carolina Cooperative Extension Service for stormwater treatment practice inspection and maintenance.

7. All inspection reports shall be on forms supplied by the Stormwater Administrator. An original inspection report shall be provided to the Stormwater Administrator beginning one year from the date of as-built certification and each year thereafter on or before the date of the as-built.

D. **Records of Installation and Maintenance Activities:** The owner of each structural BMP shall keep records of inspections, maintenance, and repairs for at least five years from the date of creation of the record and shall submit the same upon reasonable request to the Stormwater Administrator.

E. **Nuisance**: The owner of each stormwater BMP, whether structural or non-structural BMP, shall maintain it so as not to create or result in a nuisance condition.

12.5.12 Performance Security.

The Town of Waynesville may, at its discretion, require the submittal of a performance security or bond with surety, cash escrow, letter of credit or other acceptable legal arrangement prior to issuance of a permit in order to ensure that stormwater BMPs are installed as required by the approved stormwater management plan, and are maintained by the owner as required by the operation and maintenance agreement.

A. **Amount:**

1. The amount of an installation performance security shall be the total estimated construction cost of the BMPs approved under the permit, plus 25%.

2. The amount of a maintenance performance security shall be the present value of an annuity of perpetual duration based on a reasonable estimate of the annual cost of inspection, operation and maintenance of the BMPs approved under the permit, at a discount rate that reflects the jurisdiction's cost of borrowing minus a reasonable estimate of long-term inflation.

B. **Forfeiture:** The performance security shall contain forfeiture provisions for failure, after proper notice, to complete work within the time specified, or to initiate or maintain any actions which may be required of the applicant in accordance with this section.

C. **Default:** Upon default of the applicant to construct, maintain, repair, and if necessary reconstruct any stormwater device in accordance with the applicable permit, the Stormwater Administrator shall obtain and use all or any portion of the security to make necessary improvements based on an engineering estimate. Such expenditure of funds shall only be made after requesting the applicant to comply with the permit. In the event of a default triggering the use of installation of performance security, the Town of Waynesville shall not return any of the unused deposited cash funds or other security, which shall be retained for maintenance.

D. **Cost in Excess of Performance Security:** If the Town of Waynesville takes action upon such failure by the applicant, the Town may collect the difference should the amount of the reasonable cost

of such action exceed the amount of the security held. This difference will be collected from the applicant.

E. **Refund:** Within sixty (60) days of the final approval, the installation performance security shall be refunded to the applicant or terminated, except any amount attributable to the cost (plus 25%) of landscaping installation and ongoing maintenance associated with the BMPs covered by the security. Any such landscaping shall be inspected one (1) year after installation with replacement for compliance with the approved plans and specifications and, if in compliance, the portion of the financial security attributable to landscaping shall be released.

12.5.13 Additional Standards for Special Situations.

A. Trout Waters: In addition to the standards for handling stormwater set out in the Design Manual, development and redevelopment that drains in whole or part to class TR waters shall design and implement the best stormwater practices that do not result in a sustained increase in receiving water temperature, while still meeting the other requirements of this ordinance.

B. Pet Waste: Pet waste can pollute rivers, streams, and lakes. Stormwater runoff carries pet waste into drainage ditches and storm drains where it is then dumped, untreated, into the nearest waterway. Dog waste contains bacteria, viruses, and parasites that can harm humans and affect water quality. Once in a waterway, pet waste can travel long distances and pollute a large area. Therefore:

- It shall be unlawful for the owner or custodian of any dog to take it off the owner's own property limits without the means to properly remove and dispose of the dog's feces from any public or private property.
- It is the responsibility of a dog's owner or custodian to clean up the dog's feces from any public or private property outside of the dog's owner's own property limits. Such property includes, but is not limited to, parks, rights-of-way, paths, and public access areas.
- "Means to properly remove and dispose of feces" shall consist of having on or near one's person a device such as a plastic bag, or other suitable plastic or paper container, that can be used to clean up and contain dog waste until it can be disposed of in an appropriate container.
- This provision shall not apply to handicapped persons assisted by trained guide or assistance dogs.

12.5.14 Interpretation.

A. **Meaning and Intent:** All provisions, terms, phrases, and expressions contained in this ordinance shall be construed according to the general and specific purposes set forth in section 12.5.1, Purpose. If a different or more specific meaning is given for a term defined elsewhere in the Town of Waynesville Code of Ordinances, the meaning and application of the term in this ordinance shall control for purposes of application of this ordinance.

B. **Text Controls in Event of Conflict:** In the event of a conflict or inconsistency between the text of this ordinance and any heading, caption, figure, illustration, table, or map, the text shall control.

C. **Authority for Interpretation:** The Stormwater Administrator or a Development Services employee designated to carry out the duties of a Stormwater Administrator has authority to determine the interpretation of this ordinance. Any person may request an interpretation by submitting a written request to the Stormwater Administrator, who shall respond in writing within 30 days. The stormwater administrator shall keep on file a record of all written interpretations of this ordinance.

D. **References to Statutes, Regulations, and Documents:** Whenever reference is made to a resolution, ordinance, statute, regulation, manual (including the Design Manual), or document, it shall be construed as a reference to the most recent edition of such that has been finalized and published with due provision for notice and comment, unless otherwise specifically stated.

E. **Computation of Time:** The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the Town of Waynesville, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the Town of Waynesville. References to days are calendar days unless otherwise stated.

12.6 Hillside Protection.

12.6.1 Purpose.

The purpose of this section is to regulate development in steep slope areas in order to preserve the Town of Waynesville's unique character, conserve the public health, safety and general welfare and to promote environmentally sound design and planning in accordance with the following objectives:

- To protect life and property from all potentially hazardous conditions particular to steep slopes, e.g., rock falls, flash flooding, debris flows, mud slides and increased wildfire hazard.
- To preserve and enhance the scenic and environmental resources of the landscape by encouraging the maximum retention of prominent natural topographic features, i.e., drainage swales, streams, slopes, ridgelines, rock outcroppings, vistas, natural plant formations, and trees.
- To encourage innovative site and architectural design and planning in order for the development to adapt to the natural terrain and be harmonious with the character of the area.
- To minimize grading and cut and fill operations inconsistent with the retention of the natural character of the hillside.
- To preserve where possible, natural streams, ponds and associated riparian vegetation.
- To require the retention of trees and other vegetation to stabilize steep hillsides, retain moisture, prevent erosion and enhance the natural scenic beauty.
- To encourage the retention of trees and other vegetation throughout the site instead of just the periphery of the development.
- To encourage minimal grading which relates to the natural contour of the land, thus rounding off sharp angles at the top and bottom of cut and fill slopes in a natural manner.
- To provide land use densities to promote the best possible development of hillside areas in order to retain significant natural features and to preserve slope stability.
- To encourage road design that follows the natural topography wherever possible in order to minimize grading.
- To preserve predominant views from and of the hillside areas in order to retain the sense of identity and imagery that the hills and mountains now impart to the Town of Waynesville.

12.6.2 Applicability.

A. For the purposes of this section, a Steep Slope Area is defined as any lot, parcel, tract or portion thereof, that has a natural elevation of 2,900 feet above mean sea level or higher, with a natural average slope of 25% or greater as determined using the following formula:

S= 0.0023 x I x L / A

Where:

S= Average natural slope of parcel in percent

I= Contour interval of map in feet

L= Total length of contour lines within the parcel in feet

A= Area in acres of the parcel

0.0023= Constant which converts square feet into acres.

B. In the case of conflict between the average natural slope determination of a lot using different methods of calculation the following methods in shall prevail in the following order: 1) use of the above formula based on field survey data, 2) use of the above formula based on the best available topographic data in the Haywood County Geographic Information system, 3) use of a Town approved geographic information system based slope calculation tool.

C. Application to properties with an average natural slope of 25% or greater split by the 2,900-foot contour line.

1. If any portion of the lot above 2,900 feet is placed in a permanent conservation easement or otherwise reserved in perpetuity, the residential density from this portion of the property may be transferred to the remainder of the property below 2,900 feet or to adjacent properties in the same ownership below 2,900 feet at the same ratio as that of the underlying zoning district.

2. The area above 2,900 feet may be developed as provided for in Table 12.6.4, and the remainder of the property below 2,900 feet or with an average slope below 25% may be developed as permitted in the underlying zoning district.

D. Reservation of steep slope areas to reduce average slope. Areas placed in a permanent conservation easement, dedicated to the public for open space, protected as open space by restrictive covenants or otherwise permanently protected in a natural state with a prohibition on vegetation removal and land disturbing activity may be excluded from the calculation of the average slope for the property or properties which include the area, provided that the minimum size of each such reserved area shall equal the minimum lot size for the underlying zoning district.

12.6.3 General Steep Slope Area Development Standards.

A. No land disturbing activity shall take place until full development approval has been received.

B. Land disturbing activity shall be limited to designated building envelopes and approved road and driveway corridors as shown on approved site plans.

C. Diversion or channelization of perennial streams shall not be permitted unless without such diversion or channelization a tract existing at the time of adoption of this amendment is rendered unusable for any of the principal uses allowed within the zoning district.

D. The riparian stream buffers shall be left intact, which means that removal of trees, or other vegetation, or disturbance of soils within this buffer is prohibited, except for necessary road crossings. The buffers shall be a minimum of 30' from the edge of the stream or 25 feet from the top of bank, whichever is greater.

E. Perennial streams shall not be placed in culverts except to the minimum extent possible for necessary road crossings.

F. Developers shall make reasonable efforts to preserve and protect existing natural features of the slope, such as trees and other plan material, and rock outcroppings which may help to stabilize the slope.

G. The maximum area of disturbance per phase shall not exceed 5 acres.

H. Cut and fill slopes shall comply with the standards of Section 12.4.

I. Stormwater management shall comply with the standards of Section 12.5.

12.6.4 Specific Steep Slope Area Development Standards.

In addition to any development restriction imposed by the underlying zoning district, the following standards shall apply to any properties that are subject to the standards of this section:

Table 12.6.4

Average slope	25-29%	30-34%	35-39%	40-44%	45-49%	50% +
Maximum Density/Minimum Lot Size (acres/du)	25% reduction underlying zoning	50% reduction underlying zoning	4 acres/du	5 acres/du	7.5 acres/du	10 acres/du
Maximum disturbed area (% of site)	35%	30%	25%	20%	15%	10%
Maximum impervious area (% of site)	30%	25%	20%	15%	10%	10%
Minimum riparian buffer (width in feet from edge of stream - See 12.6.3.D)	25/30 ft.	25/30 ft.	25/30 ft.	25/30 ft.	25/30 ft.	25/30 ft.

12.6.5 Plan Requirements.

In addition to the submittal requirements of the underlying zoning district and Chapter 15, the following plans/reports shall be required prior to approval of Steep Slope Area development or land subdivision:

A. **Residential Development with 4 or Fewer Units:** Scale site plan showing:

1. Project boundaries.
2. Topography with contour lines from a field survey or Haywood County GIS with a five (5) foot contour interval.
3. Existing structures, utility lines, roads, driveways, wells, septic systems and other site improvements.
4. Proposed structures, utility lines, driveways, wells, septic systems and other site improvements.
5. Proposed extent of disturbed areas.
6. Existing and proposed forested areas.
7. Perennial and intermittent streams from the Soil Survey of Haywood County.
8. If individual wells and/or septic tanks are to be utilized, a written statement from the Haywood County Health Department indicating approval of wells and/or septic tanks for use in the development.

B. **Non-Residential Development and Residential Development with 5 or More Units:**

1. Site plan with information listed in A above.
2. Site aerial from Haywood County GIS.
3. Slope map showing slopes in 5% increments corresponding to Table 12.6.4.
4. Map to illustrate project context and connectivity beyond property boundaries.
5. Hydrology floodplains, floodways, streams, springs, wetlands, seeps and drainages.
6. Site specific geologic analysis of the Steep Slope Area to be developed, prepared by a North Carolina licensed geologist, soil scientist, geotechnical engineer or other qualified professional, to determine whether that plan can be developed on the site without jeopardizing slope stability on the site itself or on properties surrounding the site.

(Ord. No. O-01-15 , § 9, 1-27-2015)

12.7 Mountain Ridge Protection.

12.7.1 Required Standards.

Pursuant to the Mountain Ridge Protection Act of 1983:

A. No person may construct a Tall Building or Structure on any Protected Mountain Ridge as defined by G.S. 130A-334.

B. None of the following utility services shall be extended to any building or structure constructed in violation of subsection A above: electricity, telephone, gas, water, sewer or septic system.

C. Applications for development on Protected Mountain Ridges, shall, in addition to the submittal requirements of the underlying zoning district, Section 12.6 (if applicable) and Chapter 15, submit the following:

1. Cross sectional profiles of all principal buildings as proposed to be sited on the property and the property showing existing and the proposed post-grading profile drawn perpendicular to the direction of the slope.
2. If individual wells and/or septic tanks are to be utilized, a written statement from Haywood County Health Department indicating approval of wells and/or septic tanks for use in the development.
3. Documentation of an approved Sedimentation and Erosion Control Plan.
4. A letter or approval from the fire department with jurisdiction indicating the adequacy of the development facilities for emergency medical and fire services. Such determination shall take into consideration the street access, water pressure and availability, building height, and any other relevant factors.

D. All applications for development on Protected Mountain Ridges shall be approved by the Planning Board only after finding that the proposed development has given adequate consideration to protecting the natural beauty of the mountains by making the following findings:

1. The development plan preserves natural vegetation and scenic features such as outcroppings to the maximum extent possible.

2. The development plan sites the proposed development in a way to minimize its visual impact and land disturbance.
3. The development plans use architectural design, colors and materials that blend well with or are compatible with the natural beauty of the Protected Mountain Ridge.
4. The development plan minimizes land disturbing activities including the area disturbed and the height of cut and fill slopes to the maximum extent practical.

THIS PAGE INTENTIONALLY LEFT BLANK

CHAPTER 13 - NONCONFORMITIES

13.1 Purpose and Intent.

The purpose of this section is to regulate and limit the continued existence of uses and structures established prior to the effective date of this Ordinance (or any subsequent amendment) that do not conform to this Ordinance. Any nonconformity created by a change in the classification of property or the text of these regulations shall also be regulated by the provisions of this section. The provisions of this chapter are intended to limit substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming uses in order to preserve the integrity of the area in which it is located.

13.2 General Provisions.

13.2.1 Appeals and Modifications.

A. The Board of Adjustment shall hear and decide appeals from any land owner (i) to make a change in use of a nonconforming use to a different, less-intense nonconforming use; (ii) to make a change in location of a nonconforming use of land to another location on the same property; or (iii) allow the replacement of a nonconforming use.

B. The Board of Adjustment may only grant a change for a nonconforming use or replacement of a nonconforming structure which has been destroyed after having first held a public hearing and having determined that:

1. Said change will be more suitable and appropriate for the lot(s) on which it is located than the existing situation; and,

2. The proposed change will have a less harmful effect than the existing situation on the properties surrounding the lot(s) in question; and,

3. The decision to grant the change will be in harmony with the general purpose and intent of this Ordinance and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare.

C. The Board of Adjustment, in granting such changes, may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards when made a part of the terms upon which the change was granted, shall be deemed a violation of this Ordinance and shall be subject to enforcement provisions a prescribed per Chapter 16, Violations and Penalties.

13.2.2 Discontinuance.

A nonconforming use shall be presumed discontinued when any of the following has occurred:

A. The owner has in writing or by public statement indicated intent to abandon the use.

B. A conforming use has replaced the original nonconforming use.

C. The building or structure housing the nonconforming use has been removed.

D. The owner has physically changed the building or structure or its permanent equipment in such a way as to indicate clearly a change in use or activity to something other than the nonconforming use.

E. The property, structure or use has been vacant or completely inactive for three hundred sixty-five (365) days.

13.3 Nonconforming Plans.

13.3.1 Approved Site Specific Plans.

A. **Previously Approved Plans Grandfathered:** Any site specific plan (including but not limited to master plans, preliminary plats, final plats, conditional district plans, special use permit plans) for the development of property and/or construction of a building which has received final approval by the Town of Waynesville for development and/or construction, but does not conform to this Ordinance, may be developed and/or constructed in accordance with the Ordinance, rules, and regulations, including any conditions imposed upon approval. Any plan approved prior to the adoption of this Ordinance, but which conforms to its provisions, shall be administered, interpreted, amended and implemented in accordance with the provisions of this Ordinance.

B. **May Choose New Ordinance:** A property owner with an approved site specific plan as identified above may elect to develop such property and/or construct such building in accordance with the terms and provisions of this Ordinance in lieu of the rules and regulations upon which the plan was approved. The Administrator shall notify the property owner in writing of any additional required procedures or modifications which may be necessary in order for the plan to conform to the Ordinance.

C. **Amendments or Modifications of Previously Approved Plans:** Any amendment or modification to an approved site specific plan, which would have required approval pursuant to the Ordinance, the rule or regulation by which the plan was originally approved, shall be reviewed and considered in accordance with the terms and provisions of this Ordinance as if it were an amendment or modification to a plan originally approved under this Ordinance.

D. **Maximum 24 Month Build-Out:** If an approved, non-conforming development is not built-out within 24 months of preliminary plat approval, it must be redesigned to meet current ordinance standards.

13.3.2 Vested Rights.

This section does not prohibit the exercise of any vested right established by common law ordinance or statute.

13.4 Nonconforming Lots.

13.4.1 Definition and Applicability.

A nonconforming lot is a lot of record that does not meet the dimensional requirements of Chapter 2 for the land development district in which it is located. A nonconforming vacant lot of record is one that was recorded by plat or description in the Office of the Register of Deeds of Haywood County prior to the adoption of this chapter or prior to the time that the lot was brought into the town's jurisdiction. This definition shall not be interpreted to include recorded lots that were in violation of any prior subdivision regulations of the Town of Waynesville and which will remain in violation.

13.4.2 Standards.

A. **Lot May Be Developed:** Except as provided in subsections B and C below, a nonconforming vacant lot may be developed for any of the uses permitted by these regulations in the District in which it is located, provided that any use and/or structure meets all applicable yard and setback requirements for the District in which the lot is located. A variance shall not be required for substandard lot width or lot size for such lots of record.

B. **Lots to Be Combined, If Possible:** A nonconforming vacant lot shall not be developed if it can be combined with an adjoining lot owned by the same person on or after the effective date of these

regulations in order to create a single conforming or substantially conforming lot. For the purposes of this section, "adjoining" shall be deemed to mean the sharing of one or more common lot lines and access to both lots can be provided by the same street without crossing that street. All other minimum requirements for the particular land development district and proposed use must be met or a variance obtained from these requirements through an action of the Board of Adjustment. This shall include meeting the requirements for additional lot size for increased densities of residential development (duplexes, multi-family dwellings, etc.).

C. **Exceptions for Previously Approved Plats:** A nonconforming lot may be developed if, at the effective date of this Ordinance, the lot is located in (i) a subdivision that had received preliminary plat approval; or (ii) a subdivision in which had received final plat approval.

D. **Existing Structures on Non-Conforming Lots:** Any structure on a nonconforming occupied lot may be occupied, without expansion, by a conforming use or may be improved or expanded in accordance with the standards listed in this section. Structural alterations or remodeling of structures on nonconforming lots required by an authorized public official shall be permitted. Routine maintenance shall also be permitted so long as no expansion of the nonconformity occurs as a result of the maintenance.

E. **Expansion of Structures:** Any improvement or expansion of any structure on a nonconforming occupied lot must comply with all other minimum requirements of this Ordinance or a variance must be obtained from these requirements through an action of the Board of Adjustment. This shall include meeting the requirements for additional lot size for increased densities of residential development (duplexes, multi-family dwellings, etc.).

13.5 Nonconforming Uses and Structures.

13.5.1 Definition and Applicability.

A. **Nonconforming Use:** A nonconforming use is a use which was once a permitted use on a parcel of land or within a structure, or which precedes any Ordinances, but which is now not a permitted use of that parcel according to Chapter 2 of this Ordinance. This definition includes open uses of land (e.g., storage yards and golf driving ranges) as well as the structures that contain nonconforming uses. The nonconformity may result from the adoption of this Ordinance or any subsequent amendment.

B. **Nonconforming Structure:** A nonconforming structure does not conform to dimensional, design, locational, or other requirements of this Ordinance. The nonconformity may result from adoption of this Ordinance or any subsequent amendment.

13.5.2 Standards for Nonconforming Uses and Accessory Uses.

A. **Continuation Permitted:** Any legally established nonconforming use or accessory use may be continued subject to the standards listed in this section. However, once a nonconforming use or accessory use is made conforming, it may not later be used for any nonconforming use or expanded in violation of this Ordinance.

B. **Expansion of Use Prohibited:** A nonconforming use or accessory use may be enlarged or extended only into portions of the structure that existed at the time that the use became nonconforming. No external improvements which would extend or enlarge the nonconforming use or accessory use of the land area that it covers are permitted. However, routine maintenance of any structure containing a nonconforming use or accessory use is permitted.

C. **Discontinuance of 1 Year:** A nonconforming use or accessory use of a structure that is discontinued for a continuous period of more than one (1) year may not be reestablished. All subsequent uses of the structure and site must be in conformance with the particular regulations for the land development district in which the property is located.

D. **Damage or Destruction:** Any structure containing a nonconforming use or accessory use that has been damaged by fire or natural causes, regardless of the extent of the damage, may be repaired or re-established and continued in accordance with this Ordinance, provided than any such repair or re-establishment does not increase the degree of any nonconformance. Such repair or re-establishment must occur within one (1) year of the date the damage occurred.

E. No nonconforming accessory use, once discontinued, may be re-established or moved to another structure on the lot.

13.5.3 Standards for Nonconforming Structures.

A. **Continuation Permitted:** Any legally established nonconforming structure may be continued subject to the standards listed in this section. However, once a nonconforming structure is made conforming, it may not later be used for any nonconforming use or expanded in violation of this Ordinance.

B. **Legal Expansions Permitted:** A nonconforming structure may be enlarged, maintained, repaired or altered; provided, however, that no such enlargement, maintenance, repair, or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of the structure. However, this provision is not intended to permit substantial reconstruction or new construction on the same building footprint.

C. **Damage or Destruction:** Any nonconforming structure that has been damaged by fire or natural causes, regardless of the extent of the damage, may be repaired or re-established and continued in accordance with this section, provided that any such repair or re-establishment does not increase the degree of any nonconformance and should comply with the building design requirements of Chapter 5 to the extent practical as determined by the Administrator. Such repair or re-establishment must occur within one (1) year of the date the damage occurred.

13.5.4 Standards for Nonconforming Accessory Structures.

A. **Legal Expansions Permitted:** A nonconforming accessory structure may be expanded only if the expansion does not increase the nonconforming condition of the structure.

B. **Must Terminate When Principal Structure is Terminated:** No nonconforming accessory structure shall continue if structure is abandoned, damaged, or destroyed unless such structure is made to conform to the standards for the zoning district in which it is located.

(Ord. No. O-18-20 , § 1, 10-27-2020)

13.6 Nonconforming Manufactured Homes and Mobile Home Parks.

13.6.1 Nonconforming Manufactured Housing on Individual Lots.

A. **Replacement Home:**

1. A nonconforming manufactured home on an individual lot outside of a manufactured home park may only be replaced with a unit no less conforming to the dimensional standards of the respective district.

2. Double wide units may only be replaced with equivalently sized units or larger (no single wide units permitted).

3. Replacement units shall meet all applicable standards of Section 12.3 Flood Damage Prevention.

B. **Expansions Prohibited:** A nonconforming manufactured home on an individual lot may not be enlarged or altered externally in any way except where such alteration is required by law or an order from the Building Inspector, Fire Chief or the Administrator to ensure the safety of the structure, or where such alteration increases the degree of conformance of the home.

C. **Routine Maintenance Permitted:** Routine maintenance of such manufactured housing is permitted so long as no expansion of the nonconformity occurs as a result of the maintenance.

13.6.2 Nonconforming Manufactured Home Parks and Housing within Parks.

A. **Continuation Permitted:** Manufactured home parks which are nonconforming, either as to use or development standards, may continue to operate provided that number of manufactured homes on the property does not drop to less than two (2) for more than six (6) months.

B. **Replacement of Units:** Replacement of manufactured housing units is permitted as follows:

1. Only existing spaces as of the effective date of this Ordinance may be used. No additional spaces may be created or occupied.

2. Replacement units may not increase the degree of nonconformity of setbacks from streets, property lines, structures, or watercourses.

3. Replacement units shall meet all applicable standards of Section 12.3 Flood Damage Prevention.

13.7 Nonconforming Design Elements and Site Features.

The following table summarizes the primary requirements that shall be met when there are changes to existing development and/or to nonconforming structures or uses. A ✓ indicates that compliance with all applicable standards is required. For the purpose of this section the size of projects involving parking area expansion and building expansion or building reconstruction shall include all such projects undertaken on the site within the preceding twenty-four (24) month period.

	2.4	Ch. 5	6.11	Ch. 8	8.4	8.5	8.6-8	Ch. 11	Ch. 11
	Dimensional Standards	**Building Design Standards**	**Sidewalks**	**Tree Protection and Landscaping**	**Buffers and Screening**	**Street Tree Planting**	**Parking Lot Landscaping**	**Outdoor Lighting**	**Signs**
Existing Development									
Change of Use (From Residential to Non-Residential)			✓	✓	✓	✓	✓	✓	✓
Parking Area Expansion									
Less than 12 spaces or <40% of Paved Area							✓(a)	✓(a)	
Expansion of ≥40% of Paved Area or 12 space or more			✓	✓	✓	✓	✓	✓	✓
Building Expansion/Reconstruction									
<50% of Existing Floor Area	✓(a,b)	✓(a)						✓(a)	
≥50% of Existing Floor Area	✓(a,b)	✓(c)	✓	✓	✓	✓	✓	✓	✓

(a) For expanded/reconstructed portion only.
(b) Exception: Maximum front setbacks should be met to the extent practical as determined by the Administrator.
(c) For expansions, reconstruction areas and all other walls facing public streets.

CHAPTER 14 - ADMINISTRATIVE AGENCIES

14.1 The Administrator.

The various provisions of this ordinance shall be administered under the general direction of the Town Manager and under the specific direction of the Town of Waynesville Development Services, Public Services and Utility Departments. For the purposes of this ordinance, the directors of these departments and their subordinate staffs are collectively referred to as the Administrator. The Development Services Department will serve as the "gatekeeper" for all development applications and will advise applicants on appropriate personnel to contact.

14.1.1 Duties and Responsibilities.

The Administrator shall have the following powers and duties, to be carried out in accordance with the terms of this ordinance:

A. To maintain a record of all permits and approvals on file and to make available copies to interested parties.

B. To review all applications for land development for compliance with the terms of this ordinance.

C. To provide the Waynesville Town Council, the Waynesville Planning Board, the Board of Adjustment of Waynesville, and the Historic Preservation Commission of Waynesville with reports and recommendations regarding matters before these bodies, either as required by this ordinance, other laws or regulations or at the request of the body.

D. To enforce compliance with the terms of this ordinance, unless otherwise specified.

E. To administer the floodplain management program for the town.

F. To administer the stormwater management program for the town.

G. To administer the sedimentation and erosion control program for the town.

H. To issue driveway access permits.

I. To review all development plans for compliance with street and utility requirements of the Town of Waynesville.

J. Such additional powers and duties as may be set forth for the Administrator elsewhere in this ordinance and other laws and regulations of the town.

(Ord. of 5-27-2014(1))

14.2 Town Council.

14.2.1 Powers and Duties.

The Town of Waynesville's Town Council shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

A. To conduct any and all business in accordance with their Charter and North Carolina General Statutes.

B. To amend the Land Development Plan and other plans as necessary.

C. LDS Decisions: The Town Council shall render final decisions regarding the following permits types (see also Chapter 15):

1. Designation of Historic Landmarks/Districts (15.11.1)

2. Text Amendments (15.14)
3. Map Amendments/Rezoning (15.14)
4. Conditional District (15.15)
5. Vested Right (15.16)

14.3 Planning Board.

14.3.1 Powers and Duties.

The Town of Waynesville's Planning Board shall have the following powers and duties to be carried out in accordance with the terms of this ordinance.

A. To perform studies and surveys of the present conditions and probable future development of the town and its environs, including but not limited to, studies and surveys of land uses, population, traffic, parking, expansions of extraterritorial jurisdiction, etc.

B. To formulate and recommend to the Town Council the adoption and amendment of a Land Development Plan and other plans as necessary.

C. To conduct annexation feasibility studies and recommend suitable areas of annexation to the Town Council.

D. LDS Review: The Planning Board shall review and make recommendations regarding the following permits types (see also Chapter 15):

1. Text Amendments (15.14)
2. Map Amendments/Rezoning (15.14)
3. Conditional District (15.15)
4. Vested Right (15.16)

E. LDS Decisions: The Planning [Board] shall render final decisions regarding the following permits types (see also Chapter 15):

1. Site Plans/Design Review (Major) (15.8.2)
2. Subdivision (Major) - Preliminary Plat (15.9.2)
3. Special Use Permits (15.11.1)

[F]. The Planning Board shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the Town Council.

14.3.2 Membership and Quorum.

A. The Planning Board shall consist of the number of members referenced and indicated in the most current version of the Town of Waynesville Boards and Commissions Manual which may from time to time be updated or amended. A quorum, consisting of a simple majority of members shall be necessary to transact business.

B. The Waynesville Town Council shall appoint members from within the Town limits and, if the Town is exercising Extraterritorial Jurisdiction, one (1) or more members shall be appointed by the Haywood County Commissioners as set forth in G.S. 160D-307 to provide for proportional representation of residents within the Extraterritorial Jurisdiction. As vacancies occur the Administrator shall advise the appropriate governing board to make appointments or reappointments as necessary to maintain this proportional representation based on best

available estimates of current population of the Town and the Extraterritorial Jurisdiction. The representatives of the Extraterritorial Jurisdiction shall have equal rights, privileges and duties with the other members of the Planning Board.

C. All members shall serve three (3) year terms and may succeed themselves.

D. Officers shall be elected in accordance with the adopted rules of procedure.

E. Meetings shall be held on the date and time as referenced in the Town of Waynesville Boards and Commission Manual and may from time to time be updated or amended.

(Ord. of 5-27-2014(1))

14.4 Board of Adjustment.

14.4.1 Powers and Duties.

The Board of Adjustment of Waynesville shall have the following powers and duties to be carried out in accordance with the terms of this ordinance:

A. To hear and decide appeals from any order, requirement, permit, decision or determination issued by an administrative officer of the town in enforcing any provision of the Town of Waynesville Minimum Housing Codes.

B. LDS Decisions: The Board of Adjustment shall render final decisions regarding the following permits types (see also Chapter 15):

1. Appeal of any Administrative decisions (15.6-7, 15.8.1, 15.12)
2. Appeals of Historic Preservation Commission Decision regarding Certificate of Appropriateness (Major) (15.11.3)
3. Variances (15.13)

C. The Board of Adjustment shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the Town Council.

14.4.2 Membership and Quorum.

A. The Waynesville Board of Adjustment shall consist of the number of members referenced and indicated in the most current version of the Town of Waynesville Boards and Commissions Manual which may from time to time be updated or amended. A quorum, consisting of simple majority of members shall be necessary to transact any business, except consideration of variance applications, in compliance with the following subsection.

B. Per 160D-406(i), the concurring vote of four-fifths (4/5) of the Board shall be necessary to grant a variance. A majority of the members shall be required to decide any other quasi-judicial matter. Vacant positions on the Board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the Board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

C. The Waynesville Town Council shall appoint members from within the Town limits and, if the Town is exercising Extraterritorial Jurisdiction, one (1) or more members shall be appointed by the Haywood County Commissioners as set forth in G.S. 160A-362 to provide for proportional representation of residents within the Extraterritorial Jurisdiction. As vacancies occur the Administrator shall advise the appropriate governing board to make appointments or reappointments as necessary to maintain this proportional representation based on best available estimates of current population of the Town and the Extraterritorial Jurisdiction. The

representatives of the Extraterritorial Jurisdiction shall have equal rights, privileges and duties with the other members of the Board of Adjustment.

D. All members shall serve three (3) year terms and may succeed themselves.

E. Officers shall be elected in accordance with the adopted rules of procedure.

F. Meetings shall be held on the date and time as referenced in the Town of Waynesville Boards and Commission Manual and may from time to time be updated or amended.

(Ord. of 5-27-2014(1) ; Ord. No. O-01-15 , § 10, 1-27-2015)

14.5 Historic Preservation Commission.

14.5.1 Powers and Duties.

The Historic Preservation Commission of Waynesville shall have the following powers and duties to be carried out in accordance with the terms of this ordinance and G.S. Chapter 160D, Article 9, Part 4:

A. To undertake and inventory of properties of historical, prehistorical, archaeological, architectural and/or cultural significance.

B. To conduct an educational program with respect to historic districts and landmarks within its jurisdiction.

C. To cooperate with the state, federal and local government in pursuance of the purposes of the tasks assigned to them; to offer or request assistance, aid, guidance or advice concerning matters under its purview or of mutual interest. The Town Council, or the commission, when authorized by the Town Council, may contract with the state or the United States, or any agency of either, or with any other organization provided the terms are not inconsistent with state or federal law.

D. To enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or 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.

E. To prepare and recommend the official adoption of a preservation element as part of the town's Land Development Plan.

F. To recommend to the Town Council the acquisition by any lawful means of the fee or any lesser interest, including options to purchase, of properties within established districts or of any such properties designated as landmarks. The commission may recommend to the board to hold, manage, preserve, restore and improve the same, and to exchange or dispose of the property by public or private sale, lease or otherwise, subject to covenants or other legally binding restrictions which will secure appropriate rights of public access and promote the preservation of the property.

G. To recommend the restoration, preservation and operation of historic properties.

H. To negotiate at any time with the owner of a building, structure, site, area or object for its acquisition or is preservation, when such action is reasonably necessary and is authorized by the Town Council.

I. LDS Review: The Planning Board shall review and make recommendations regarding the following permits types (see also Chapter 15):

1. Designation of Historic Landmarks/Districts (15.11.1)

J. LDS Decisions: The Historic Preservation Commission shall render final decisions regarding the following permits types (see also Chapter 15):

1. To Hear Appeals of Administrative Decisions regarding Certificates of Appropriateness (Minor) (15.11.2)

2. Certificates of Appropriateness (Major) (15.11.3)

K. The Historic Preservation Commission shall also have any additional powers and duties as may be set forth for in other laws and regulations or at the direction of the Town Council.

14.5.2 Membership and Quorum.

A. The Waynesville Historic Preservation Commission shall consist of the number of members referenced in the most current version of the Town of Waynesville Boards and Commissions Manual which may from time to time be updated or amended. A quorum, consisting of a simple majority of the membership shall be necessary to transact business.

B. The Waynesville Town Council shall appoint all members. Vacancies shall be filled by the Waynesville Town Council as they occur.

C. All members shall serve three (3) year terms and may succeed themselves.

D. Officers shall be elected in accordance with the adopted rules of procedure.

E. Meetings shall be held on the date and time as referenced in the Town of Waynesville Boards and Commission Manual and may from time to time be updated or amended.

(Ord. of 5-27-2014(1))

14.6 Meetings and General Procedures.

14.6.1 All Meetings to be Open.

All meetings of bodies under this ordinance shall be open to the public in accordance with G.S. 143-318 (Meetings of Public Bodies) and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the respective bodies and approved by the Town Council.

14.6.2 Rules of Procedure.

All Boards shall adopt formal rules of procedure consistent with the level of decision-making vested with that board/commission (e.g., advisory review, quasi-judicial). Any adopted rules of procedure shall be kept on file at the Planning Department and shall be made available to the public.

14.6.3 Minutes.

Accurate minutes of each meeting shall be maintained, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and it shall keep records of its examinations and official actions, all of which shall be filed in the office of the Administrator for the public record.

14.6.4 Meetings.

A. All bodies authorized under this ordinance shall meet at regularly scheduled times and at such other times as determined by the chairman as provided for in the rules of procedure.

B. Special meetings may be called at any time by the chairperson or by request of a majority of members of the board.

14.6.5 Staff.

The Administrator or their designee shall serve as staff to the various boards and commissions as outlined in this chapter. In addition, the Town Attorney may provide legal and procedural assistance when requested.

14.6.6 Attendance Policy.

All members shall attend board/commission meetings on a regular basis. If any member misses more than three (3) consecutive meetings, or does not attend at least 75% of the meetings in one calendar year, he/she may be replaced at the discretion of the Town Council.

14.6.7 Conflict of Interest Policy.

A. **Governing Board**. - A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

B. **Appointed Boards**. - Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

C. **Administrative Staff**. - No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.

D. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.

E. **Quasi-Judicial Decisions.** - A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

F. **Resolution of Objection**. - If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

G. **Familial Relationship**. - For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships. (2019-111, s. 2.4.)

CHAPTER 15 - ADMINISTRATION

15.1 Purpose and Intent.

In order to establish an orderly process to develop land within the jurisdiction of the Town of Waynesville consistent with standard development practices and terminology it is the purpose of this Chapter to provide a clear and comprehensible development process that is fair and equitable to all interests including the petitioners, affected neighbors, Town staff and related agencies, and the Town Council.

15.2 General Provisions and Applicability.

The provisions of this Chapter shall be applicable to all development activity under the jurisdiction of the Town of Waynesville.

15.2.1 No Construction to Commence without Permit.

No land shall be used or occupied and no structures shall be erected, moved, extended, or enlarged, nor shall any excavation or filling of any lot for the construction of any building be initiated until the Administrator has issued an appropriate permit which will certify that the proposed work is in conformity with the provisions of this ordinance.

15.2.2 Fee Schedule.

The Town shall adopt as part of their annual budgeting process, a schedule of fees for application and processing as specified in this Ordinance.

15.2.3 Permit/Process Type.

Permit/ Process Type	Section	Permit/Process Type	Reviewing Agency	Public Notification (15.3)	Approving Agency	Appeal Process	Permit Period	Permit Extension
Certificate of LDS Compliance	15.6.1	Administrative	Admin.	None	Admin.	BOA	12 months	Re-submit
Temporary Use Permit	15.6.2	Administrative	Admin.	None	Admin.	BOA	See 4.6	n/a
Certificate of Occupancy	15.6.3	Administrative	Admin.	None	Admin.	BOA	n/a	n/a
Modification of Dimensional Standards	15.6.4	Administrative	Admin.	None	Admin.	BOA	n/a	n/a
Grading Permit	15.7.1	Administrative	Admin.	None	Admin.	BOA	12 months	Re-submit
Floodplain Development Permit	15.7.2	Administrative	Admin.	None	Admin.	BOA	12 months	Re-submit
Stormwater Permit	15.7.3	Administrative	Admin.	None	Admin.	BOA	12 months	Re-submit
Site Plan/Design Review (Minor)	15.8.1	Administrative	Admin.	None	Admin.	BOA	2 years	Up to 3 years max.*
Site Plan/Design Review (Major)	15.8.2	Administrative	Admin.	1,2,4	Planning Board	Superior Court	2 years	Up to 3 years max.*
Subdivision (Minor)	15.9.1	Administrative	Admin.	None	Admin.	Superior Court**	30 days to file plat	Re-submit
Subdivision (Major)	**See 15.9.2, 15.9.3, and 15.9.4**							
Subdivision (Major)- Preliminary Plat	15.9.3	Administrative	Admin.	1,2,4	Planning Board	Superior Court**	2 years to final plat	Up to 3 years max.*
Subdivision (Major)- Final Plat	15.9.4	Administrative	Admin.	None	Admin.	Superior Court**	30 days to file plat	Re-submit
Special Use Permit	15.10	Quasi-Judicial	Planning Board	1,2,3,5	Planning Board	Superior Court	2 years	Up to 3 years max.*

Designation of Historic Landmarks/Districts	15.11.1	Legislative	HPC	1,2,3	Town Council	Superior Court	n/a	n/a
Certificate of Appropriateness (Minor)	15.11.2	Administrative	Admin.	None	Admin.	HPC	12 months	Re-submit
Certificate of Appropriateness (Major)	15.11.3	Quasi-Judicial	Admin.	1,2,3,4	HPC	BOA	12 months	Re-submit
Appeal of Administrative Decision	15.12	Quasi-Judicial	BOA	1,3,4	BOA	Superior Court	30 days to Appeal	n/a
Variance	15.13	Quasi-Judicial	BOA	1,3,4	BOA	Superior Court	30 days to Appeal	n/a
Text Amendment	15.14	Legislative	Planning Board	1,2,3	Town Council	Superior Court	n/a	n/a
Map Amendment (Rezoning)	15.14	Legislative	Planning Board	1,2,3,4	Town Council	Superior Court	n/a	n/a
Conditional District	15.15	Legislative	Planning Board	1,2,5	Town Council	Superior Court	2 years	Up to 3 years max.*

* See Section 15.16.3

** *160D-1403(b)*

Admin—Administrator (14.1) / Town Council (14.2) / BOA—Board of Adjustment (14.4) / HPC—Historic Preservation Commission (14.5) / Superior Court of North Carolina

15.2.4 Completeness Review.

A. **Sufficiency to be Determined by Administrator:** All applications shall be sufficient for processing before the Administrator is required to review the application. An application shall be sufficient for processing when it contains all of the information necessary to decide whether or not the development as proposed will comply with all of the requirements of this ordinance.

B. **Application Information:** The presumption shall be that all of the information required in the application forms is necessary to satisfy the requirements of this section. However, it is recognized that each application is unique, and therefore more or less information may be required according to the needs of the particular case.

C. **Evidence of Authority:** The Director may require an applicant to present evidence of authority to submit the application.

D. **Application Deadline:** Applications sufficient for processing shall be submitted to the Administrator in accordance with the published calendar schedule. Schedules indicating submittal dates shall be developed each year and made available to the public.

(Ord. of 5-27-2014(2))

15.2.5 Administrative Modifications and Substantial Changes.

A. **General.** The Administrator can approve administrative minor modifications for conditional districts (160D-703(b)), special use permits (160D-705(c)), and administrative development approvals (160D-403(d)).

B. **Minor Modification:** A minor administrative modification is a non-substantial change to the approved plan that may include but is not limited to: relocation of a bus stop, moving landscaping around, reduction in the number of parking spaces, reduction in the number of units/lots, building elevation changes, increasing vegetative buffer or the number of trees, etc.

C. **Unique Property Attributes.** A minor modification may also be allowed to provide relief from a unique physical attribute of the property not known at the time of initial approval. The applicant will need to provide evidence of why relief is needed.

D. **Substantial Changes.** Any substantial change to a Master Plan or Plat (for major site plans and major subdivisions) as noted below shall be reviewed by the Planning Board. Any substantial change to a Conditional District as noted below shall be reviewed by the Planning Board and approved or denied by the Town Council as an amended Conditional District:

- An increase in impervious surface.
- A change in land use or development type beyond that permitted by the approved Master Plan or Plat.
- The introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access.
- Change in density: when there is an increase in the total number of residential dwelling units originally authorized by the approved Master Plan or Plat.
- An increase of the total floor area of a commercial or industrial classification by more than 10 percent beyond the total floor area last approved by Town Council.
- Any decrease in the setbacks greater than 10% from the originally approved Master Plan or Plat.

E. **Variance.** Minor and major modifications require the project to stay in compliance with the Land Development Standards and any other applicable laws. Some modifications may require a variance procedure as found in Section 15.13 Variances.

15.3 Public Notification.

The following procedures have been established for development applications/petitions that require notification of the public prior to consideration and/or approval.

15.3.1 Level 1—Sunshine List.

A notice of the pending application/meeting shall be posted in a prominent location in Town Hall and on the Town's web site and a notice of such meeting shall be mailed, e-mailed, or delivered to each person and media provider that has filed a written request for notice with the Town Clerk. This notice shall be posted and mailed, e-mailed, or delivered at least 48 hours before the time of the meeting. Notices shall be distributed by email. Non-media members of this list shall be charged an annual fee (as set in the fee schedule) to receive all notices by mail. Members of this distribution list must renew their participation in this distribution on an annual basis.

15.3.2 Level 2—General Notice in Newspaper.

A notice shall be published in a newspaper of general circulation in the town once a week for two (2) successive weeks. The first publication shall appear no less than ten (10) days or more than twenty-five (25) days prior to the date fixed for the public hearing. The notice shall include the time, place and date of the hearing/meeting and include a description of the property and the nature of the proposal. All Level 2 notices shall also include a Level 1 notice.

15.3.3 Level 3—Notification to Affected Property Owners.

The applicant and owners of all property affected by a pending action (e.g., new overlay district) shall be notified of the hearing/meeting by first class mail. Such notification shall be deposited in the mail at least 10 but not more than 25 days prior to the date to the meeting at which the matter is to be heard. In addition, a sign shall be prominently posted on the subject property(ies) or on an adjacent public street or highway right-of-way with a notice of the pending action and a phone number and email address to contact for additional information. Except for a town-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the owner of the parcel of land to which the amendment would apply, the applicant shall certify to the Town Council that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of public hearing. The applicant shall certify to the Town Council that proper notice has been provided in fact, and such certificate shall be deemed conclusive in the absence of fraud. (For Third Party Rezonings: If notice cannot with due diligence be achieved by personal delivery, registered or certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). This applies only to an application to request a zoning map amendment where the application is not made by the owner of the parcel of land to which the amendment would apply.)

15.3.4 Level 4—Notification to Adjacent Property Owners.

The applicant and owners of property within one hundred (100) feet on all sides of the subject property (not including street rights-of-way that are less than 100 feet in width) shall be notified of the hearing/meeting by first class mail. Such notification shall be deposited in the mail at least 10 but not more than 25 days prior to the date to the meeting at which the matter is to be heard.

15.3.5 Level 5—Notification to Property Owners in Close Proximity.

The applicant and owners of property within five hundred (500) feet on all sides of the subject property shall be notified of the hearing/meeting by first class mail. Such notification shall be deposited in the mail at least 10 but not more than 25 days prior to the date to the meeting at which the matter is to be heard.

15.3.6 Level 6—Full Community Notification.

The town may elect to either make a Level 3 notification or as an alternative elect to publish notice of the hearing/meeting provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first class mail.

15.3.7 Neighborhood Meeting.

A neighborhood meeting is mandatory for development projects of 8 or more lots/units or where required prior to any public hearing or review by a board or commission. This meeting will allow the applicant to explain the proposed project and to be informed of the concerns of the neighborhood. When an applicant is required to conduct a neighborhood meeting, a summary of the meeting in the form of meeting notes or

minutes along with a list and contact information for all attendees shall be submitted to the Planning Board for their review. (Ord. of 5-27-2014(2) ; Ord. No. O-01-15 , § 11, 1-27-2015)

15.4 Application Requirements.

The following general standards for various applications have been identified as a means to create a hierarchy of submissions for various permits and procedures. It is the expressed intent of this ordinance to limit the required information to only that data/information that is necessary to render an informed decision by the reviewing agency at a particular stage. In this manner, the town has determined that it is both inappropriate and unnecessary to require a full set of architectural or engineering drawings for review by the various review and decision-making boards unless the application is such that a specific level of detail is necessary (e.g., floodplain/stormwater variance). The Administrator shall determine the requirements of the building permits.

Permit/Process Type	Section	Environmental Survey (15.4.1)	Sketch Plan (15.4.2)	Master Plan (15.4.3)	Construction Documents (15.4.4)	Preliminary Plat (15.4.4)	As-Built Drawings (15.4.5)	Final Plat (15.4.6)	Building Elevations (15.4.7)
Certificate of LDS Compliance	15.6.1		X(a)						
Temporary Use Permit	15.6.2		X(a)						
Certificate of Occupancy	15.6.3	See Administrator							
Modification of Dimensional Standards	15.6.4		X						
Grading Permit	15.7.1	X(a)			X				
Floodplain Development Permit	15.7.2	X(a)			X		X		
Stormwater Permit	15.7.3	X(a)			X		X		
Site Plan/Design Review (Minor)	15.8.1	X(a)			X				X (a)
Site Plan/Design Review (Major)	15.8.2	X		X	X (a)				X (a)
Subdivision (Minor)	15.9.1							X	
Subdivision (Major)—Preliminary Plat	15.9.3	X				X			
Subdivision (Major)—Final Plat	15.9.4						X	X	
Special Use Permit	15.10	X(a)		X					X (a)
Designation of Historic Landmarks/Districts	15.11.1								
Certificate of Appropriateness (Minor)	15.11.2		X (a)						X (a)
Certificate of Appropriateness (Major)	15.11.3		X (a)						X (a)
Appeal of Administrative Decision	15.12	See Administrator							
Variance	15.13	See Administrator							
Text Amendment	15.14	See Administrator							
Map Amendment (Rezoning)	15.14	See Administrator							
Conditional District	15.15	X(a)		X					

X—Required
X(a)—As needed

15.4.1 Environmental Survey.

An environmental survey is intended to identify natural features, environmentally sensitive areas, forest stands, existing watercourses, and previously documented endangered species habitats, identification of existing trees, understory vegetation, wetlands, perennial streams, floodplains, and topographical features on a site prior to the advanced preparation of development plans. The survey enables the reasonable and practical planned preservation of existing and environmentally sensitive areas. It is the requirement that readily available spatial data, including GIS information, floodplain and floodway designation, wetlands delineation, and topography, be provided in addition to identified natural features.

Environmental Survey **must** include **Natural Resources Inventory,** which is:

A written or graphic inventory of natural resources at the site and surrounding area as it exists prior to the commencement of the project. This description must include a discussion of soil conditions and soil types, forest cover, geologic features, topography, delineated wetlands, perennial and intermittent streams, native vegetative areas on the site, boundaries of existing predominant vegetation, as well as the location and boundaries of other natural feature protection and conservation areas such as lakes, ponds, floodplains, stream buffers and other setbacks (e.g., drinking water well setbacks, septic setbacks, etc.). Particular attention should be paid to environmentally sensitive features that provide particular opportunities or constraints for development and stormwater management.

15.4.2 Sketch Plan.

The Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings, civic spaces and other features in relation to existing conditions based upon the size of the tract proposed for development. Sketch Plans shall be reviewed as binding documents for Certificates of Land Development Standards Compliance (Zoning Permits), but shall be used for non-binding review for all other development application processes in which a Sketch Plan is required. All plans shall be submitted at a scale not less than 1 inch = 50 feet, and in digital and paper format, unless otherwise authorized by the Administrator.

15.4.3 Master Plan Requirements.

The Master Plan for a minor or major site plan review is intended to provide a detailed two-dimensional drawing that illustrates all of the required site features including buildings, parking areas, streets locations, street sections, rights-of-way, property lines and setbacks, required or proposed watercourse buffers, site landscaping and lighting (in conceptual form), and all related development calculations (e.g., density, proposed building areas, number of parking spaces, estimate impervious surface) in sufficient detail to show compliance with this ordinance. Detailed engineering drawings such as subsurface utilities (e.g., water and sewer) and on-site stormwater facilities are not required for Master Plans. All plans shall be submitted at a scale not less than 1 inch = 50 feet, and in digital and paper format, unless otherwise authorized by the Administrator.

15.4.4 Construction Documents/Preliminary Plat.

Construction Documents: A full and complete set of engineered drawings is necessary for a building permit and construction. All streets, utilities, and stormwater, and other infrastructure systems shall be designed and constructed in accordance with the specifications of the Town's Public Services Department. Construction documents shall be submitted at a scale not less than 1 inch = 50 feet, unless otherwise authorized by the Administrator.

Preliminary Plat: The preliminary plat for a subdivision that shall be prepared by a registered surveyor or engineer and shall show the following:

1. The location of existing and platted property lines, streets, buildings, watercourses, railroads, transmission lines, sewers, bridges, culverts, and drainpipes, water mains, city limit lines, and any public utility easements.

2. Boundaries of tract shown with bearings, distances, and closures.
3. Wooded areas, wetlands, and any other physical conditions within the site.
4. Boundary of floodplain, floodway within the site as provided in the most current FIRM.
5. The location (layout) of any proposed streets, rights-of-way, pavement widths, and approximate grades, sidewalks, greenways, or trails within the subdivision.
6. The location (layout) of proposed utilities (sewer, water, gas, electricity), showing connections to existing systems or location plans for individual water supply, sewage disposal, storm drainage, location of proposed hydrants, and the like.
7. Proposed lot lines, lot and block number, approximate dimensions, and acreage for each lot.
8. Proposed location and acreage of civic space and open areas, if required.
9. Proposed location and acreage of designated stormwater management areas if required.
10. Proposed minimum building setback lines.
11. Title, date, north point, and graphic scale.
12. Name of owner, surveyor/engineer.
13. Total number of lots.
14. Sketch vicinity map showing relationship between subdivision and surrounding area.

A preliminary plat shall be submitted at a scale not less than 1 inch = 200 feet, unless otherwise authorized by the Administrator.

If a project falls under the Town of Waynesville Stormwater Ordinance, **the Stormwater Management System Concept Plan** is required. The Plan can be a written or graphic concept plan of the proposed post-development stormwater management system including: preliminary selection and location of proposed structural stormwater controls; low-impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of floodplain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of any proposed stream channel modifications, such as bridge or culvert crossings.

15.4.5 As-Built Drawings.

The "as built" plans shall show the final design specifications for all public infrastructure. The designer of the infrastructure shall certify, under seal, that the installed infrastructure is in compliance with the approved plans and designs and with the requirements of this ordinance. A final inspection and approval by the Administrator shall occur before the release of any performance securities.

15.4.6 Final Plat.

The final plat shall be prepared by a registered land surveyor, licensed to practice in the State of North Carolina and shall be drawn to a scale no less than 1 inch = 100 feet, and shall meet the requirements of the Haywood County Register of Deeds Office. The final plat shall constitute an accurate survey of the entire phase as shown on the approved preliminary plat and shall include all the relevant notes and certifications.

15.4.7 Building Elevations for Design Review.

In order to reasonably evaluate the building, it is necessary to submit scaled drawings of each elevation visible from a public street or civic space. These drawings should be in color and should accurately represent the building heights, floor levels, and building materials. In addition, the Administrator may require up to three drawings from different perspectives that will show how the building fits into the context of the block.

15.5 General Requirements for Evidentiary Hearings and Quasi-Judicial Decisions.

A quasi-judicial decision is a decision involving the finding of facts regarding a specific application of an ordinance and that requires the exercise of discretion when applying the standards of the ordinance. Quasi-judicial decisions include, but are not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. In accordance with G.S. 160D-1-2, -1402, decisions are quasi-judicial in nature if the ordinance authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the ordinance, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings of fact to be made by the decision-making board. As a result the following standard procedures shall be incorporated as appropriate.

15.5.1 Standards for Conduct of Evidentiary Hearings.

An evidentiary hearing is a hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by an ordinance.

A. **Contact with Decision-Making Board Members:** Contact with any members of a decision-making board prior to the public hearing by any individual regarding the matter is prohibited.

B. **All Participants to be Sworn In:** All participants in the public hearing shall be duly sworn in prior to the submission of any testimony by the Chair or Clerk to the Board/Commission.

C. **Competent Evidence Required:** All decisions shall be based on competent, material, and substantial evidence entered in as part of the record. The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) the evidence was admitted without objection, or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

   1. The use of property in a particular way would affect the value of other property.
   2. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.
   3. Matters about which only expert testimony would generally be admissible under the rules of evidence.

D. **Cross-Examination Permitted:** The cross-examination of witnesses submitting testimony shall be permitted upon request.

15.5.2 Standards for Decisions.

Each decision-making board under the provisions of this section shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

A. In violation of constitutional provisions, including those protecting procedural due process rights.

B. In excess of the statutory authority conferred upon the city or the authority conferred upon the decision-making board by ordinance.

C. Inconsistent with applicable procedures specified by statute or ordinance.

D. Affected by other error of law.

E. Unsupported by substantial competent evidence in view of the entire record.

F. Arbitrary or capricious.

15.5.3 Record of Decision.

A. The following shall become part of the official record of decision:

- Documents and exhibits submitted to the decision-making board.
- Meeting minutes.

B. **Transcript of Audio/Video of Meetings:** Any party may request, at their expense, a transcript of the proceedings from any recorded audio/video.

C. The Board shall determine contested facts and make its decision within a reasonable time. Every quasi-judicial decision shall be based on competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing and reflect the board's determination of contested facts and their application to the applicable standards. The written decision shall be signed by the Chair or other duly authorized member of the Board. A quasi-judicial decision is effective upon filing the written decision with the Clerk to the Board. The decision of the Board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision become effective. The Administrator shall certify that proper notice has been made.

(Ord. of 5-27-2014(2))

15.6 Administrative Permits.

15.6.1 Certificates of Land Development Standards (LDS) Compliance.

A certificate of land development standards compliance shall be required for the construction or development of any new use within the land development jurisdiction of the Town of Waynesville. In addition to new uses, a certificate of land development standards compliance shall be required for expansions of existing uses, changes of use, and any uses permitted with special conditions (Chapter 3).

A. **Process Type:** Administrative.

B. **Pre-Application Procedure:** No meeting is required but applicants are encouraged to call or visit the Administrator prior to requesting a Certificate of Land Development Standards Compliance to determine what information is required for the application.

C. **Required Application Information:** Sketch Plan (15.4.2) and any other relevant information to show compliance (may be waived by Administrator as appropriate).

D. **Determination of Conformity:** Once an application containing all needed elements is submitted, the Administrator shall review the application and approve or deny it based on compliance with the land development standards contained in this ordinance.

E. **Public Notification:** None required.

F. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.

G. **Permit Validity:** Upon the approval of the Certificate of Land Development Standards Compliance, the applicant shall have one (1) year to obtain a building permit or otherwise begin the permitted use. Failure to secure building permits for the permitted work within this time shall

render the compliance void. Upon issuance of a building permit, the certificate of land development standards compliance shall remain valid as long as a valid building permit exists for the project. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the certificate of land development standards compliance and any subsequent building permits.

H. **Permit Extension:** Renewal of an expired certificate shall require the same application procedure as the initial permit. No further development activity shall be performed until the new certificate is issued.

I. **Limitation on Administrative Discretion:** The Administrator has no discretion to modify any requirements found in Chapter 3.

15.6.2 Temporary Use Permit.

A Temporary Use Permit is required for uses permitted in accordance with Section 4.6 prior to the commencement of any use or activity.

A. **Process Types:** Administrative.

B. **Pre-Application Procedure:** No meeting is required but applicants are encouraged to call or visit the Administrator prior to requesting a Temporary Use Permit to determine what information is required for the application.

C. **Required Application Information:** Sketch Plan (15.4.2) and any other relevant information to show compliance (may be waived by Administrator as appropriate).

D. **Determination of Conformity:** Once an application containing all needed elements is submitted, the Administrator shall review the application and approve, approve it with conditions, or deny it based on compliance with the land development standards contained in this ordinance.

E. **Public Notification:** None required.

F. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.

G. **Permit Validity:** See Section 4.6.

H. **Permit Extension:** See Section 4.6.

15.6.3 Certificate of Occupancy.

Issuance of a certificate of occupancy shall be required prior to the occupancy or use of any new construction and re-occupancy or re-use of any renovation/rehabilitation in the Town of Waynesville. Certificates of occupancy insure that a completed development project has complied with all the applicable requirements of the North Carolina Building Code and all other applicable federal, state and local regulations. Certificates of occupancy must be signed by building inspections staff and the Administrator to certify compliance with applicable regulations.

A. **Process Type:** Administrative.

B. **Pre-Application Procedure:** Not required.

C. **Required Application Information:** None.

D. **Determination of Conformity:** Upon receipt of the request for a certificate of occupancy, the building official and Administrator shall inspect the project site for compliance with the approved site plan or subdivision plat and the applicable standards of this chapter and the North Carolina State Building Code. The applicant shall be notified of any deficiencies in the building(s) or site that prevents the issuance of the certificate of occupancy or the certificate shall be issued.

E. **Public Notification:** None required.

F. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.

G. **Permit Validity:** n/a.

H. **Permit Extension:** n/a.

15.6.4 Administrative Modification of Dimensional Standards.

In keeping with the purpose of these regulations to accomplish coordinated, balanced, and harmonious development in a manner which will best promote the health, safety, and general welfare while avoiding undue and unnecessary hardships, on approval by the Town Manager, the Administrator is authorized to approve certain requests for deviation from dimensional standards.

A. **Process Types:** Administrative.

B. **Conditions for Modification of Standards:** Requested for the deviation from required setbacks set forth in this Ordinance by up to 10 percent of the required setbacks or 24 inches, whichever is greater, may be considered upon determination that one or more of the following conditions exists:

1. There are site or structural conditions that preclude strict adherence to the setback requirements, such as, but not limited to: the lot does not meet the dimensional standards established for the zoning district in which it is located; the lot has topographic limitations that require placement of the structure into the required setback area; or the structure is physically in line with an existing, legally established wall or walls of a principal structure already within the minimum setback area.
2. The part of the proposed structure that would encroach into the minimum setback area is less than 50% of the width of the affected building facade(s), provided the part of the structure that would encroach into a front setback shall either be open (such as a porch or screen room) or not subject to occupancy (such as a chimney).
3. The part of the proposed structure that encroaches into the minimum setback area is necessitated by a life-safety code, flood hazard reduction, Americans with Disabilities Act standard, or other public safety code requirements.
4. The proposed structure will allow the preservation of significant existing vegetation.
5. A good faith error was made in the location of a building foundation not exceeding 1 foot due to either field construction or survey error.

C. **All Decisions to be in Writing:** Prior to rendering a decision, the Administrator shall notify the Town Manager in writing of any minor deviation for approval.

D. **Administrative Authority is Permissive Only:** The authority given to the Administrator to grant such modification shall be construed to be permissive and not mandatory and the Administrator may decline to make such modification. In the event this occurs, the applicant shall have the right to submit an application to the Board of Adjustment to grant a variance to these requirements in accordance with Section 15.12. Nothing in this section shall be construed as limiting the Administrator's duties and rights under this Chapter, or an applicant's right to appeal the decision of the Administrator to the Zoning Board of Adjustment.

15.7 Environmental Protection Permits.

15.7.1 Grading Permit (Sedimentation and Erosion Control).

To assure that land-disturbing activity undertaken in the Town of Waynesville does not result in accelerated erosion and sedimentation, no such land-disturbing activity shall take place until plans for controlling erosion associated with the activity have been reviewed and approved in accordance with the procedures set forth below.

A. **Process Type:** Administrative.

B. **Permit Required Before Any Land-Disturbing Activity:** No such land-disturbing activity shall take place until plans for controlling erosion associated with the activity have been reviewed and approved in accordance with the procedures set forth below.

C. **Pre-Application Procedure:** Prior to applying for a grading permit and submitting plans, the applicant is required to meet with the Administrator. The purpose of this meeting is to discuss the project, the proposed land development strategies, and to answer questions of the applicant regarding the application and schedules for review.

D. **Required Application Information:** Environmental Survey (15.4.1) and Construction Documents (15.4.4) (may be waived by Administrator as appropriate).

E. **Determination of Conformity:** Following submittal of the application and accompanying data, the information shall be reviewed by the Administrator for compliance with the requirements of this ordinance. Provided the application is complete, applications shall be reviewed and acted upon by the staff and notice given the applicant within thirty (30) days of receipt of the application.

F. **Public Notification:** None required.

G. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12 within fifteen (15) days after receipt of written notice of disapproval or conditional approval that is unsatisfactory to the applicant. Appeals from the decision of the Board of Adjustment may be taken to the North Carolina Sedimentation Control Commission as provided in NCGS 113A-61(c).

H. **Permit Validity:** When work under a grading permit is substantially commenced within one (1) year following the date of issuance of the grading permit, the grading permit shall be deemed expired.

I. **Permit Extension:** Renewal of an expired grading permit shall require the same application procedure as the initial permit. No further grading is to be performed until the new permit is issued.

15.7.2 Floodplain Development Permits.

No approval shall be granted for construction in an area designated as a flood hazard area by the by the flood insurance rate maps, as provided by the Federal Emergency Management Agency without the issuance of a floodplain development permit.

A. **Process Types:** Administrative.

B. **Permit Required Before Any Land-Disturbing Activity:** No such land-disturbing activity shall take place in areas designated as Special Flood Hazard areas until plans associated with the activity have been reviewed and approved in accordance with the procedures set forth below.

C. **Pre-Application Procedure:** Applicants are encouraged to meet with the Administrator prior to submitting an application for development in the designated flood hazard area. The purpose of this meeting is to discuss the project, the proposed design strategies, and to answer questions of the applicant regarding the application and schedules for review.

D. **Required Application Information:** Environmental Survey (15.4.1) and Construction Documents (15.4.4) (may be waived by Administrator as appropriate).

E. **Determination of Conformity:** Following submittal of the application and accompanying data, the information shall be reviewed by the Administrator for compliance with the requirements of this ordinance. Provided the application is complete, applications shall be reviewed and acted upon by the staff and notice given the applicant within thirty (30) days of receipt of the application.

F. **Public Notification:** None required.

G. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.

H. **Permit Validity:** Floodplain development permits shall be valid for one (1) year. Failure to initiate construction, or otherwise begin the permitted use, within this time period shall render the permit void.

I. **Permit Extension:** Renewal of an expired floodplain development permit shall require the same application procedure as the initial permit. No further development activity is to be performed until the new permit is issued.

15.7.3 Stormwater Permits.

To ensure that development in the town does not result in increased stormwater runoff which adversely impacts adjacent property, no development to which this ordinance applies, shall be commenced without the issuance of a Stormwater Permit, which is a part of the building permit, unless specified otherwise by the Administrator.

A. **Process Types:** Administrative.

B. **Pre-Application Procedure:** Applicants are encouraged to meet with the Administrator prior to submitting an application for development. This pre-submittal meeting should take place at the time of the preliminary plan of subdivision or other early step in the development process. The purpose of this meeting is to discuss the post-construction stormwater management measures necessary for the proposed project, as well as to discuss and assess constraints, opportunities and potential approaches to stormwater management designs before formal site design engineering is commenced. To accomplish this goal, the following information should be included in the concept plan, which should be submitted in advance of the meeting:

- Existing conditions/proposed site plans
- Natural resources inventory
- Stormwater management system concept plan

C. **Required Application Information:** Environmental Survey, which **must** include Natural Resources Inventory (15.4.1) and Construction Documents that **must** include Stormwater Management System Concept Plan (15.4.4) (may be waived by Administrator as appropriate).

D. **Determination of Conformity:** If the Stormwater Administrator finds that the application complies with the standards of this ordinance, the Administrator shall approve the application. The Administrator may impose conditions of approval as needed to ensure compliance with the

Stormwater Ordinance and this section. The conditions shall be included as part of the approval. If the Administrator finds that the application fails to comply with the standards of this section, the Administrator shall notify the applicant in writing, and shall indicate how the application fails to comply. The applicant shall have an opportunity to submit a revised application. A complete revised application shall be reviewed by the Administrator after its re-submittal and shall be approved, approved with conditions or disapproved. If a revised application is not re-submitted within thirty (30) calendar days from the date the applicant was notified, the application shall be considered withdrawn, and a new submittal for the same or substantially the same project shall be required.

E. **As-Built Plans and Final Approval:** Upon completion of a project and before a certificate of occupancy is 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 management facilities or practices after final construction is completed. The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this ordinance. A final inspection and approval by the Stormwater Administrator shall occur before the release of any performance securities.

F. **Public Notification:** None required.

G. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.

H. **Permit Validity:** When a stormwater permit is issued in association with a project requiring a building permit, the stormwater permit shall expire upon the expiration or revocation of the building permit. When a stormwater permit is issued for a project that does not require a building permit, the stormwater permit shall expire if work is not initiated within twelve (12) months of the date of issuance of the permit.

I. **Permit Extension:** Renewal of an expired stormwater permit shall require the same application procedure as the initial permit. No further development activity is to be performed until the new permit is issued.

15.8 Site Plans/Design Review.

15.8.1 Site Plan/Design Review (Minor).

A. **Applicability:**

- Single-family and duplexes
- Multi-Family Development with less than 8 units
- All Districts Except BD: Non-residential development or expansion less than 10,000 square feet in gross floor area
- BD District: All development less than 6,000 square feet in gross floor area (not in a Historic Overlay District)

B. **Process Types:** Administrative.

C. **Pre-Application Procedure:** No meeting is required but applicants are encouraged to call or visit the Administrator to determine what information is required for the application.

D. **Required Application Information:** Environmental Survey (15.4.1), Construction Documents (15.4.4) and Building Elevations for Design Review (15.4.6) (may be waived by Administrator as appropriate).

E. **Determination of Compliance:** Once an application containing all needed elements is submitted, the Administrator shall review the application and approve or deny it based on compliance with the land development standards contained in this ordinance.

F. **Public Notification:** None required.

G. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment in accordance with Section 15.12.

H. **Permit Validity:** Upon the approval of the Minor Site Plan, the applicant shall have two (2) years to obtain a building permit. Failure to secure building permits for the permitted work within this time shall render the compliance void. Any change to the approved plans that has not been authorized by the Administrator shall invalidate the Minor Site Plan and any subsequent building permits.

I. **Permit Extension:** Pursuant to 160D-108.1(e)(2), the Administrator may provide an extension for a period exceeding two (2) years but not exceeding five (5) years where warranted in light of all relevant circumstances, including, but not limited to: the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the Administrator and shall be made following the same application procedure as the initial approval. No further development activity shall be performed until the extension approval is issued.

15.8.2 Site Plan/Design Review (Major).

A. **Applicability:**

- All Districts Except BD: Non-residential development or expansion 10,000 square feet or greater in gross floor area
- BD District: All development 6,000 square feet or greater in gross floor area (not in a Historic Overlay District - already covered by 15.11)
- All mixed-use or non-residential projects in the RL, RM, NR, or UR Districts
- Multi-Family Development with 8 or more units

B. **Process Types:** Administrative.

C. **Pre-Application Procedure:** It is required that every applicant for a Major Site Plan meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. It is recommended that the applicant provide a sketch plan (15.4.2) to the Administrator prior to or at the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Site Plan.

D. **Required Application Information:** Environmental Survey (15.4.1), Master Plan (15.4.3) and Building Elevations (15.4.7) (may be waived by Administrator as appropriate) - Construction Documents (15.4.4) shall be submitted after Planning Board approval.

E. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Planning Board.

F. **Public Notification:** Level 1, 2 and 4.

G. **Neighborhood Meeting (15.3.7):** See section 15.3.7.

H. **Public Hearing:** The Planning Board shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.

I. **Decisions/Findings of Fact:** Following the public hearing the Planning Board may approve, deny, or approve with conditions the application for a Major Site Plan. No Major Site Plan shall be approved unless the Planning Board finds each of the following facts to be true:

1. The plan is consistent with the adopted plans and policies of the Town;
2. The plan complies with all applicable requirements of this ordinance; and
3. The plan has infrastructure as required by the ordinance to support the plan as proposed;

J. **Review Period by Planning Board:** Applications for Major Site Plans shall be acted upon within ninety (90) days after filing, otherwise the application shall be deemed approved and a permit shall be issued. An extension of time may be granted by mutual consent of the Planning Board and the applicant.

K. **Appeals:** An appeal from the decision of the Planning Board regarding a Major Site Plan request may be made by an aggrieved party and shall be made to the Superior Court of Haywood County in the nature of certiorari. Any such petition to the Superior Court shall be filed with the court no later than thirty (30) days after the applicant receives the written copy of the decision of the Planning Board.

L. **Permit Validity:** Upon the approval of the Major Site Plan, the applicant shall have two (2) years to obtain a building permit.

M. **Permit Extension:** Pursuant to 160D-108.1(e)(2), the Administrator may provide an extension for a period exceeding two (2) years but not exceeding five (5) years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the Administrator and shall be made following the same application procedure as the initial approval. No further development activity shall be performed until the new approval is issued.

15.9 Subdivisions.

15.9.1 Minor Subdivisions.

The minor subdivision review process is required for those divisions of land into seven (7) or fewer lots which do not require dedication of public utilities and/or public streets.

A. **Process Types:** Administrative.

B. **Pre-Application Procedure:** It is required that every applicant for a Minor Subdivision meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. It is recommended that the applicant provide a sketch plan (15.4.2) to the

Administrator prior to or at the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Minor Subdivision Plan.

C. **Required Application Information:** Final Plat (15.4.6) by a registered land surveyor.

D. **Determination of Compliance:** Once an application containing all needed elements is submitted, the Administrator shall review the application and approve or deny it based on compliance with the land development standards contained in this ordinance within thirty (30) working days of its submittal.

E. **Public Notification:** None required.

F. **Appeals:** Notwithstanding the provisions of section 15.12.2 below, when an applicant disagrees with the decision of the Administrator, the applicant may, within thirty (30) days after the receipt of the decision in writing, request that the application be forwarded to the Planning Board for determination at the next regularly scheduled meeting of the Board. The request must be made in writing and delivered to the Town Clerk. Appeals of the decision of the Planning Board shall be made to the Superior Court of Haywood County. Such an appeal must be made in writing within thirty (30) days of the receipt of the decision by the property owner.

G. **Permit Validity:** Upon approval of a plat for a minor subdivision, said plat shall be signed in the appropriate place by the Administrator and the owner(s). Minor subdivision plats that have been granted approval shall be recorded within thirty (30) days following approval or the approval becomes invalid. A plat for minor subdivision must be recorded in the office of the Register of Deeds of Haywood County. No lots shall be sold prior to approval by the town and the recording of the plat for the subdivision.

H. **Permit Extension:** None.

I. The minor subdivision process is not intended to permit the avoidance of improvements, infrastructure or other standards imposed for major subdivisions. Therefore, when an application for minor subdivision approval is made by an applicant who has previously obtained minor subdivision approval for an adjacent parcel of land in the previous two years, the application shall be treated as an application for, and conform to the requirements of, a major subdivision set forth below.

15.9.2 Major Subdivisions.

The major subdivision review process is required for those divisions of land into eight (8) or more lots or which require dedication of public utilities and/or public streets.

A. **Process Types:** Administrative.

B. **Pre-Application Procedure:** It is required that every applicant for a Major Subdivision meet with the Administrator in a conference prior to the submittal of an application. The purpose of this conference is to provide clarification and assistance in the preparation and submission of plats for approval. It is recommended that the applicant provide a sketch plan (15.4.2) and Environmental Survey (15.4.1) to the Administrator prior to or at the pre-application conference. The provision of a sketch plan will allow the Administrator an opportunity to review the proposal before the applicant expends funds on the preparation of a detailed Subdivision Plan.

C. **Required Application Information:** Environmental Survey (15.4.1) and Preliminary Plat.

D. **Preliminary Plat Approval:** The Planning Board shall review and either approve or deny the major subdivision applicant's preliminary plat in accordance with the procedure set forth in section

15.9.3 below. Engineering, including a compliant Stormwater Plan (12.5) and Construction Documents (15.4.4) shall be submitted after Planning Board review.

E. **Final Plat:** Once all infrastructure improvements are installed or financially guaranteed as required by Section 6.13 below, the Final Plat shall be presented for approval in accordance with Section 15.9.4 below.

15.9.3 Preliminary Plats for Major Subdivision.

A. **Process Types:** Administrative.

B. **Permit Required Before Any Land-Disturbing Activity:** No land-disturbing activity shall take place until a Preliminary Plat has been approved.

C. **Required Application Information:** Environmental Survey (15.4.1) and Preliminary Plat (15.4.4) prepared by a registered land surveyor, licensed landscape architect or licensed engineer.

D. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Planning Board.

E. **Public Notification:** None required.

F. **Neighborhood Meeting (15.3.7):** See section 15.3.7.

G. **Public Hearing:** The Planning Board shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.

H. **Decisions/Findings of Fact:** Following the public hearing the board may approve, deny or approve with conditions the application for a Major Subdivision. No Major Subdivision shall be approved unless the commission finds each of the following facts to be true:

1. The plan is consistent with the adopted plans and policies of the Town;

2. The plan complies with all applicable requirements of this ordinance; and

3. The plan has infrastructure as required by the ordinance to support the plan as proposed.

I. **Substantial Changes:** Substantial Changes from the approved preliminary plat shall require additional review by the Planning Board. Substantial changes shall include redesign of streets, increasing the number of lots, altering the design of more than twenty (20) percent of the lots, and/or reducing the number of lots by twenty (20) percent. All other changes shall be considered minor modifications subject to review by the Administrator.

J. **Appeals.** An appeal of the decision to approve or deny a Preliminary Plat or a substantial change to an approved Preliminary Plat may be made by an aggrieved party to the Superior Court of Haywood County no later than thirty (30) days after the applicant receives the written copy of the decision.

K. **Permit Validity:** Unless substantial work has commenced or a building permit has been obtained, approval of a preliminary plat expires two (2) years from the date such approval was granted.

L. **Permit Extension:** The applicant may apply for an extension of the approval period. The Planning Board may approve an extension of the time required to file the final plat up to a total of five (5) years from the date the initial application was approved where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other

considerations. No further development activity shall be performed until the new approval is issued.

15.9.4 Final Plat for Major Subdivision.

A. **Process Types:** Administrative.

B. **Improvements to Be Installed or Guaranteed:** All required infrastructure improvements shall be either installed or financially guaranteed in accordance with Section 6.12.

C. **As-Builts Required:** Upon completion of a project, and before a Final Plat shall be granted (unless financially guaranteed), the applicant shall certify that the completed project is in accordance with the approved plans and designs, and shall submit actual "as built" plans (15.4.6) for all public infrastructure after final construction is completed. No certificate of occupancy shall be granted without completed as-built plans.

D. **Required Application Information:** Final Plat (15.4.6) by a registered land surveyor.

E. **Determination of Conformity:** The Final Plat of a major subdivision shall be reviewed by the Administrator for compliance with the requirements of this chapter and for conformity with the approved Preliminary Plat. Provided the application is complete, applications shall be reviewed and acted upon by the staff and notice given the applicant within ten (10) days of receipt of the Final Plat. If the Administrator has not completed review in this time period, the applicant may seek final approval from the Town Council at their next meeting.

F. **Public Notification:** None required.

G. **Appeals:** An appeal of the decision to approve or deny a Final Plat or to approve or deny a substantial change to an approved Preliminary Plat may be made by an aggrieved party to the Superior Court of Haywood County no later than thirty (30) days after the applicant receives the written copy of the decision.

H. **Effect of Approval:** The approval of a Final Plat does not constitute acceptance for maintenance or other purposes of improvements in rights-of-way, such as utility lines, street paving, drainage facilities or sidewalks. Such improvements, when located within the corporate limits of the Town of Waynesville, may be accepted only by action of the town following inspection and approval. Land designated as public open space or a park on a plat shall be considered to be offered for dedication, but not accepted until the Town Council has by expressed action done so.

I. **Phasing:** Final plats for phased subdivisions shall be recorded in accordance with the schedule presented by the applicant during the Major Subdivision Plan/Preliminary Plat approval.

J. **Permit Validity:** Final plats for major subdivisions must be recorded within thirty (30) days following approval or the approval becomes invalid. No lots shall be sold prior to approval by the town and recording of the Final Plat for the subdivision.

K. **Permit Extension:** Re-submit.

15.9.5 Alternative Subdivision Designs.

- Cottage Development and Conservation Subdivision are alternative subdivision designs that must follow all applicable review processes and standards of the Waynesville Land Development Standards.

- They shall be exempt from minimum lot size requirements. Under no circumstances, however, shall the gross density of a conservation or cottage subdivision exceed the density of the district in which it is located.

- Setbacks for structures in a cottage or conservation subdivision shall be measured along the perimeter of the parent tract, and the setbacks between the structures shall be guided by the NC Building and Fire Codes.

A. Cottage Development.

Cottage - a detached single-family or two-family residence constructed to specific design standards and arranged around common open space as a part of a cottage development.

Cottage Development- a development of 3 or more structures (commercial or dwellings of single family or duplex design) arranged with common open space, often with shared parking, driveways, and other amenities. A cottage development may also include commercial and/or mixed-use units as a part of Planned Unit Development (PUD), as permitted by the zoning district.

The following standards apply:

1. The courtyard shall enhance the aesthetics and character of the development through the provision of consolidated and easily accessible open space.

2. Cottages may be built on individual lots or have a common form of ownership.

3. The term cottage **does not** include manufactured, tiny homes on wheels, campers, RVs, or other recreational vehicles. Manufactured home parks or RV parks are not considered cottage developments for the purpose of this ordinance. All cottages must be built to the NC Building Code standards.

4. Cottages are subject to all standards of the Town of Waynesville Land Development Standards based on the size of the development (stormwater, parking, landscaping, lights, civic space, etc.) and all standards of the zoning district (building height, density, etc.).

5. Minimum size of foundation, rooms, bathrooms, ceiling height, separation between buildings, and other building dimensions are subject to applicable NC Building and Fire Codes.

B. Conservation Subdivision Development.

Purpose The purpose and intent of this section is to provide developers with an option of additional development flexibility to build on smaller lots when additional open space set- asides are provided in order to protect existing topography, mountain ecology, and scenic views of the Town of Waynesville.

Authority: For the purpose of this ordinance, the Administrator means the Development Services Director or his/her designee.

Applicability The conservation subdivision standards shall apply as an option to all divisions of a parent parcel of 2 acres or more.

Development Standards:

1. **Conserved Areas and Native Vegetation.**

a) To qualify as a Conservation Subdivision under these provisions, at least 50% of the total acreage of the site shall be set aside as an open space or preserve. Impervious surfaces and areas designated for active recreation, such as tennis courts, volleyball courts, ball fields, golf courses, etc., must be excluded from the minimum 50%.

b) **Native plants existing on the pre-development shall be minimally disturbed,** and native plants occurring naturally on the site shall be also incorporated into post-construction landscaping of the common areas. Post-construction landscaping shall be consistent with the preserved areas. See requirements for Environmental Survey and Natural Resources Inventory in LDS Section 15.4.1.

2. Priority Conservation Areas:

a) The Special Flood Hazard Area (SHFA, including 100-year floodplain and floodway) and riparian zones of streams;
b) Existing landslide tracks;
c) Slopes over 30% in a contiguous area;
d) Wetlands that meet the definition used by the Army Corps of Engineers, pursuant to the Clean Water Act;
e) Archaeological and historic sites;
f) Boundaries of public lands;
g) Scenic views;
h) Populations of endangered or threatened species.

3. Ownership of Conservation Areas.

Open spaces shall be owned and managed by a land trust or homeowner's association, subject to compliance with the provisions of this section and the following requirements:

a) Unless maintenance is assigned by a conservation or land trust, the homeowner's association shall be responsible for maintenance and taxes on the open space within the Conservation Subdivision.

b) Ownership, restrictive covenants, and maintenance of the conservation areas must be submitted to the Administrator for approval, then referenced on the final plat and recorded in the Haywood County Register of Deeds after final approval of the subdivision. Maintenance of the conservation areas may include but is not limited to invasive weed cutting, removal of trash, debris, dead tree, plant materials and brush.

c) Certain lands designated as conservation areas, such as greenways and preserves, may be dedicated to the Town. If offered by the landowner, the Town Council shall determine whether that land is appropriate for dedication to the Town.

d) The homeowner's association shall not be dissolved, unless the conservation area is first deeded to another entity, such as land trust.

4. Conservation and Development Plan.

Prior to review of a conservation subdivision by the Planning Board, an applicant shall have a conservation and development plan for the land reviewed by the Administrator for completeness in accordance with the following steps**:**

Step 1- Site analysis map. The applicant shall prepare a site analysis map that analyzes existing conditions both on the land proposed for the development and land within 500 feet of the perimeter of the site and submit the site analysis map to the Administrator. It is the intent of this section that the information required to be presented in the site analysis map be produced from existing sources and maps to ensure the process is economical for the applicant.

Site analysis map shall include the following information as well as any additional information necessary for site assessment and requested by the Administrator:

- Topography (including steep slopes)
- Wetlands
- Predominant vegetation
- Soil types
- Streams

The developer may, although not required at this stage of the pre-application process, submit a full Environmental Survey as specified in section 15.4.1, as it will be required later in the process for a major subdivision.

Step 2- Site inspection. After receipt of the site analysis map, the Administrator shall schedule a site inspection of the land with the applicant and others that the Administrator deems necessary (such as emergency services and public services). The applicant or the applicant's representative shall attend the site inspection with Town staff members. The purpose of this site visit is to:

a) Familiarize the staff with the existing site conditions and features of the site;

b) Identify potential site development issues, including the best location for the development;

c) Provide an opportunity to discuss site development concepts, including the general layout of conservation areas and potential locations for proposed structures, utilities, streets, and other development features. Comments made by staff during the site inspection shall be interpreted as only being suggestive. No official decision on the conservation and development plan shall be made during the site inspection.

Step 3- Conservation and development plan. Based on the site analysis map and the information obtained during the site inspection, the applicant shall prepare a conservation and development plan. The conservation and development plan shall include the following:

a) The site analysis map;

b) A conservation and development areas map that depicts areas intended for conservation and areas intended for development; and

c) A preliminary site plan, showing proposed site development, including the approximate locations of utilities, streets, other development features, buffers (if applicable), and lot lines in the proposed development area;

d) Environmental Survey, which must include Natural Resources Inventory, as specified in section 15.4.1.

e) A preliminary stormwater analysis indicating pre-development and proposed post-development pervious to impervious ratios and stormwater management areas.

Step 4- Technical review by Town Staff.
Step 5- Review & decision by the Administrator. If a conservation and development plan application is approved for completeness by the Administrator, the applicant shall file an application for a subdivision approval.

15.10 Special Use Permits (SUP).

Special uses are land uses that are generally compatible with the land uses permitted by right in a zoning district, but which require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district. Applications requiring a Special Use Permit are noted in Section 2.4 and Chapter 3.

15.10.1 Application Procedures.

A. **Process Type:** Quasi-Judicial (See also 15.4).

B. **Pre-Application Meeting:** Every applicant for a Special Use Permit is required to meet with the Administrator in a pre-application conference prior to the submittal of a formal application. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.

C. **Required Application Information:** An application for a Special Use Permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Each application for a Special Use Permit shall contain, at a minimum, an Environmental Survey (15.4.1), Master Plan (15.4.3) and Building Elevations for Design Review (15.4.7) (may be waived by Administrator as appropriate). Other information necessary to show that the use or structure complies with the standards set forth in this ordinance shall also be provided.

D. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Planning Board.

15.10.2 Review Process.

A. **Public Notification:** Level 1, 2 and 5.

B. **Neighborhood Meeting (15.3.7):** See section 15.3.7.

C. **Public Hearing:** The Planning Board shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.

D. **Planning Board Review:** Following the public hearing the Planning Board may approve, deny or approve with conditions the application for a Special Use Permit within thirty-two (32) days of the date of the public hearing.

E. **Findings of Fact:** In addition to determining that the application meets all other requirements of this ordinances (no variances are permitted) the Planning Board must find the following:

1. The proposed special use conforms to the character of the neighborhood, considering the location, type and height of buildings or structures and the type and extent of landscaping on the site.

2. Adequate measures shall be taken to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads.

3. Adequate utilities (water, sewer, drainage, electric, etc.) are available for the proposed use.

4. The proposed use shall not be noxious or offensive by reason of vibration, noise, odor, dust, smoke or gas.

5. The establishment of the proposed use shall not impede the orderly development and improvement of surrounding property for uses permitted within the land development district.

6. The establishment, maintenance or operation of the proposed use shall not be detrimental to or endanger the public health, safety or general welfare.

F. **Additional Conditions:** The Planning Board may place conditions on the use as part of the approval to assure that mitigation measures are associated with the use. The conditions shall become part of the Special Use Permit approval and shall be included in the final site plan application.

15.10.3 Effect of Decisions.

A. **Appeals:** An appeal from the decision of the Planning Board regarding a Special Use Permit application may be made by an aggrieved party and shall be made to the Superior Court of Haywood County in the nature of certiorari. Any such petition to the Superior County shall be filed with the court no later than thirty (30) days after the applicant receives the written copy of the decision of the Planning Board.

B. **Permit Validity:** two (2) years to obtain building permit. Such permit shall remain valid as long as a valid building permit exists for the project.

C. **Permit Extension:** The applicant may apply for an extension of the approval period. The Planning Board may approve an extension of the time required to file the final plat up to a total of five (5) years from the date the initial application was approved where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. No further development activity shall be performed until the new approval is issued.

15.11 Historic Preservation.

15.11.1 Designation of Historic Landmarks/Historic Districts.

Upon complying with the required landmark designation procedures set forth herein, the Town Council may adopt and from time to time amend or repeal an ordinance designating one or more historic landmarks. No property shall be recommended for designation as a landmark unless it is deemed and found by the Historic Preservation Commission to be of special significance in terms of its historical, pre-historical, architectural or cultural importance, and to possess integrity of design, setting, workmanship, materials, feeling and/or association.

A. **Process Type:** Legislative.

B. **Inventory of Possible Landmarks:** As a guide for the identification and evaluation of landmarks, the Historic Preservation Commission shall maintain an inventory of properties of historical, architectural, pre-historical and cultural significance within the land development jurisdiction of the town.

C. **Creation of Ordinance for Designation:**

1. Once a potential landmark has been identified, the Administrator shall draft an ordinance for the designation of said property as an official historic landmark.

2. The ordinance shall describe the property designated in the ordinance, the name or names of the owner or owners of the property, those elements of the property that are integral to its historical, architectural or pre-historical value, including the land area of the property so designated and any other information the governing board deems necessary.

3. For each building, structure, site, area or object so designated as a landmark, the ordinance shall require that the waiting period set forth in this ordinance be observed prior to its demolition.

D. **Opportunity for Comment from the State of North Carolina:**

1. Once the ordinance is drafted, the Historic Preservation Commission shall make or cause to be made an investigation and report on the historic, architectural, pre-historical, educational or cultural significance of each building, structure, site, area or object

proposed for designation or acquisition. Such report shall be forwarded to the Division of Archives and History, North Carolina Department of Cultural Resources.

2. The Department of Cultural Resources, acting through the State Historic Preservation Officer, or his or her designee, shall either upon request of the Department or at the initiative of the commission be given an opportunity to review and comment upon the substance and effect of the designation of any landmark. All comments will be provided in writing. If the department does not submit its comments to the Historic Preservation Commission within thirty (30) days following receipt by the department of the report, the commission and the Town Council shall be relieved of any responsibility to consider such comments.

E. **Public Notification:** Level 1, 2 and 3.

F. **Neighborhood Meeting (15.3.7):** Optional.

G. **Public Hearing and Decision by the Town Council:** The Historic Preservation Commission and the Town Council shall hold a joint public hearing (or separate public hearings) on the proposed ordinance. Following the public hearing(s), the Town Council may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposed ordinance.

H. **Post-Adoption Procedures:**

1. Upon adoption of the ordinance the owners and occupants of each landmark shall be given written notification of such designation insofar as reasonable diligence permits.

2. One copy of the ordinance and all amendments thereto shall be filed by the Administrator in the office of the Register of Deeds of Haywood County.

3. Each landmark shall be indexed according to the name of the owner of the property in the grantor and grantee indexes in the Register of Deeds office and the commission shall pay a reasonable fee for filing and indexing.

4. A second copy of the ordinance and all amendments thereto shall be kept on file in the office of the Town Clerk and be made available for public inspection at any reasonable time.

5. A third copy of the ordinance and any amendments thereto shall be given to the building inspector for the Town.

6. The fact that a building, structure, site or area has been designated a landmark shall be clearly indicated on all tax maps maintained by Haywood County for such period as the designation remains in effect.

7. Upon the adoption of the landmark ordinance or any amendments thereto, it is the duty of the Historic Preservation Commission to give notice thereof to the tax supervisor of Haywood County.

8. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

9. A suitable sign for each property designated as a landmark may be placed on the property at the owner's consent; otherwise, a sign may be placed on a nearby right-of-way.

15.11.2 Certification of Appropriateness—Minor Works for Local Landmarks and Local Historic Districts.

A. **Applicability:** Minor works are those exterior changes that do not involve substantial alterations, additions or removals that could impair the integrity of the local landmark property and/or locally designated historic district as a whole.

B. **Process Type:** Administrative.

C. **Pre-Application Meeting:** No pre-application conference is required prior to applying for a certificate of appropriateness. Applicants are strongly encouraged to call or visit the Administrator prior to submitting an application to determine what information is required for the application.

D. **Required Application Information:** None.

E. **Determination of Conformity:** Once an application containing all needed elements is submitted, the Administrator shall review the application and approve or deny it based on compliance with the standards contained in this chapter and in any applicable Design Review Guidelines or other standards that may apply.

F. **Public Notification:** None required.

G. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Historic Preservation Commission 15.11.3 below.

H. **Reserved.**

I. **Permit Validity:** one (1) year.

J. **Permit Extension:** Re-submit.

15.11.3 Certification of Appropriateness- Major Works for Local Landmarks and Local Historic Districts.

A. **Process Type:** Quasi-Judicial (See also 15.4).

B. **Pre-Application Meeting:** It shall be the policy of the Historic Preservation Commission, in regard to applications involving new construction or extensive alterations and/or additions to existing structures, that a sub-committee of the commission shall be available to meet with persons involved in planned or pending applications in order to advise them informally, at an early stage in the development process. This advice shall be on the commission's Design Review Guidelines or other standards that may apply, the nature of the area where the proposed project will take place and other relevant factors. In giving such advice, the members of the sub-committee, collectively and individually, shall refrain from any indication of approval or disapproval. Advice or opinions given by any member of the sub-committee at such an informal meeting shall not be considered official or binding upon the commission.

C. **Required Application Information:** Each application for a certificate of appropriateness shall contain all information required on the application. Other information necessary to show that the use or structure complies with the standards set forth in this ordinance shall also be provided.

D. **Determination of Completeness:** The Administrator shall review the application to ensure that it is complete, prepare a report and recommendation on the application, and schedule the matter for a public hearing before the Historic Preservation Commission.

E. **Public Notification:** Level 1, 2 and 4.

F. **Public Hearing:** The Historic Preservation Commission shall hold a hearing on the proposal. The applicant and other property owners likely to be materially affected by the application shall be given an opportunity to be heard.

G. **Commission Review:** Following the public hearing the commission may approve, deny or approve with conditions the application for a Certificate of Appropriateness. No Certificate of Appropriateness shall be granted unless the commission finds that the application complies with the principles of the Design Review Guidelines adopted by the commission for review of changes and new construction.

H. **Findings of Fact:** The action on an application must be supported by specific findings of fact indicating the extent to which the application is or is not congruous with the special character of the historic district or landmark.

I. **Delay in Demolition of Local Landmarks and Buildings within Local Historic Districts:** An application for a certificate of appropriateness authorizing the demolition, removal or destruction of a designated local landmark or a building, structure or site within a local historic district may not be denied except as provided below:

1. The effective date of such a certificate may be delayed for up to three hundred and sixty-five (365) days from the date of approval. The period of delay should be reduced by the Historic Preservation Commission if it finds that the owner would suffer extreme hardship or be permanently deprived of all beneficial use or return from such property by virtue of the delay.

2. During the delay period the commission shall negotiate with the owner in an effort to find a means of preserving the building, structure or site.

3. If the Historic Preservation Commission finds that a building, structure or site has no special significance or value toward maintaining the character of a district, it shall waive all or part of such period of delay and authorize earlier demolition or removal.

4. If the Historic Preservation Commission has voted to recommend the designation of a landmark or the designation of an area as a historic district, and final designation has not been made by the Town Council, the demolition or destruction of any building, structure or site in the proposed district or of the designated landmark may be delayed by the commission for up to one hundred and eighty (180) days or until the Town Council takes final action on the designation, whichever occurs first.

5. The Town Council may enact an ordinance to prevent the demolition by neglect of any designated landmark or any structure or building within the established historic district. Such ordinance shall provide appropriate safeguards to protect property owners from undue hardship.

6. An application for a certificate of appropriateness authorizing the demolition of a building, structure or site determined by the State of North Carolina's Historic Preservation Officer as having statewide significance as defined in the criteria of the National Register of Historic Places may be denied except where the 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.

J. **Review Period by Commission:** Applications for Certificates of Appropriateness shall be acted upon within ninety (90) days after filing, otherwise the application shall be deemed approved and a certificate shall be issued. An extension of time may be granted by mutual consent of the commission and the applicant.

K. **Appeals:** Appeals of the decisions of the Administrator shall be heard by the Board of Adjustment (15.12).

L. **Permit Validity:** one (1) year

M. **Permit Extension:** Re-submit.

15.12 Appeals of Administrative Decisions.

15.12.1 Applicability.

This process is hereby established to provide an appeal process for parties aggrieved by any order, requirement, decision or determination, other than the decision to approve or deny a minor subdivision plat, made by an administrative officer charged with enforcing the provisions of this ordinance. For appeals of decisions regarding minor subdivision plats, see 15.9.1(F).

15.12.2 Filing Procedures.

A. **Process Types:** Quasi-Judicial.

B. **Filing Procedure:** An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the town. Such an appeal shall be made to the Town Clerk within thirty (30) days of the receipt of the written notice of decision from the town.

C. **Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Superior Court of Haywood County on notice to the administrative official from whom the appeal is taken with due cause shown. If enforcement proceedings are not stayed, the appellant may file with the Administrator a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within fifteen (15) days after such a request is filed. Notwithstanding the foregoing, appeals of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay the further review of an application for permits or permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of the permit applications or building permits affected by the issue being appealed.

D. **Required Application Information:** All information relevant to describing the applicant's appeal to the Board of Adjustment. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision. The Administrator shall provide a copy of this information to the appellant and to the owner of the property that is the subject of the appeal.

E. **Public Notification:** Level 1, 3, and 4 (160D-406).

15.12.3 Formal Review.

A. Upon receiving the application, the Board shall conduct a public hearing on the appeal. Any party may appear in person or be represented by an agent at the hearing.

B. After conducting the public hearing, the Board shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question.

C. The Board, in making its ruling, shall have all the powers of the Administrator from whom the appeal is taken, and may issue or direct the issuance of a permit.

D. The decision of the Board must be in writing and permanently filed in the minutes of that reviewing body as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the board, which must be delivered to parties of interest by certified mail.

E. The Administrator making the decision being appealed shall be present at the hearing as a witness.

F. If any party or the Town would be unduly prejudiced by the presentation of matters not presented in the notice of appeal, the Board shall continue the hearing.

15.12.4 Appeals.

A. Any appeal from a decision of the Board of Adjustment may be made by an aggrieved part and shall be made to the Superior Court of Haywood County in the nature of certiorari. Any such petition shall be filed no later than thirty (30) days after the applicant receives a written copy of the decision of the Board of Adjustment.

B. Any appeal from a decision relating to sedimentation and erosion control shall be made to the North Carolina Sedimentation Control Commission. Any such appeal shall be filed no later than fifteen (15) days after the applicant receives a written copy of the decision of the Board of Adjustment.

(Ord. of 5-27-2014(2))

15.13 Variances.

15.13.1 Purpose/Limitations.

A. **Purpose:** The variance process administered by the Board of Adjustment is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance.

B. **Financial Hardship Not Sufficient Ground for Variance:** It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this ordinance may impose on property owners in general or to increase the profitability of a proposed development.

C. **Use Variances Not Permitted:** In no event shall the Board of Adjustment grant a variance which would allow the establishment of a use which is not otherwise allowed in a land development district or which would change the land development district classification or the district boundary of the property in question.

D. **Authority Limited to this Ordinance/Conflicts with other Laws Prohibited:** In no event shall the Board of Adjustment grant a variance which would conflict with the North Carolina State Building Code or any other state code unless otherwise authorized by laws and regulations.

15.13.2 Filing Procedures.

A. **Process Types:** Quasi-Judicial (See also 15.4).

B. **Pre-Application Procedure:** Every applicant for a variance is strongly encouraged to meet with the planning department in a pre-application conference prior to the submittal of a request for a variance. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.

C. **Filing Procedure:** An application for a variance may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application.

D. **Required Application Information:** All information relevant to describing the applicant's request to the Board of Adjustment.

E. **Public Notification:** Level 1, 3, and 4 (160D-406).

F. **Determination of Completeness:** Staff shall review an application for a variance to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the board of adjustment. The Administrator shall prepare a staff report regarding the submitted variance application.

15.13.3 Formal Review.

A. **Action by the Board of Adjustment:**

1. Upon receipt of the request for a variance from the Administrator, the board of adjustment shall hold an evidentiary hearing on the request.

2. After conducting the hearing, the Board of Adjustment may: deny the application; conduct an additional public hearing on the application; or grant the application.

3. A decision by the Board of Adjustment shall be made within thirty-two (32) days of the date of the hearing.

4. Any approval or denial of the request shall be accompanied by written findings that the variance meets or does not meet each of the standards set forth in Section 15.13.3.B.1 below. Standards for floodplain development regulation variances are set forth in Section 15.13.3.B.2.

5. Any applicant to whom a variance from the floodplain development regulations is granted shall be given written notice. This notice shall specify the difference between the base flood elevation and the elevation to which the structure is to be built and contain a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions. Variances records shall be provided to the Federal Emergency Management Agency upon request.

B. **Standard of Review (per 160D-705(d)):**

1. **General Variance Requests:** The Board of Adjustment shall not grant a variance unless and until it makes all of the following findings:

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

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 a 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 the regulation, such that public safety is secured and substantial justice is achieved.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

2. **Floodplain Development Regulation Variance Requests:**

a. Variances from the standards set forth in this ordinance for flood damage prevention may be granted. The town must notify the North Carolina Secretary of Crime Control and Public Safety at least thirty (30) days prior to granting the variance.

b. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result or when the variance will make the structure in violation of other federal, state or local laws.

c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

d. Variances shall only be issued upon: a showing of good and sufficient cause; a determination that failure to grant the variance would result in exceptional hardship; and, a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing laws or ordinances.

e. In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter and:

i. The danger that material may be swept onto other lands to the injury of others.

ii. The danger to life and property due to flooding or erosion damage.

iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

iv. The importance of the services provided by the proposed facility to the community.

v. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

vi. The compatibility of the proposed use with existing and anticipated development.

vii. The relationship of the proposed use to the land development plan and flood damage prevention program for that area.

viii. The safety of access to the property in times of flood for ordinary and emergency vehicles.

ix. 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.

x. 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.

3. **Additional Conditions:**

a. In granting any variance, the Board of Adjustment may attach such conditions to the approval as it deems necessary and appropriate to satisfy the purposes and objectives of this ordinance. The board may also attach conditions in order to reduce or minimize any injurious effect of such variance upon other property in the neighborhood and to ensure compliance with other terms of this chapter.

15.13.4 Appeals.

An appeal from the decision of the Board of Adjustment regarding a variance request may be made by an aggrieved party and shall be made to the Superior Court of Haywood County in the nature of certiorari. Any such petition to the Superior County shall be filed with the court no later than thirty (30) days after the applicant receives the written copy of the decision of the Board of Adjustment.

(Ord. of 5-27-2014(2))

15.14 Map and Text Amendments.

The Town Council may from time to time amend any part of the text of this ordinance or amend the Land Development Map of the town.

15.14.1 Application Procedures.

A. **Process Types:** Legislative.

B. **Applicants:** Map or text amendments may be submitted by any of the following:

- The Town Council.
- The Planning Board.
- The Board of Adjustment.
- The Planning Department.
- Any owner of property within the land use jurisdiction of the town.

C. **Pre-Application Procedure:** Before filing a petition of an amendment, an applicant (if an owner requesting a map amendment) shall meet with the Administrator to discuss the proposed amendment or request and to become more familiar with the applicable requirements and approval procedures of the town.

D. **Content of Application:** A petition for an amendment to the town's official land development map or text shall be filed on a form provided by the Administrator. Such a petition shall contain all the information required on the form and must be determined to be complete by the Administrator prior to advancing it through the review process.

E. **Determination of Completeness:** Staff shall review an application for amendment to determine if it is complete. If an application is complete, the Administrator shall schedule the matter for consideration at a meeting of the Planning Board. The Administrator shall prepare a staff report and recommendation on the matter.

15.14.2 Review By Planning Board.

A. **Public Notification (Prior to Planning Board):** Level 1, 2, 3 and 4.

B. **Neighborhood Meeting (15.3.7):** Optional.

C. **Additional Public Notification for Large Scale Amendments:** If the land development map amendment directly affects more than fifty (50) properties, owned by at least fifty (50) different property owners the Town may elect to utilize a Level 6 notification. When this occurs, the town may use the expanded published notice provisions found in the North Carolina General Statutes at Section 160D-601 and 160D-602.

D. **Review by Planning Board:** The Planning Board shall conduct a public hearing and receive public input on the proposed amendment and shall make recommendations to the Town Council regarding whether to approve or deny each proposed amendment within sixty-four (64) days of its first consideration on the matter.

E. **Review by Town Council:** The Town Council shall conduct a public hearing and receive public input on the proposed amendment within a reasonable time following the public hearing before the Planning Board. If the Planning Board makes a negative recommendation, the petitioner may, within thirty (30) days after written notification of the Planning Board's decision and no less than twenty-four (24) hours prior to the public hearing scheduled before the Town Council, request a continuance of the Town Council hearing to revise the application to address matters raised by the Planning Board.

15.14.3 Public Comment.

Zoning regulations may from time to time be amended, supplemented, changed, modified, or repealed. If any resident or property owner in the local government submits a written statement regarding a proposed amendment, modification, or repeal to a zoning regulation, including a text or map amendment that has been properly initiated as provided in G.S. 160D-601, to the clerk to the board at least two business days prior to the proposed vote on such change, the clerk to the board shall deliver such written statement to the governing board. If the proposed change is the subject of a quasi-judicial proceeding under G.S. 160D-705 or any other statute, the clerk shall provide only the names and addresses of the individuals providing written comment, and the provision of such names and addresses to all members of the board shall not disqualify any member of the board from voting (160D-603).

15.14.4 Consideration by Town Council.

A. **Public Notification (Prior to Planning Board):** Level 1, 2, 3 and 4.

B. **Additional Public Notification for Large Scale Amendments:** If the land development map amendment directly affects more than fifty (50) properties, owned by at least fifty (50) different property owners the Town may elect to utilize a Level 6 notification. When this occurs, the town may use the expanded published notice provisions found in the North Carolina General Statutes at Section 160D-601.

C. **Consideration by the Town Council:** Following receipt of a recommendation or appeal of a proposed amendment, the Town Council shall conduct a public hearing on the matter. Upon reviewing all of the pertinent information, the Town Council may:

1. Adopt the proposed amendment.
2. Adopt the proposed amendment with modifications.
3. Reject the proposed amendment.
4. Refer the proposed amendment back to the Planning Board for further consideration.

15.14.5 Plan Consistency.

In accordance with G.S. 160D-604(d); 160D-605(a); 160D-701, all such amendments shall be made in accordance with the Comprehensive Land Use Plan and any other officially adopted applicable plan. The Planning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. Prior to adopting or rejecting any zoning amendment, the Town Council shall adopt a statement describing whether its action is consistent with the adopted comprehensive plan and explaining why the Town Council considers the action taken to be reasonable and in the public interest.

15.14.6 Waiting Period for Subsequent Applications.

A. When an application for an amendment has been approved or denied by the Town Council, no application shall be considered on the same issue within the next twelve (12) months after approval or denial.

B. This waiting period may be waived by the Town Council (three-fourths vote required) if it determines that there have been substantial changes in conditions or circumstances which may relate to the request.

15.15 Conditional Districts (CD).

Conditional Districts (Section 2.7) are districts with conditions voluntarily added by the applicant and approved in a legislative procedure by the Town Council in accordance with G.S. 160D. Conditional Districts provide for orderly and flexible development under the general policies of this Ordinance without the constraints of some of the prescribed standards guiding by-right development. This Conditional District may be used in any district but is not intended to relieve hardships that would otherwise be handled using a variance procedure.

15.15.1 Application Procedures.

A. **Applicant and Property:** Conditional District classification shall only be considered upon the request of the owners and/or their representatives of all the property to be included. A CD shall consist of land under unified control which may be planned and developed as a single development or as an approved programmed series of development phases by multiple developers. "Unified control" means that all land to be included within a CD shall be owned or otherwise under the legal control of the person or legal entity which has applied for a Conditional District. Such person or entity shall be legally capable of providing a commitment to the town that the CD development will comply with all documents, plans, standards and conditions ultimately approved by the town.

B. **Standards of District to be Met:** Within an approved Conditional District, no use shall be permitted except pursuant to the conditions imposed by the applicant on the Conditional District in the approval of the rezoning. The Town Council may impose additional reasonable and appropriate conditions or safeguards to serve the purpose and intent of this Section, and to preserve public welfare, and justice.

C. **Content of Application:** A Conditional District shall consist of the Environmental Survey (15.4.1) and Master Plan (15.4.3); as well as any other plans, drawings, renderings, elevations, maps and

documents specifically included as development documents for approval by the Town Council. The Master Plan, as a site specific Conditional Zoning Plan, is itself a condition of the Conditional District rezoning. The Master Plan shall, at a minimum consist of the following:

1. The overall boundary and area of the district, including underlying zoning districts;
2. The general location, orientation and size of principal structures and associated parking areas; landscape and buffer areas; open space areas; the location, size and general treatment of environmentally sensitive areas; the general location and size of existing and proposed water mains and sewer trunk lines required to service the development; and general traffic routes (external and internal) to and from the development with major access points identified;
3. Tabular data, including the range and scope of proposed land uses, proposed densities, floor area ratios or impervious surface ratios as applicable to development type; and land areas devoted to each type of general land use and phase of development;
4. Full list of proposed uses consistent in character with the underlying zoning district. Such use classifications may be selected from any of the uses, whether permitted, by right or conditional, allowed in the general zoning district upon which the Conditional District is based. Uses not otherwise permitted within the general zoning district shall not be permitted within the Conditional District;
5. A proposed development schedule if the project is to be phased.

15.15.2 Formal Review.

A. **Procedure:** The procedure for approval shall follow the procedure outlined in Section 15.14, Text and Map Amendments (Rezonings).

B. **Reviewing Agency:** The Planning Board shall review the Conditional District application and shall make a recommendation relevant to the following: Uses proposed, compatibility with surrounding property, area impacts and adequate facilities, infrastructure, etc., building and site design, immediate context and compatibility, etc.

C. **Decisions:** Decisions by the Town Council shall be by majority vote.

D. **Fair and Reasonable Conditions:** The provisions of the CD Master Plan shall replace all conflicting development regulations set forth in this Ordinance which would otherwise apply to the development site. The Planning Board may recommend and the Town Council (with mutual approval of the applicant) may attach reasonable and appropriate conditions including, but not limited to, the location, nature, hours of operation, and extent of the proposed use(s). Conditions and site-specific standards shall be limited to those that address conformance of the development and use of the site to this Ordinance and officially adopted plans and those standards and conditions that address the impacts reasonably expected to be generated by the development and use of the site. The applicant will have a reasonable opportunity to consider and respond to any conditions and site-specific standards proposed by either the Planning Board or the Town Council prior to final action. In accordance with G.S. 160D.

E. **Additional Review:** Site Plans and Subdivisions that implement approved CD Master Plans shall be approved by the Administrator and are not subject to the procedures of Section 15.8.2 or 15.9.2.

15.15.3 Effect of Approval/Changes.

A. For modifications to an approved Master Plan see Section 15.2.5

B. **Rescission of Conditional Districts:** The Applicant shall secure a valid building or construction permit(s) within two (2) years from date of approval of the Conditional District unless otherwise specified. If such project is not complete or a valid building or construction permit is not in place at the end of the two (2) year period, the Administrator shall notify the applicant of either such finding. Within 60 calendar days of notification, the Administrator shall make a recommendation concerning the rescission of the Conditional District to the Town Council. The Town Council may then rescind the Conditional District, or extend the life of the Conditional District for a specified period of time. The rescission of a Conditional District shall follow the same procedure as was needed for approval.

15.16 Permit Choice and Vested Rights.

15.16.1 Permit Choice.

- If an applicant submits a complete application for a development permit or approval and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose whether the application will be judged under the previously existing or modified rule (160D-108(b)).

- When a development requires the issuance of multiple permits, the applicant may, for a period of up to 18 months, choose for each permit whether to proceed under the rule that existed at the time of application for the initial permit or under a modified rule.

- For the purposes of this subsection, an erosion and sedimentation control permit or a sign permit do not count as an initial application for a development permit.

15.16.2 Vested Rights: Generally.

A. Pursuant to NC G.S. 160D-108, a zoning vested right is the right to undertake and complete the development and use of property as it was approved despite a subsequent change in applicable regulation. If the development regulation changes after the application has been approved, the project may continue under the old rule as initially approved.

B. A statutory vested right is established when:

1. A site-specific vesting plan is approved; or
2. A final plat is approved for the initial phase of a multi-phase development; or
3. A development agreement is approved pursuant to NC G.S. Chapter 160D, Article 10; or
4. When a development permit has been issued for all other types of development.

15.16.3 Vested Right Terms.

A. Duration:

Type of Permit/Right	Term
Building Permit	6 months
Development Approval	12 months
Site-Specific Vesting Plan	2-5 years
Multi-Phase Development	7 years from first site plan approval
Development agreement	Per agreement negotiated pursuant to NCGS 160D, Article 10
Development discontinuation	2 years

A vested right for a site-specific vesting plan remains vested for a period of 2 years from the date of the first development approval or permit issued for the site. Pursuant to 160D-108.1(e)(2), the Administrator may provide an extension for a period exceeding two (2) years but not exceeding five (5) years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the Administrator and shall be made following the same application procedure as the initial approval.

B. A development permit or approval expires and the vested rights terminate at the time specified in subsection A, unless the work authorized by the permit has substantially commenced. For the purpose of this section, the **substantial commencement** of work shall be determined by the Administrator based on any of the following:

1. The development has received and maintained a valid erosion and sedimentation control permit and conducted grading activity on a continuous basis that has not been discontinued for longer than 30 days; or
2. The development has created substantial on-site infrastructure; or
3. The development has received and maintained a valid building permit.

C. Pursuant to NC G.S. 160D-108, even if work has substantially commenced, a development approval still expires if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months.

15.16.4 Definitions:

For the purpose of this section, the following definitions apply:

A. Development- as defined in Section 17.4 of this ordinance

B. Development permit- an administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including any of the following:

1. Zoning permits.
2. Site plan approvals.
3. Special use permits.
4. Variances.
5. Certificates of appropriateness.
6. Plat approvals.
7. Development agreements.
8. Building permits.
9. Subdivision of land.
10. State agency permits for development.
11. Driveway permits.
12. Erosion and sedimentation control permits (NC G.S. 143-755(e)(1)).

C. Multi-phase development- a development containing 25 acres or more that is both of the following:

1. Submitted for development permit approval to occur in more than one phase
2. Subject to a master development plan with committed elements showing the type and intensity of use of each phase (NC G.S. 160D-108(j)).

D. Site-specific vesting plans- for the purposes of this chapter, the following types of development approvals are site-specific vested plans:

1. Any development for which a special use permit is required;
2. Major subdivisions;
3. Major and minor site plans;
4. Conditional zoning.

15.16.5. Relevant provisions:

A. Run with the Property: A zoning vested right is not a personal right but shall attach to and run with the applicable property. All successors to the original landowner may exercise such right under the same conditions and for the same time that the original applicant could have exercised such right.

B. Town May Terminate Vested Rights Early: The town may terminate the zoning vested rights upon payment to the affected landowner of compensation for all costs, expenses and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of all financing and all architectural, legal and other fees incurred after approval by the town.

C. Not Exclusive: Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this chapter.

D. Hazard: The town may terminate the zoning vested right if it determines after a public hearing that natural or man-made hazards are on or in the immediate vicinity of the property, and if not corrected, these hazards would pose a serious threat to the public health, safety, and welfare.

E. State or Federal Regulation Not Bound by Vested Right: The zoning vested right may be terminated upon the enactment or promulgation of a state or federal law or regulation that precludes development as

contemplated in the site-specific vesting plan. In such a case the Town Council may, by ordinance, after notice and a hearing, modify the affected provisions upon a finding that the change in state or federal law has a fundamental effect on the plan.

THIS PAGE INTENTIONALLY LEFT BLANK

CHAPTER 16 - VIOLATIONS AND PENALTIES

16.1 Complaints Regarding Violations.

16.1.1 Complaints Regarding Violations.

Whenever a violation of this ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Any written complaint stating fully the cause and basis of the complaint shall be filed with the Administrator who shall properly record such complaint, investigate in a timely manner, and take appropriate action as provided by this ordinance.

A. Unless specifically set forth otherwise in this ordinance, the Administrator is hereby authorized to enforce the provisions of this ordinance.

B. The Administrator may enter any building, structure or premises as provided by law, to perform any duty imposed upon them by this ordinance.

16.1.2 Notice of Violation; Opportunity to Cure.

A. Whenever the Administrator has reasonable cause to believe that a person is violating any of the provisions of this ordinance or any plan, order, or condition issued pursuant to this chapter, that official shall immediately notify each of the following, as applicable:

1. the holder of any development approval for the property;

2. the landowner; and

3. the person undertaking the work or activity that is the cause of the violation.

B. The notice of violation shall be delivered by personal delivery, electronic delivery, or first-class mail. The notice of violation may also be posted on the property.

C. If the violator cannot be ascertained, then the notice of violation shall be sent to the record owner of the land on which the violation occurs.

D. The notice of violation shall include an opportunity to cure the violation within a prescribed period of time.

E. Upon receipt of a written request from the alleged violator or the property owner for an extension of time to cure or correct the violation, the town official charged with the duty of enforcing the regulations being violated may grant a single extension of time, not to exceed a period of thirty (30) days, in which the alleged violator may cure or correct the violation before the town pursues penalties or other relief.

16.1.3 Summary Removal of Signs.

A. Pursuant to GS § 160A-193, the Administrator shall have the authority to summarily remove, abate, or remedy a sign or sign structure which the building inspector has determined to be dangerous or prejudicial to the public health or safety.

B. The expense of the action shall be paid by the sign owner or if the sign owner cannot be ascertained, by the property owner, and if not paid, there shall be a lien placed upon the land or premises where the nuisance arose, and it shall be collected as unpaid taxes.

C. The Administrator shall have the authority to remove summarily any signs or sign structures prohibited under Section 11.8.

16.2 Penalties for Violation and Enforcement Mechanisms.

16.2.1 Liabilities for Violations.

Pursuant to GS § 160A-175, any person who erects, constructs, reconstructs, alters, repairs, converts, or maintains any building, structure, sign or sign structure or develops, grades or otherwise alters property in violation of this ordinance, and any person who uses any building, structure, sign or sign structure or land in violation of this ordinance shall be subject to civil and/or criminal penalties.

16.2.2 Civil Penalties.

A. General: Violations of this ordinance, except violations of Chapter 12 as noted below, shall subject the offender to a civil penalty in the amount of $200.00 per day for each day the violation continues, to be recovered by the town in a civil action in the nature of debt if the offender does not pay the penalty within the prescribed period of time after he or she has been cited for the violation.

B. Grading and Filling Activities.

1. Any person who violates any of the provisions of Chapter 12 of this ordinance and/or who initiates land-disturbing activity for which an erosion control plan is required except in accordance with the terms, conditions and provisions of an approved plan, shall be subject to a civil penalty of not more than $500.00 except as otherwise set forth below.

2. Each day of a continuing violation shall constitute a separate violation.

3. The amount of penalty shall be determined by the Town Council. In determining the amount of the penalty, the board shall consider the degree and extent of harm caused by the violation and the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully and the prior record of the violator in compliance or failing to comply with grading and filling control standards.

4. Any person who fails to submit an erosion control plan for approval in accordance with Chapter 12 of this ordinance shall be subject to a single, noncontinuing civil penalty of not more than $1,000.00.

5. Anyone who violates a stop work order regarding grading and filling control shall be subject to a civil penalty of not more than $5,000.00.

6. Any civil penalty assessed against a person who violates any of the provisions of Chapter 12 of this ordinance shall be recovered by the town in a civil action in the nature of debt, to be brought in Haywood County Superior Court, if the offender does not pay the penalty within the prescribed period of time after he or she has been cited for the violation.

C. Enforcement and Violations of the Stormwater Ordinance.

The following remedies and penalties provided for violations of the Chapter 12.5- Stormwater Ordinance, shall be cumulative and in addition to any other remedy provided by law, Town Ordinance, and may be exercised in any order.

1. **Authority to enforce.** The provisions of the Stormwater Ordinance shall be enforced by the Stormwater Administrator, his or her designee, or any authorized agent of the Town. Whenever this section refers to the Stormwater Administrator, it includes his or her designee as well as any authorized agent of the Town.

2. **Violation unlawful.** Any failure to comply with applicable requirements, prohibitions, standards, or limitations imposed by the Stormwater Ordinance, or the terms or conditions of any permit,

maintenance agreement, or other development or redevelopment approval or authorization granted pursuant to this ordinance, is unlawful and shall constitute a violation of this ordinance and is subject to a civil penalty of not more than $500 per day. Each day that a violation continues shall constitute a separate and distinct violation or offense.

3. **Responsible persons/entities.** Any person who erects, constructs, reconstructs, alters (whether actively or passively), or fails to erect, construct, reconstruct, alter, repair, or maintain any structure, BMP, practice, or condition in violation of the ordinance shall be subject to the remedies, penalties, and/or enforcement actions in accordance with this section. Persons subject to the remedies and penalties set forth herein may include any architect, engineer, builder, contractor, developer, agency, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that results in or constitutes a violation of this ordinance, or fails to take an appropriate action, so that a violation of this ordinance results or persists; or an owner, any tenant or occupant, or any other person, who has control over, or responsibility for, the use or development of the property on which the violation occurs.

   For the purposes of this article, responsible person(s) shall include but not be limited to: Person maintaining condition resulting in or constituting a violation. An architect, engineer, builder, contractor, developer, agency, the owner of the land on which a violation occurs, any tenant or occupant of the property, any person responsible for stormwater controls pursuant to a private or public document, or any other person who participates in, assists, directs, creates, causes, or maintains a condition that constitutes a violation of this ordinance, or fails to take an appropriate action, so that a violation of this ordinance results or persists.

4. **Notice of Violation and Order to Correct.** When the Stormwater Administrator finds that any building, structure, or land is in violation of the ordinance, the Stormwater Administrator shall notify, in writing, the property owner or other person violating the ordinance. The notification shall indicate the nature of the violation, contain the address or other description of the site upon which the violation is occurring, order the necessary action to abate the violation, and give a deadline for correcting the violation.

   The Stormwater Administrator may deliver the notice of violation and correction order personally, by the law enforcement, or by certified or registered mail, return receipt requested.

   A person who receives a notice of violation and correction order, or the owner of the land on which the violation occurs, may submit to the Stormwater Administrator a written request for an extension of time for correction of the violation.

5. **Withholding of Certificate of Occupancy.** The Stormwater Administrator or other authorized agent may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site and served by the stormwater practices in question until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.

6. **Disapproval of subsequent permits and development approval.** As long as a violation of the ordinance continues and remains uncorrected, the Stormwater Administrator or other authorized agent may withhold, and the approving body may disapprove, any request for permit or development approval or authorization provided for by this ordinance or the zoning, and/or subdivision regulations, as appropriate for the land on which the violation occurs.

7. **Injunction, abatements, etc.** The stormwater administrator may institute an action in a court of competent jurisdiction for a mandatory or prohibitory injunction and order of abatement to correct a violation of the ordinance. Any person violating the ordinance shall be subject to the full range of equitable remedies provided in the General Statutes or at common law.

8. **Correction as public health nuisance, costs as lien, etc.:** If the violation is deemed dangerous to the public health or public safety and is within the geographic limits prescribed by G.S. 160D, the Stormwater Administrator may cause the action to be corrected and the costs to be assessed as a lien against the property.

16.2.3 Injunctive or Other Relief.

A. In addition to, or in lieu of, the other remedies set forth in this chapter, the Administrator, in the event of a violation of this ordinance, may request that the town attorney institute in a court of competent jurisdiction, an injunctive action, mandamus action, or other appropriate proceeding to prevent the completion or occupation of such building or structure, or use of land.

B. Upon determining that an alleged violation is occurring or is threatened, a court hearing an appeal for relief, shall enter such orders and/or judgments as are necessary to abate or prevent the violation.

C. The institution of an action for injunctive or other relief under this sub-section shall not relieve any party to such proceeding form any civil or criminal penalty prescribed by this chapter for violations of this ordinance.

16.2.4 Equitable Remedy.

In addition to the civil penalties set out above, any provision of this ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. The Administrator may apply to a judicial court of law for any appropriate equitable remedy to enforce the provisions of this ordinance. It is not a defense to the Administrator's application for equitable relief that there are other remedies provided under general law or this ordinance.

16.2.5 Order of Abatement.

In addition to an injunction, the Administrator may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:

A. Buildings or other structures on the property be closed, demolished, or removed;

B. Fixtures, furniture or other moveable property be moved or removed entirely;

C. Improvements alterations, modifications or repairs be made; or

D. Any other action be taken that is necessary to bring the property into compliance with this Ordinance.

16.2.6 Execution of Court Decisions.

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, the defendant may be cited for contempt. The Administrator may execute the order of abatement and will have a lien on the property in the nature of a mechanic's and materialman's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond must be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned for the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

16.2.7 Revocation of Permits.

In the event of a violation of any regulation of this ordinance, the Administrator may stop any development of, use of or activity on property by the revocation of applicable permits. The Administrator may revoke any

permit (e.g. Building Certificate of Occupancy) by written notification to the permit holder when violations of this ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this ordinance, or a permit has been mistakenly issued in violation of this ordinance.

THIS PAGE INTENTIONALLY LEFT BLANK

CHAPTER 17 - DEFINITIONS

17.1 Intent.

For the purpose of interpreting this Ordinance, certain words, concepts, and ideas are defined herein. Except as defined herein, all other words used in this Ordinance shall have their everyday meaning as determined by their dictionary definition.

17.2 Rules of Construction.

The words and phrases in this chapter shall have their customary meanings or shall be as defined in a standards dictionary, except for the specific words and phrases defined in this chapter.

- Tense. Words used in the present tense include the future tense.
- Number. The singular number includes the plural number and the plural number includes the singular number.
- Person. The word "person" includes a firm, association, partnership, trust, company, corporation or any other entity usually defined in legal usage as a person.
- Shall and May. The words "shall," "must," and "will" are mandatory in nature. The word "may" is permissive in nature.
- Used or occupied. The words "used" and "occupied" include the words "intended, designed, or arranged to be used or occupied."
- Lot. The word "lot" includes the words "plot" and/or "parcel."
- Structure. The word "structure" includes the word "building."
- On the Premises Of. The phrase "on the premises of," as applied to accessory uses or structures, shall be interpreted to mean "on the same lot."
- LBCS—American Planning Association Land-based Classification Standards.
- NAICS—North American Industrial Classification System.

17.3 Definitions, Use Type.

Adult Establishment. Any establishment having a substantial portion of materials or entertainment characterized by an emphasis on sexual activities, anatomical genital areas, or the female breast as listed and defined in NC General Statute, Section 14.210.10 (or any successor thereto).

Alcoholic Beverage Sales Store. The retail sales of beer, wine, and/or other alcoholic beverages for off-premise consumption as a primary use. (LBCS F2155)

Amusements, Indoor. Establishments that provide commercial recreation activities completely within an enclosed structure such as video arcades, skating rinks, roller rinks, shooting ranges, and bowling alleys. (LBCS F5320, F5380, F5390 and S3200)

Amusements, Outdoor. Establishments that provide commercial recreation activities primarily outdoors such as miniature golf establishments; go-cart facility; theme parks, carnivals, fairgrounds, and midways; paintball parks; and water rides. (LBCS F5310 and S4440)

Animal Production. Industries in the Animal Production subsector raise or fatten animals for the sale of animals or animal products. The subsector comprises establishments, such as ranches, farms, and feedlots primarily engaged in keeping, grazing, breeding, or feeding animals. These animals are kept for the products they produce or for eventual sale. The animals are generally raised in various environments, from total confinement or captivity to feeding on an open range pasture. Establishments primarily engaged in the farm raising and production of aquatic animals or plants in controlled or selected aquatic environments are included in this subsector. (NAICS)

Animal Production Support Services. This industry comprises establishments primarily engaged in performing support activities related to raising livestock (e.g., cattle, goats, hogs, horses, poultry, sheep). These establishments may perform one or more of the following: (1) breeding services for animals, including companion animals (e.g., cats, dogs, pet birds); (2) pedigree record services; (3) boarding horses; (4) dairy herd improvement activities; (5) livestock spraying; and (6) sheep dipping and shearing. [NAICS 115210]

Animal Services. Establishments that include services by licensed practitioners of veterinary medicine, dentistry, or surgery for animals; boarding services for pets; and grooming. (LBCS F2418 and F2720)

ATM. Computerized, self-service machines used by banking customers for financial institutions, including deposits, withdrawals and fund transfers, without face-to-face contact with financial institution personnel. These machines may be located at or within banks, or in other locations.

Auto Parts Sales. Establishments selling new, used, or rebuilt automotive parts and accessories. Examples include auto supply stores, automobile parts dealers, automotive audio equipment stores, tire dealers, parts & accessories dealers, and used automotive parts and tire dealers. (LBCS F2115)

Banks, Credit Unions, Financial Services. Establishments that engage in financial transactions that create, liquidate, or change ownership of financial services. Banks, credit unions, and savings institutions may perform central banking functions, accept deposits, and lend funds from these deposits. In addition to banks and credit unions, financial services institutions may include: credit agencies, trust companies, holding companies, savings and loan institutions, check cashing services, securities/commodity contract brokers and dealers, security and commodity exchanges, vehicle finance (equity) leasing agencies, and investment companies. (LBCS F2200, F2210 and F2230)

Bar/Tavern/Night Club. A business where alcoholic beverages are sold for on-site consumption, which are not part of a larger restaurant. Includes bars, taverns, pubs, and similar establishments where any food service is subordinate to the sale of alcoholic beverages. May also include beer brewing as part of a microbrewery and other beverage tasting facilities. Entertainment including live music, and/or dancing, comedy, etc. may also be included.

Bed and Breakfast Homes (Up to 4 Rooms). A private home containing not more than four (4) guest rooms that offers bed and breakfast accommodations to no more than eight (8) guests per night. (LBCS F1310)

Billiard/Pool Hall. Any place where one or more billiard or pool tables are operated or maintained, except for private family use, whether such place is a social club or a business enterprise operated for profit.

Boarding House. Short or long-term accommodations that serve a specific groups or membership such as a dormitory, fraternity or sorority house, youth or adult hostel or similar tourist accommodations, or single room occupancy units that provide a number of related services including, but not limited to housekeeping, meals, and laundry services. (LBCS F1320, S1320, and S1340)

Business Support Services. These establishments provide any of the following: document preparation, telephone answering, telemarketing, mailing (except direct mail advertising), court reporting, and steno typing. They may operate copy centers, which provide photocopying, duplicating, blueprinting, or other copying services besides printing. They may provide a range of support activities, including mailing services, document copying, facsimiles, word processing, on-site computer rental, and office product sales. (LBCS 2424)

Campground. A designated area in which tents or recreational vehicles may be set up for temporary occupancy. Accessory facilities and uses may include, but are not limited to, bathing facilities, swimming pools, the retail sale of camping-related merchandise, maintenance buildings, and picnic shelters.

Cemetery. A parcel of land used for internment of the dead in the ground or in mausoleums. (LBCS S4700)

Child/Adult Day Care Center (More than 8 persons). An individual, agency, or organization providing supervision or care on a regular basis for children or adults who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adults; and who are not residents in the center; designed and approved to accommodate more than eight children or adults at a time based on State regulations; not an accessory to residential use.

Child/Adult Day Care Home (8 or less persons). Supervision or care provided on a regular basis as an accessory use within a principal residential dwelling unit, by a resident of the dwelling, for no more than eight children (no more than five of which may be of pre-school age).

Civic/Social/Fraternal Organization. Non-for-profit membership organizations such as alumni associations, booster clubs, scouting organizations, ethnic associations, social clubs, fraternal lodge and veterans' membership organizations primarily engaged in promoting the civic and social interests of their members. The uses often include meeting and storage facilities.

College/University. Junior colleges, colleges, universities, and professional schools with physical structures (excluding online programs). These establishments furnish academic or technical courses and grant degrees, certificates, or diplomas at the associate, baccalaureate, or graduate levels. (LBCS F6130)

Construction and Maintenance Services. Office use and associated enclosed storage (limited to one outbuilding or garage) where some short-term parking (not overnight) or small construction equipment, maintenance vehicles, or construction trucks is expected.

Correctional Institution. Government establishments generally designed for the confinement, correction, and rehabilitation of offenders sentenced by a court. [LBCS F6222]

Cottage - a detached single-family or two-family residence constructed to specific design standards and arranged around common open space as a part of a cottage development.

Crop Production and Nurseries. Industries in the Crop Production subsector grow crops mainly for food and fiber. The subsector comprises establishments, such as farms, orchards, groves, greenhouses, and nurseries, primarily engaged in growing crops, plants, vines, or trees and their seeds. [NAICS] Also includes Soil Preparation, Planting, and Cultivating [NAICS 115113] and Postharvest Crop Activities (except Cotton Ginning) [NAICS 115115].

Crop Production Support Services. Establishment and activities primarily engaged in provide support activities for growing crops including Crop Harvesting, Primarily by Machine [NAICS 115114].

Cryptocurrency Mining Facility. A facility that exists for the purpose of operating computer equipment in order to mine or store crypto currencies or the data associated with mining or storing of crypto currencies. The individual use of personal computers for the mining of cryptocurrencies is not included in this definition. This definition does not limit the use of computer equipment for personal or commercial purposes of a permitted land use.

Cultural or Community Facility. Facilities designed to promote cultural advancement and serve the community such as live theater, dance, or music establishments; art galleries, studios and museums; non-profit civic or fraternal organizations; museums, exhibition, or similar facility; libraries; and community centers, such as the YMCA and YWCA. (LBCS S3800, S4400, F5110, F5210, and FS6830)

Data Center Facility. Facilities that exist for the sole of purpose of storing, processing, or sharing data or applications. Such facilities may include computers, servers, routers, storage systems, firewall, and other similar components. These establishments may provide complete processing and preparation of reports from data, cloud services, automated data entry services, data storage, file sharing, virtual communication services, artificial intelligence, or make data processing resources available to clients on an hourly or timesharing basis. This definition does not include data centers that are necessary or incidental to the function of permitted land uses within the same property.

Drive Thru Service. A facility where services may be obtained by motorists without leaving their vehicles. These facilities include drive-through bank teller windows, dry cleaners, etc. Does not include: Automated Teller Machines (ATMs), gas stations or other vehicle services, which are separately defined.

Drive-Thru Commercial. A facility where products may be purchased by motorists without leaving their vehicles. Examples include: fast-food restaurants, drive-through coffee, dairy product, photo stores, pharmacies, etc.

Dry Cleaning and Laundry Services. Coin-operated laundries, dry cleaning pick-up stores without dry cleaning equipment, or dry cleaning stores that do not provide cleaning services to other collection stations or stores.

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.

Dwelling—Accessory. A smaller, secondary dwelling unit either detached or attached, such as a garage apartment or cottage, designed for occupancy and located on a lot with an existing single-family dwelling.

Dwelling—Multifamily. A building or portion thereof containing three or more dwelling units on a single lot where each unit has a separate entrance from the outside or through a common vestibule. A multifamily structure where dwelling units are available for lease or rent for less than one month shall be considered lodging. (LBCS S1121 and S1140)

Dwelling—Single-Family. A free standing building designed for and/or occupied by one household. These residences may be individually owned as residences or residences owned by rental or management companies. Also includes factory-built, modular housing units that comply with NC State Building Code. (LBCS F1100 and S1100)

Dwelling—Townhome. A single-family dwelling unit constructed in a group of two or more attached units separated by property lines in which each unit extends from foundation to roof and with a yard or public way on not less than two sides.

Dwelling—Two-Family. A two-unit building that is divided horizontally or vertically, and each unit has a separate entrance from the outside or through a common vestibule. (LBCS F1100 and S1121)

Event Space. An establishment that is available to the general public for hosting weddings, receptions, conferences, parties, business meetings, banquets, social gatherings, or similar indoor or outdoor events.

Family Care Home (6 or fewer residents). A home with support and supervisory personnel that provides room and board, personal care and rehabilitation services in a family environment for not more than six resident handicapped persons and is certified by the State of North Carolina. (NCGS 168-21)

Feed Lots. A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and either specifically designed as a confinement area in which animal waste may accumulate or where the concentration of animals is such that an established vegetative cover cannot be maintained. A building or lot is not a feedlot unless animals are confined for forty-five (45) or more days, which may or may not be consecutive in a 12-month period. Pastures shall not be considered feedlots for the purposes of this ordinance.

Fish Hatcheries. Fish hatcheries are used to cultivate and breed a large number of fish in an enclosed environment until they are ready to be eaten, released into the wild or sold to aquarium stores.

Forestry and Logging. Industries in the Forestry and Logging subsector grow and harvest timber on a long production cycle (i.e., of 10 years or more). Long production cycles use different production processes than short production cycles, which require more horticultural interventions prior to harvest, resulting in processes more similar to those found in the Crop Production subsector. Consequently, Christmas tree production and other production involving production cycles of less than 10 years, are classified in the Crop Production subsector. [NAICS]

Forestry Support Services. This industry comprises establishments primarily engaged in performing particular support activities related to timber production, wood technology, forestry economics and marketing, and forest protection. These establishments may provide support activities for forestry, such as estimating timber, forest firefighting, forest pest control, and consulting on wood attributes and reforestation.
[NAICS 115310]

Freight Hauling/Truck Terminals. Establishments in the truck and freight transportation category that provide over-the-road transportation of cargo using motor vehicles, such as trucks and tractor trailers. These establishments may handle a variety of commodities, involve local or long distance trucking, and require specialized equipment due to the size, weight, shape, or other inherent characteristics of the cargo (LBCS F4140).

Funeral Homes. Establishments for preparing the dead for burial or internment and conducting funerals (i.e. providing facilities for wakes, arranging transportation for the dead, and selling caskets and related merchandise). (LBCS F6700-6702)

Gas Station. Establishment that primarily retails automotive fuels. These establishments may further provide services such as automotive repair, automotive oils, and/or replacement parts and accessories. Gas stations include structures that are specialized for selling gasoline with storage tanks, often underground or hidden. The sale of food and other items as well as car washes shall be incidental to the gas station. (LBCS F2116 and S2270)

General Commercial—Greater than 60,000 s.f. A use category allowing premises to be available for the commercial sale of merchandise and prepared foods, but excluding manufacturing. Greater than 60,000 square feet in GLA. (LBCS F2100)

General Commercial. A place of business providing the sale and display of goods or sale of services directly to the consumer, with goods available for immediate purchase and removal from the premises by the purchaser. (LBCS F2100)

Golf Course/Country Club. A clearly defined area designed for playing golf, consisting of a course of at least 9 holes, each with a tee, fairway, and green. Accessory facilities and uses may include, but are not limited to, clubhouses (with or without food and beverage service), locker and shower facilities, event facilities (ballrooms, pavilions, conference rooms, etc.), lodging facilities, driving ranges, the retail sale of golf-related merchandise, maintenance buildings, and golf cart storage, rental, and sale facilities. This definition does not include miniature golf courses or stand-alone driving ranges.

Government Services. Includes federal, state, and local government agencies that administer, oversee, and manage public programs and have executive, legislative, and judicial authority. (LBCS F6200)

Halfway Houses. A place where persons are aided in readjusting to society following a period of imprisonment, hospitalization or institutionalized treatment related to a criminal offense.

Home Occupation. An occupation or profession conducted within a dwelling unit by a residing family member that is incidental to the primary use of the dwelling as a residence. Home Occupations are small and quiet non-retail businesses generally invisible from the frontage, seldom visited by clients, requiring little parking, little or no signage, and having only one or two employees and provide services such as professional services, music instruction, and hair styling. Home Occupations include day care centers where daytime care is provided to less than six children who are not the legal wards or foster children of the attendant adult within an owner-occupied residence and produce stands.

Hospital. A health care facility and related facilities the purpose of which is to provide for care, treatment, testing for physical, emotional, or mental injury, illness, or disability, and overnight boarding of patients, either on a for-profit or not-for-profit basis; but not including group homes. (LBCS F6530 and S4110)

Hotel/Motels (More than 30 Rooms). Establishments providing lodging and short-term accommodations for travelers. They may offer a wide range of services including, overnight sleeping space, food services, convention hosting services, and/or laundry services. Entertainment and recreation activities may also be included. Extended-stay hotels are included in this category. This definition includes "motels." (LBCS F1300 and F1330)

Inn (Up to 30 Rooms). Any building or group of buildings in which there are thirty (30) or fewer guest rooms, used for the purposes of offering public lodging on a day-to-day basis.

Kennels, Outdoor. A use or structure intended and used for the breeding or accommodation of small domestic animals for sale or for the training or overnight boarding of animals for persons other than the owner of the lot, but not including a veterinary clinic in which the overnight boarding of animals is necessary for or accessory to the testing and medical treatment of the physical disorders of animals. (LBCS F2700)

Landfill. A disposal facility for hazardous or nonhazardous solid waste. These establishments also manage recycling and resource recovery facilities that operate in conjunction with landfills. [LBCS F4345]

Laundry, Dry cleaning Plant. A service establishment engaged primarily in high volume laundry and garment services, including: carpet and upholstery cleaners; diaper services; dry-cleaning and garment pressing; commercial laundries; and linen supply. These facilities may include customer pick-up but do not include coin-operated laundries, dry cleaning pick-up stores without dry cleaning equipment, or dry cleaning stores that do not provide cleaning services to other collection stations or stores.

Live-Work Units. An attached residential building type with a small commercial enterprise on the ground floor and a residential unit above or behind with a common tenant in both spaces (no dual occupancy is permitted).

Manufactured Home Parks. The location of four (4) or more manufactured or mobile homes on a parcel of land, or as a deeded manufactured home park, shall constitute a mobile home park.

Manufactured Housing. A dwelling unit, other than a modular home, fabricated in an off-site manufacturing facility for installation or assembly on the building site, which is at least eight feet in width and at least 32 feet in length, which bears a seal certifying that it was built to the standard adopted pursuant to the "National Manufactured Housing Construction and Safety Standards Act of 1974", 42 U.S.C. Sec 5401 et seq., which is placed upon a permanent foundation which meets the installation and foundation requirements adopted by the N.C. Commissioner of Insurance, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. (LBCS S1150)

Manufacturing, Heavy. A non-residential use that requires a National Pollutant Discharge Elimination System (NPDES) permit for an industrial or stormwater discharge or involves the use or storage of any hazardous materials or substances or that is used for the purpose of manufacturing, assembling, finishing, cleaning or developing any product or commodity. Typically the largest facilities in a community, these structures house complex operations, some of which might be continuous (operated 24 hours a day, seven days a week). (LBCS S2620)

Manufacturing, Light. A non-residential use that involves the manufacturing, assembling, finishing, cleaning or developing any product or commodity. Facilities are typically designed to look and generate impacts like a typical office building, but rely on special power, water, or waste disposal systems for operation. Noise, odor, dust, and glare of each operation are completely confined within an enclosed building, insofar as practical. (LBCS S2613)

Manufacturing, Neighborhood. The assembly, fabrication, production or processing of goods and materials using processes that ordinarily do not create noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building and are visually undifferentiated from an office building. This includes medical and testing laboratories but shall not include uses that require frequent deliveries by truck with more than two axles. This definition also includes facilities for scientific research, and the design, development, and testing of electrical, electronic, magnetic, optical, computer and telecommunications components in advance of product manufacturing, and the assembly of related products from parts produced off-site, where the manufacturing activity is secondary to the research and development activities. (LBCS S2610)

Materials Recovery and Waste Transfer Facilities. This industry comprises establishments primarily engaged in (1) operating facilities for separating and sorting recyclable materials from nonhazardous waste streams (i.e., garbage) and/or (2) operating facilities where commingled recyclable materials, such as paper, plastics, used beverage cans, and metals, are sorted into distinct categories. [NAICS 562920]

Medical Outpatient Care Center. Facilities that provide ambulatory or outpatient health care such as emergency medical clinics; ambulatory surgical centers dialysis centers outpatient family planning services; community health centers and clinics; and blood and organ banks. (LBCS F6510, F6512, and F6514)

Metal Products Fabrication, Machine or Welding Shop. An establishment engaged in the production and/or assembly of metal parts, including the production of metal cabinets and enclosures, cans and shipping containers, doors and gates, duct work forgings and stampings, hardware and tools, plumbing fixtures and products, tanks, towers, and similar products. Examples of these include:

- Blacksmith and welding shops
- Plating, stripping, and coating shops
- Sheet metal shops
- Machine shops and boiler shops

Mini-Warehouses. A building containing separate enclosed storage spaces of varying sizes leased or rented on an individual basis.

Mobile Food Vendor. A mobile food vendor is a person or organization that sells food out of a portable vehicle, cart, or trailer. Examples include food trucks, food trailers and food pushcarts.

Monopole Wireless Communications Tower. A wireless communication support structure that consists of a freestanding support structure erected to support wireless communication antennas and connecting appurtenances. This term shall not include any antenna that is under thirty-five (35) feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive only antennas.

Neighborhood Commercial. A place of business limited to 3,000 gross square feet that provides the sale of goods directly to the consumer, with goods available for immediate purchase and removal from the premises by the purchaser.

Neighborhood Restaurant. A place of business limited to 3,000 gross square feet that sells ready-to-eat food and/or beverages for on- or off-premises consumption. Customers may be served from an ordering counter (cafeteria or limited service restaurant), at their tables (full-service restaurant), and/or at exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter, but not from drive-thru windows.

Outside Storage. The storage of any material for a period greater than forty-eight (48) hours, including items for sale, lease, processing and repair (excluding vehicles for sale) outside the principal or accessory buildings on a property.

Outside Sales. The sale of goods and products outside of a permanent structure such as landscape materials, lawn and garden supplies, and produce. This definition includes farmer's markets and flea markets.

Parking Lot/Structure—Principal use. A stand-alone parking lot or structure (deck/garage) that is available for public or private use, but that is not accessory to another use.

Pawnshops. Premises operated by a pawnbroker who is engaged in the business of lending money on the security of pledged goods and who may also purchase merchandise for resale from dealers and traders. (Subject to NCGS, Chapter 91A)

Personal Services. Cosmetic services such as hair and nail salons, barber shops, clothing alterations, shoe repair, weight loss centers, non-permanent makeup services, and tattoo parlors.

Post Office. Establishments conducting operations of the United States Postal Service including permanent, contract, and lease stations. (LBCS F4170).

Produce Stands in Conjunction with Crop Production. A temporary open air stand or place for the seasonal selling of agricultural produce, located on the same development parcel upon which the produce is grown.

Professional Services. Services provided that make available the knowledge and skills of their employees to sell expertise and perform professional, scientific, and technical services to others such as legal services; accounting, tax, bookkeeping, and payroll services; architectural, engineering, and related services; graphic, industrial, and interior design services; consulting services; research and development services; advertising, media, and photography services; real estate services; investment banking, securities, brokerages; and insurance-related services; and, medical services such as physician's and dentist's offices. (LBCS F2230, F2240, F2300, F2410-2417, and F6511)

Public Transportation Facilities. Terminals, stations or major passenger transportation facilities for community or regional public transportation such as bus or rail. (LBCS F4120 and F4130)

Racetrack. An outdoor course prepared for horse, dog, automobile, or other vehicle racing.

Radio and Television Broadcasting Facilities (Except Towers). Satellite dishes and other similar facilities greater than 12 feet in height or diameter for the broadcast of signals.

Recreation Facilities, Indoor. Uses or structures for active recreation including gymnasiums, natatoriums, fitness center, athletic equipment, indoor running tracks, climbing facilities, court facilities and their customary accessory uses. This definition is inclusive of both non-profit and for-profit operations.

Recreation Facilities, Outdoor. Parks and other open space used for active or passive recreation such as ball fields, batting cages, skateboard parks, playgrounds, greenway trails, driving ranges, tennis courts, and riding stables and their customary accessory uses including, but not limited to, maintenance sheds, food concessions, pools, restrooms, and picnic shelters. This definition is inclusive of both non-profit and for-profit operations.

Recreational Vehicle Park. Any site of land designated specifically for two or more recreational vehicles, campers, and/or travel trailers with individual parking spaces and hook ups as temporary living or sleeping quarters for less than 180 days out of a 365-day year.

Recycling Collection Stations. A center for the acceptance by donation, redemption, or purchase, of recyclable materials from the public.

Religious Institution. Any facility such as a church, temple, monastery, synagogues, or mosque used for worship by a non-profit organization and their customary related uses for education (pre-schools, religious education, etc.), recreation (gymnasiums, activity rooms, ball fields, etc.), housing (rectory, parsonage, elderly or disabled housing, etc.) and accessory uses such as cemeteries, mausoleums, offices, soup kitchens, and bookstores. (LBCS F6600 and S3500)

Residential Care Facilities. A staffed premises (not a single-family dwelling) with paid or volunteer staff that provides full-time care to more than 6 individuals. Residential care facilities include group homes (NCGS § 131D), nursing homes (NCGS § 131E-101), residential child-care facilities (NCGS § 131D-10.2), assisted living residences (NCGS § 131D-2), adult care homes (NCGS § 131D-2), retirement housing, congregate living services, assisted living services, continuing care retirement centers, skilled nursing services and orphanages. This term excludes family care homes and halfway houses.

Restaurant. A retail business selling ready-to-eat food and/or beverages for on or off-premises consumption. Customers may be served from an ordering counter (i.e. cafeteria or limited service restaurant); at their tables (full-service restaurant); and, at exclusively pedestrian-oriented facilities that serve from a walk-up ordering counter (snack and/or nonalcoholic bars). (LBCS F2510, F2520, and F2530)

Riding Stables. An establishment where horses are boarded and cared for, and where instruction in riding, jumping and showing and/or the hiring of horses for riding is offered.

Schools—Elementary and Secondary. A public or private institution for education or learning including athletic or recreational facilities, which does not include lodging. This institution includes any school licensed by the state and that meets the state requirements for elementary and secondary education. (LBCS F6100)

Schools—Vocational/Technical. A public or private institution for education or learning including athletic or recreational facilities, which does not include lodging. These schools offer vocational and technical training in a variety of technical subjects and trades. Training may lead to job-specific certification. (LBCS F6100 and F6140)

Shooting Range, Outdoor. A permanently located and improved area that is designed and operated for the use of rifles, shotguns, pistols, silhouettes, skeet, trap, black powder or any other similar sport shooting in an outdoor environment. Shooting range exclude any area for the exclusive use of archery or air guns or enclosed indoor facility that is designed to offer a totally controlled shooting environment and that includes impenetrable walls, floor and ceiling, adequate ventilation, lighting systems and acoustical treatment for sound attenuation suitable for the range's approved use.

Storage—Outdoor Storage Yard. The storage of various materials outside of a structure, as a principal use.

Storage—Warehouse, Indoor Storage. Facilities for the storage of furniture, household goods, or other commercial goods of any nature. Includes cold storage. Does not include warehouse, storage, or mini-storage facilities offered for rent or lease to the general public; warehouse facilities primarily used for wholesaling and distribution; or terminal facilities for handling freight.

Studio—Art, dance, martial arts, music. Small facilities, typically accommodating one group of students at a time, in no more than one instructional space. These establishments may include: individual and group instruction and training in the arts; production rehearsal; photography, and the processing of photographs produced only by users of the studio facilities; martial arts training studios; gymnastics, yoga, and similar instruction; and aerobics and gymnastics studios with no other fitness facilities or equipment.

Swine Farms. A tract of land devoted to raising two hundred and fifty (250) or more animals of the porcine species.

Theater, Indoor. A specialized theater for showing movies or motion pictures on a projection screen or a stage for live performances. This category also includes cineplexes and megaplexes, complex structures with multiple movie theaters, each theater capable of an independent performance. (LBCS S3110 and S3120)

Theater, Outdoor. An establishment for the performing arts with open-air seating for audiences.

Theater, Drive-In. A specialized outdoor theater for showing movies or motion pictures on a projection screen where patrons view movies from their vehicles.

Utilities. Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam, or water, the collection, treatment and disposal of sewage or refuse; the transmission of communications; of similar functions necessary for the provision of public services. Radio transmission facilities less than 180 feet in height for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not utilities. Utilities are divided into 3 classes:

Class 1 Transmission and collection lines (above and below ground) including electrical, natural, gas, waste water collection, and water distribution lines; pumping stations, lift stations, and telephone switching facilities (up to 200 sq. ft).

Class 2 Elevated water storage tanks; package treatment plants, telephone switching facilities (over 200 sq. ft.), substations, or other similar facilities in connection with telephone, electric, steam, and water facilities.

Class 3 Generation, production, or treatment facilities such as power plants, water and sewage plants, and landfills.

Vehicle and Heavy Equipment Sales/Rental. Establishments which may have showrooms or open lots for selling, renting or leasing vehicles or heavy equipment and base operations for taxis, limousines, and courier services. Such vehicles may include automobiles and light trucks, bus, commercial truck, mobile homes, motorcycle, ATV, or boat and marine craft dealers. (LBCS F2110, F2111, F2112, F2113 and F2114)

Vehicle Services—Major Repair/Body Work. The repair, servicing, alteration, restoration, towing, painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats, large appliances, commercial and industrial equipment and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This includes major repair and body work which encompasses towing, collision repair, other body work and painting services, and tire recapping.

Vehicle Services—Minor Maintenance/Repair/Wash. The repair, servicing, alteration, restoration, towing painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. Minor facilities providing limited repair and maintenance services. Examples include: car washes, attended and self-service; car stereo and alarm system installers; detailing services; muffler and radiator shops; quick-lube services; tire and battery sales and installation (not including recapping).

Video Gaming Parlor. Any use or structure intended to provide access to video games in which customers purchase retail gift cards or gain access to electronic games of skill or dexterity not otherwise prohibited by law, or other electronically simulated games approved and regulated by the State of North Carolina. Gas/Fueling stations which have up to three such games or as allowable by law, and which are subsidiary and incidental to the primary use are not part of this definition.

Wholesaling and Distribution. Establishments engaged in selling merchandise to retailers; to contractors, industrial, commercial, institutional, farm or professional business users; to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. This does not include selling to the public. Examples of these establishments include:

- Agents, merchandise or commodity brokers, and commission merchants;
- Assemblers, buyers and associations engaged in the cooperative marketing of farm products;
- Merchant wholesalers;
- Stores primarily selling electrical plumbing, heating, and air conditioning supplies and equipment.

Wireless Communications Facility, Macro. An attached wireless communication facility which consists of antennas equal or less than sixteen (16) feet in height or a parabolic antenna up to one (1) meter (39.37 inches) in diameter and with an area not more than one hundred (100) square feet as viewed from any one point.

Wireless Communications Facility, Micro. An attached wireless communication facility which consists of antennas equal to or less than six (6) feet in height and with an area of not more than five hundred eighty (580) square inches (e.g. one (1) foot diameter parabola or two (2) feet x one and one-half (1.5) feet panel) as viewed from any one point. A micro facility is also known as a microcell.

Wireless Communications Facility, Mini. An attached wireless communication facility which consists of antennas equal to or less than ten (10) feet in height or a parabolic antenna up to one (1) meter (39.37) inches in diameter and with an area not more than fifty (50) square feet as viewed from any one point.

(Ord. No. 05-16 , 6-28-2016; Ord. No. O-22-17 , § 1, 11-28-2017; Ord. No. O-14-18 , § 2, 8-28-2018; Ord. No. O-28-18 , § 1, 11-27-2018; Ord. No. O-20-20 , § 1, 10-27-2020)

17.4 Definitions, General.

Accessory Structure. A detached subordinate structure(s), the use of which is clearly incidental to and customarily found in connection with a principal building or use, is subordinate to and serves a principal building or use and is subordinate in area, extent and purpose to the principal building or principal use served. This term includes "accessory buildings."

Accessory Use. A use that is clearly incidental to and customarily found in connection with a principal building or use, is subordinate to and serves a principal building or use and is subordinate in area, extent and purpose to the principal building or principal use served.

Addition (To an Existing Building). An extension or increase in the floor area or height of a building or structure.

Administrative decision. A decision 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 Chapter 160D of the NC G.S. and the Town of Waynesville Code of Ordinances.

Area of Shallow Flooding. A designated Zone A0 on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Alley. A public way which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

Animal Unit. A unit of measurement to compare various animal types based upon equivalent waste generation. One animal unit equals the following: 1.0 cattle (except dairy cows); 0.5 horse; 0.7 dairy cow; 2.5 swine weighing over 55 pounds; 15 swine under 55 pounds; 10 sheep; 30 laying hens; 55 turkeys; 100 broiler chickens or an equivalent animal unit.

Antenna. Equipment used for transmitting or receiving radio frequency signals, which is attached to a tower, building or other structure, usually consisting of a series of directional panels, microwave or satellite dishes, or omni-directional antenna.

Apron. The broadened paved area of a driveway where it adjoins the traveled way.

Arcade. A series of arches, either supported by columns, piers, or pillars, either freestanding or attached to a wall to form a gallery or for decorative purposes.

Attached Wireless Communications Facility. A wireless communication facility that is affixed to an existing structure, for example, an existing building, tower, water tank, utility pole, etc. which does not included an additional wireless communication support structure.

Basement. That lowest level of a building which has its floor below the grade of the fronting window.

Bay Window. A window assembly whose maximum horizontal projection is not more than two feet from the plane of an exterior wall and is elevated above the floor level of the home.

Berm. An earthen mound designed to provide visual interest on a site, screen undesirable views, reduce noise, divert stormwater, or fulfill other such purposes.

Best Management Practices (BMPs). Methods, measures, practices, schedules of activities, maintenance procedures, and other management practices to prevent or reduce the pollution of waters. With regard to construction, these may include structural devices such as infiltration devices, ponds, filters and constructed wetlands or nonstructural practices such as maintenance practices, street sweeping, public education and outreach programs that are designed to prevent pollutants from entering water or to direct or reduce the flow of water.

Best Management Practices/BMPs. Best Management Practices or "BMPs" control urban storm water runoff and can include "structural BMPs"; and "non-structural BMPs.

Block. A unit of land inclusive of private land, alleys/rear lanes, accessways, circumscribed by a combination of streets and public land (such as a park), waterways, or any other barrier to the continuity of development.

Buffer Yard. A landscaped area intended to give spatial separation between incompatible land uses.

Build-To Lines. The maximum distance from the fronting right-of-way that a building may be aligned.

Buildable Area. The portion of a lot or site, exclusive of required yard areas, landscaping or open space within which a structure may be built.

Building. A structure with a roof and walls built for permanent use. When used in reference to a residential structure, any one- or two-family dwelling or portion thereof, including townhouses, that is used, or designed or intended to be used for habitation for living, sleeping, cooking, or eating purposes or any combination thereof, including accessory structures (NC Building Code: Residential Code Sec 202)

Built-Upon Area (BUA). That portion of a development project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts. "Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate.

Business Location. For the purpose of locating and allowing ground signs, a business location shall be defined as one or more businesses, operations, associations, etc., under one common roof or in one unified structure or building.

Caliper. The diameter measurement of a tree’s trunk taken six (6) inches above the ground for trees up to and including four (4) inches caliper size, and twelve (12) inches above the ground for trees exceeding four (4) inches caliper size.

Candela. A unit of measurement of the intensity of light. An ordinary wax candle flame generates approximately one candela.

Canopy Tree. A species of tree, which normally grows to a mature height of 40 feet or more with a minimum mature crown width of 30 feet.

Civic Space. An outdoor area dedicated for public use.

Clear-Cutting. The large scale indiscriminate removal of trees, shrubs, and undergrowth with the intention of preparing property for non-agricultural development.

Cluster Development. The grouping of development on a portion of a parcel in order to conserve land resources and minimize stormwater runoff impacts.

Co-location. The use of a single support structure and/or site by more than one (1) wireless communications provider.

Common Area Recreation and Service Facilities. Recreational (swimming pools, etc.) and service (laundry, etc.) facilities built to serve housing developments.

Contiguous. Bordering or adjoining, meeting or joining at the border or surface.

Corner Lot. A lot located at the intersection of two or more public rights-of-way.

Cottage Development- a development of 3 or more structures (commercial or dwellings of single family or duplex design) arranged with common open space, often with shared parking, driveways, and other amenities. A cottage development may also include commercial and/or mixed-use units as a part of Planned Unit Development, as permitted by the zoning district.

Cul-de-sac. A street permanently terminated by a turnaround.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to:

a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

b. The clearing, excavation, dredging, grading, filling, paving, drilling operations, mining, or alteration of land.

c. Storage of equipment or materials.

d. The subdivision of land as defined in this ordinance.

e. The initiation of substantial change in the use of land or the intensity of use of land.

For stormwater calculation, development shall be considered any land disturbing activity that increases the amount of built upon area or otherwise decreases the infiltration of precipitation into the soil.

Development Parcel. Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used for or developed as a unit or which has been used or developed as a unit.

Door, Main Entrance. A method of public ingress and egress unlocked during normal business hours easily recognizable to a pedestrian as a principal point of entry.

Driveway. A private vehicular access connecting a dwelling, carport, garage, parking area or other buildings with a street. A driveway is not a road, street, boulevard highway or parkway.

Driveway Approach. The improved area between the roadway of a public street and private property intended to provide access for motor vehicles to a well-defined area on private property.

Driveway, Joint. A joint-use driveway serving two (2) abutting properties.

Driveway, Shared. A shared driveway with the similar characteristics as a street that serves 3 or fewer dwelling structures (single family or duplex structures), often used to reach landlocked parcels or for access management purposes.

Driveway, Width. The horizontal distance between the sides of a driveway measured at the right-of-way or the back of the sidewalk (whichever is farthest from the traveled way) and measured parallel with the centerline of the traveled way. Medians shall not be included in the calculations for the width of driveways.

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. (NC Building Code, Vol. 1, § 202 and Vol. VII, § 202).

Easement. A grant by the property owner of use, by the public, a corporation, or a person, of a strip of land for specified purposes.

Elevated Building. For floodplain management purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

Encroachment, Building. Any portion of a structure of appurtenance extending beyond a designated setback, easement, property line, or right-of-way.

Exterior Features. For the purposes of historic preservation, this term shall include the architectural style, general design, and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs and other appurtenant features. "Exterior features" may also include historic signs, color and significant landscape, and archaeological and natural features of the area.

Extraterritorial Jurisdiction. That land lying within one (1) mile in all directions of the corporate limits of the town, and not located in the corporate limits of any other municipality, nor within any part of that area lying within the extraterritorial jurisdiction of any other municipality.

FAA. The Federal Aviation Administration

Façade. That portion of any exterior elevation on the building extending from grade to top of the parapet, wall or eaves and the entire width of the building elevation.

Family. An individual, or two (2) or more persons related by blood, marriage or law, or a group of not more than any five (5) persons living together in a dwelling unit. Servants having common housekeeping facilities with a family consisting of an individual, or two (2) or more persons related by blood, marriage or law, are a part of the family for this chapter.

FCC. The Federal Communications Commission.

FEMA. The Federal Emergency Management Agency.

Fill. Any material, such as (by way of illustration) earth, clay, sand, concrete, rubble, wood chips, bark or waste of any kind, that is placed, stored, or dumped upon the surface of the ground resulting in an increase in the natural surface elevation.

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

Footcandle. A unit for measuring illumination equal to the amount of direct light thrown by a source of one candela on a square foot of surface every part of which is one foot away from the source and facing directly toward the source.

Frontage. All the property abutting on one side of a street along the block face measured along the street line. "Frontage along a public street" requires means of direct access by the public.

Geological Hazard Indicator. A condition or series of conditions which suggest or from which a reasonable inference may be drawn that a particular tract of land may have qualities of instability or danger which require further investigation and possible remediation. Such indicators may include, but are not limited to one or more of the following: fault zone cataclastic (broken) rocks; pre-existing landslide deposits; daylighting fracture sets; daylighting sedimentary layers (bedding), foliations (metamorphic layering), or other planar structures; thick soils (greater than 10 feet thick), zones of likely debris flow deposition.

Geotechnical Engineer. A North Carolina licensed engineer in the full-time practice of geotechnical engineering including design and construction overview of site preparation and foundation installation of projects.

Grandfathered. The exception of not applying certain more recent regulations to sites or plans that had previously been constructed or approved.

Gross Floor Area (GFA). The area within the perimeter of the outside walls of a building as measured from the inside surface of the exterior walls, with no deduction for hallways, stairs, closets, thickness of walls, columns, or other interior features; used in determining the required number of exits or in determining occupancy classification. (IBC)

Gross Leasable Area (GLA). The total floor area designated for tenant occupancy and exclusive use. The area of tenant occupancy is measured from the centerlines of joint partitions to the outside of tenant walls. All tenant areas, including areas used for storage, shall be included in calculating gross leasable area. (IBC)

Height, Sign. The vertical distance measured from ground level at the lowest point of the sign structure to the top of the structure.

High Density Project, Stormwater. Any project that exceeds the low density threshold for dwelling units per acre (two dwelling units per acre) or built-upon area (24%).

Historic Structure. Any structure that is: (a) listed individually in the Natural Register of Historic Places or preliminarily determined by the US Secretary of Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the US 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; (c) individually listed on a state inventory of historic places; (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified (1) by an approved state program as determined by the Secretary of Interior, or (2) directly by the Secretary of Interior in states without an approved program.

Impervious Surface. Any hard-surfaced, man-made area that does not readily absorb or retain water, including but not limited to building roofs, parking and driveway areas, graveled areas, block pavers (unless allowing vegetative growth though the pavers), roads, sidewalks and paved recreation areas. Impervious surface includes all structures measured at their greatest extent and so as to include areas overhung by eaves, balconies, and other projecting features of the structure. Wooden slatted decks and the water area of a swimming pool are considered pervious.

Individual Sewer System. Any septic tank, ground absorption system, privy, or other facility serving a single source or connection and approved by the Haywood County Health Department or other department with appropriate jurisdiction.

Individual Water System. Any well, spring, stream or other source used to supply a single connection.

Large Maturing Tree. Large maturing trees are trees that grow to be over thirty-five (35) feet in height at maturity.

Larger common plan of development or sale. Any area where multiple separate and distinct construction or land disturbing activities will occur under one plan. A plan is any announcement or piece of documentation (including but not limited to a sign, public notice or hearing, sales pitch, advertisement, loan application, drawing, permit application, zoning request, or computer design) or physical demarcation (including but not limited to boundary signs, lot stakes, or surveyor markings) indicating that construction activities may occur on a specific plot.

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

Levee. A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding.

Lot. A parcel of land described by metes and bounds and held or intended to be held in separate lease or ownership, or shown as a lot or parcel on a recorded subdivision, or shown on plat used in the lease or sale or offer of lease or sale of land resulting from the division of a larger lot, parcel, or tract into two (2) or more smaller lots or units. A "lot" includes any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record that is recognized and intended as a unit for the purpose of transfer of ownership. The term "lot" includes the term "plot" or "parcel."

(a) **Double-frontage lot:** A lot of the same depth as the width of a block containing 2 tiers of lots and which is accessible from both of the streets upon which it fronts.

(b) **Single-tier lot:** A lot which backs upon limited access highway, a railroad, a physical barrier, or a nonresidential use and to which access from the rear is usually prohibited.

(c) **Corner lot:** A lot which has continuous frontage at 2 intersecting streets.

(d) **Pipestem lot (also known as flag lot or panhandle lot):** A lot which contains a relatively narrow strip that provides street access.

Lot, Infill. The development of new housing or other buildings on vacant sites in a built-up area.

Lot Width. The distance between side lot lines measured at the front building line.

Low Density Project, Stormwater. A project that has no more than two dwelling units per acre or twenty-four percent built-upon area (BUA) for all residential and non-residential development.

Low Impact Development (LID). A site design strategy with the goal of maintaining or replicating the pre-development hydrologic conditions. Hydrologic functions of storage, infiltration, and ground water recharge, as well as the volume and frequency of discharges are maintained through the use of integrated and distributed micro-scale stormwater management areas, reduction of impervious surfaces, and the lengthening of flow paths and runoff time. LID practices may include any combination of site design techniques, strategies, and BMPs to store, infiltrate, evaporate, retain, and detain runoff on the site to more closely replicate pre-development runoff thereby limiting the increase in pollutant loads caused by development. Other strategies include the preservation/protection of environmentally sensitive site features such as riparian buffers, wetlands, steep slopes, mature trees, flood plains, woodlands and highly permeable soils.

Master Plan. A map or plan showing the layout and specifications of a site which is presented for approval. It is prepared by a licensed engineer, registered land surveyor, or licensed landscape architect. A Master Plan shall ensure compliance with all development standards as specified for the zoning district as well as all other Town development requirements.

Mean Sea Level. The average height of the sea for all stages of the tide. It is used as reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with National Geodetic Vertical Datum (NGVD).

Mezzanine. An intermediate level or levels between the floor and the ceiling of any story with an aggregate floor area of not more than one-third of the area of the room or space in which the level or levels are located (IBC).

Minor Works. For the purposes of historic resource preservation, a minor work is defined as those exterior changes which do not involve substantial alterations, additions or removals that could impair the integrity of the property and/or the historic district in which it is located. Such minor works shall be limited to those listed in the historic preservation commission's "Bylaws and Rules of Procedure."

Mobile Home. A single-family dwelling, factory built and factory assembled, which does not comply with the National Manufactured Homes Construction Safety and Standards Act (42 U.S.C.§ 5401, 1978, as amended) or the North Carolina Building Code.

New Construction. Structures for which the start of construction commenced on or after the effective date of this chapter and includes any subsequent improvements to such structures.

Nit. A unit measure of luminance or brightness equal to one candela per square meter, measured perpendicular to the rays of the source.

Nonconforming Occupied Lot. A lot containing a structure at the time this ordinance was adopted or at the time the lot was brought into the town's jurisdiction, but which lot does not meet the minimum requirements for the land development district in which it is located.

Nonconforming Open Uses of Land. An open use on a lot when the only structures are incidental and accessory to the principal open use but which would not be permitted by this chapter in the land development district in which it is located.

Nonconforming Site. An occupied lot that contains one or more site features that do not comply with the standards of this ordinance such as landscaping, parking location, lighting, etc.

Nonconforming Structures Occupying Conforming Lots. A structure that does not meet the minimum requirements for a structure in the land development district in which it is located but which is located on a lot which does conform to the district requirements.

Nonconforming Uses of Structures. A structure, said use of which would not be permitted by this chapter in the land development district in which it is located.

Nonconforming Vacant Lot. A lot that is not occupied by a building, structure or use and that does not meet the dimensional requirements for the land development district in which it is located.

Nonconformity. A legal use, structure, and/or development which existed prior to the adoption of this chapter or any amendment thereto, that does not presently conform to this chapter or its amendments.

Overflow Parking. Event or assembly parking in excess of the minimum required by this chapter which is designed not to be used more than ten (10) times per year.

Owner. The legal or beneficial owner of land or business, including but not limited to a mortgagee or vendee in possession, receiver, executor, trustee, or long-term or commercial lessee, or any other person or entity holding proprietary rights in the property or having legal power of management and control of the property. "Owner" shall include long-term commercial tenants; management entities, such as those charged with or engaged in the management of properties for profit; and every person or entity having joint ownership of the property. A secured lender not in possession of the property does not constitute an owner, unless the secured lender is included within the meaning of "owner" under another description in this definition, such as a management entity.

Parking, Informal. Parking that is allowed along lanes and residential streets, but is not designated or marked as parking areas.

Parking Space. An area for parking a vehicle exclusive of access drives, maneuvering space, and paved areas intended for the display of merchandise (e.g., cars, boats).

Perennial Stream. A stream or river (channel) that has continuous flow in parts of its bed all year round during years of normal rainfall. "Perennial" streams are contrasted with "intermittent" streams which normally cease flowing for weeks or months each year, and with "ephemeral" channels that flow only for hours or days following rainfall. During unusually dry years, a normally perennial stream may cease flowing, becoming intermittent for days, weeks, or months depending on severity of the drought. The boundaries between perennial, intermittent, and ephemeral channels are indefinite, and subject to a variety of identification methods adopted by local governments, academics, and others with a need to classify stream-flow permanence.

Performance Bond. A document issued by a surety, in return for a fee or premium, guaranteeing the performance of the terms and conditions of development approval.

Pervious. A surface that allows inflow of rainwater into the underlying construction or soil.

Planned Unit Development (PUD)- a development that integrates residential and non-residential uses as permitted by the zoning district.

Plat. A plat means and includes the terms: survey, plan, map or replat; and means a survey or plan of a parcel of land for recordation or for development, redevelopment, or subdivision review.

Plat, Final. The final map of all or a portion of a subdivision or development which is presented for final approval. It is prepared by a licensed engineer, registered land surveyor, or licensed landscape architect. A Final Plat demonstrates compliance with development standards, rights-of-way, and other Town requirements necessary for recordation with Haywood County Land Records.

Plat, Preliminary. A map indicating the proposed layout of a development and related information that is submitted for preliminary review. It is prepared by a licensed engineer, registered land surveyor, or licensed landscape architect. A Preliminary Plat shall ensure compliance with all development standards as specified for the zoning district as well as all other Town development requirements.

Principal Building. The building or structure in which is conducted the principal use of the land development lot on which it is located. This shall include any buildings that are attached to the principal structure by a covered structure. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

Principal Use. The main or primary use of a parcel of land.

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.

Public Sewer System. Any sewer system owned and operated by a local government, or other sewage treatment facility serving two (2) or more connections, or any wastewater treatment system having a discharge to surface waters when approved by the North Carolina Division of Environmental Management, or a ground absorption system serving two (2) or more connections when approved by the county sanitarian.

Public Water System. A system for the provision to the public of piped water for human consumption if the system serves more than fifteen (15) or more service connections or which regularly serves twenty-five (25) or more year-round residents.

Public Way. A street, alley, sidewalk or other parcel of land open to the outside air leading to a street that has been dedicated or otherwise permanently appropriated to the public use. **Quasi-Judicial.** The action, discretion, etc. of public administrative officers or bodies who are required to investigate facts, or ascertain the existence of facts, hold hearings, and draw conclusions from them, as a basis of their official action, and to exercise discretion of a judicial nature.

Quasi-judicial decision. A decision involving the finding of facts regarding a specific application of an ordinance and that requires the exercise of discretion when applying the standards of the ordinance. The term includes, but is not limited to decisions involving variances, special use permits, or certificates of appropriateness. (160D-102(28)).

Recreational Vehicle (RV). A vehicular-type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle.

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

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Ridgeline. A line connecting the highest points along a ridge and separating drainage basins or small-scale drainage systems from one another.

Right-of-Way. A strip of land whose legal title has been offered for public access and is occupied or intended to be occupied by a street and is also available, with the consent of the appropriate governmental agency, for installation and maintenance of traffic control devices, regulatory and information signs, water lines, sanitary sewer lines, storm sewer lines, gas lines, power lines, and communication lines.

Screening. A fence, wall, hedge, landscaping, buffer area, or any combination thereof intended to create a visual separation between certain uses or buildings.

Seasonal Business. A business use of a property that operates for only a portion of a year but which continues to operate each year at the same time. Examples of seasonal businesses include: fruit stands, Christmas tree sales, etc.

Setback. The shortest horizontal distance from the property line or right-of-way to the nearest point (leading edge) of the structure or its supporting member, whichever is nearest to the property line or right-of-way.

Shielded (Light). Outdoor lighting features constructed so that light rays emitted by a light fixture are projected below the horizontal plane passing through the lowest point on the fixture from which light is emitted.

Sign. Any display of letters, words, numbers, symbols, emblems, pictures or any combination thereof made visible for the purpose of attracting attention or of making something known, whether such display be made on, attached to, or constructed as part of a building, structure, vehicle or object.

Sign, Abandoned. A sign that advertises an activity or business no longer conducted on the property on which the sign is located.

Sign, Attached. A sign erected parallel to the facade of any building to which it is attached, and supported throughout its entire length by the building face.

Sign, Canopy/Awning. A sign, which is painted, stitched, sewn, or stained onto the exterior of a canopy or awning.

Sign, Directional. A sign or guide whose sole purpose is to direct pedestrian or vehicular traffic on the premises on which it is displayed. Examples include: "entrance," "exit," "driveway", "one-way traffic," etc.

Sign Face. The part of the sign that is or can be used to identify, advertise, or communicate information or for visual representation that attracts the attention of the public for any purpose.

Sign, Facsimile. An over-sized, three dimensional object, such as an automobile, human figure, etc. that may or may not contain advertising matter, and may or may not contain information about products sold on the premises, and is located in such a manner as to attract attention.

Sign, Electronic Changeable Face. A sign, display, or device, or portion thereof, which electronically changes the fixed display screen composed of a series of lights, including light emitting diodes (LED's), fiber optics, or other similar new technology where the message change sequence is accomplished immediately. Electronic changeable face outdoor advertising signs include computer programmable, microprocessor controlled electronic or digital displays that display electronic, static images, static graphics, or static pictures, with or without textual information, and trivision outdoor advertising signs. Electronic changeable face outdoor advertising signs do not include animated or scrolling images, graphics, video active images (similar to television images), projected images or messages onto buildings or other objects, or static outdoor advertising signs.

Sign, Ground. A free-standing sign that is mounted generally flush with the surrounding grade.

Sign, Incidental. A single-faced sign attached wholly to a building, window or door containing information relative to emergencies, store hours, credit cards honored and other similar accessory information.

Sign, Marquee. A sign of a theater, auditorium or museum which advertises current and scheduled events. Marquees may include, incorporate or consist of electronic message signage.

Sign, Movable. A sign that may be moved from one location to another, is not permanently affixed to the ground, and is differentiated from a portable sign in that it may be equipped for transporting by motor vehicle or other mechanical means and includes sign referred to as trailer signs.

Sign, Off-Premise. A sign identifying/advertising and/or directing the public to a business, or merchandise, or service, or institution, or residential area, or entertainment which is located, sold, rented, leased produced, manufactured and/or furnished at a place other than the real property on which said sign is located. This definition shall include signs commonly referred to as "outdoor advertising" or "billboards."

Sign, Pedestrian. A sign which is suspended from and attached to a canopy or awning.

Sign, Portable. A sign that is movable by a person without aid of a motor vehicle or other mechanical equipment.

Sign, Real Estate. Temporary signs advertising the sale, rental or lease of property.

Sign, Temporary. A sign advertising a special event or sale and not intended to be displayed on a permanent basis.

Slope, Percent of. The ratio of vertical rise or fall to horizontal distance of terrain measured perpendicular to the contour lines at horizontal intervals of more than ten (10) feet.

Start of Construction. The date the building permit was issued, provided that the actual start of construction, repair, reconstruction, rehabilitation, addition, or improvement was within one hundred and eighty (180) days of the permit date. The actual start means 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.

Stealth Facilities. Telecommunications facilities designed to blend into the surrounding environment or integrated into the physical structure to which it is attached.

Stormwater Control Measure (SCM). 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, evapotranspiration, post-filtration discharge, reuse of stormwater or a combination thereof.

Story. A space in a building between the surface of any floor and the surface of the next floor above, and if there is no floor above, then the space between such floor and the ceiling or roof above; provided, however, that where the floor level of the first story is at least five feet below the adjoining finished grade, the space shall be considered a basement and not counted as a story. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of the roof. The under-roof area with dormers does not count as a story.

Street. A dedicated and accepted public right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Street Yard. A required open yard area in which street trees are planted.

Streetwall. An opaque freestanding wall or landscaping hedgerow, built on the front property line or on the line of the street side of a façade of a building. The purpose of constructing a street wall is to create continuity in the line of building facades along the street and to mask parking or outdoor storage from adjacent street and pedestrian ways.

Structure. A walled and roofed building that is principally above ground, a gas or liquid storage tank, or other man-made facilities or infrastructure.

Subdivision. All divisions of a tract or parcel of land into two (2) or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale or building development. This definition shall include all division of land involving the dedication of a new street or a change in existing streets. However, the following shall not be included within this definition nor be subject to the regulations:

(1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as shown by the regulations prescribed by this chapter.

(2) The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.

(3) Public acquisition by purchase of strips of land for the widening or opening of streets.

(4) The division of a tract in single ownership, whose entire area is not greater than two (2) acres, into not more than three (3) lots, where no street right-of-way dedication is involved, and where the resultant lots are equal to or exceed the standards of the town, as required by this chapter.

(5) The conveyance to lineal descendants for the purpose of dividing real estate among said lineal descendants. At such time that any lineal descendants or their successors in interest develop or building upon their respective property, the property must conform in all respects to the regulations of the Town of Waynesville.

Subdivision, Conservation. A type of subdivision that preserves undivided, buildable tracts of land as open space by grouping dwelling units close together.

Subdivision, Major. The division of a tract of land into eight (8) or more lots and/or the division of land which involves the dedication of public streets or utilities.

Subdivision, Minor. The division of a tract of a land into no more than seven (7) lots and which does not involve the dedication of public streets or utilities.

Substantially Improved Existing Manufactured Home Park or Subdivision. Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Substantial Progress. For the purposes of determining whether sufficient progress has been made on an approved plan, one or more of the following construction activities toward the completion of a site 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 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.

Surety. A pledge or formal promise made to secure against loss, damage, or default; a security.

Surface Runoff. The cumulative runoff calculated from a particular storm event using hydrologic and hydraulic equations and methodologies.

TIA AADT. Average Annual Daily Traffic gathered through a small sample size and projected to an annual rate.

TIA ADT. Average Daily Traffic gathered through a 365-day data collection process.

TIA Background Conditions. No Build. Conditions at the time of proposed project completion but not including any site generated trips. The background condition contains additional trips based on natural growth rates or other planned and scheduled projects in the study area.

TIA Build Out Conditions. Conditions at the time of project completion including site generated trips, natural growth, or other planned and scheduled projects in the study area.

TIA Existing Conditions. Current conditions not including any growth or new development

TIA Growth Rate. The natural traffic growth rate of the study area roadway area. The growth rate generally takes into account an additional or reduced number of homes, small commercial establishments, and the number of local drivers. Significant changes in these areas should be addressed specifically.

TIA Horizon Conditions. Conditions 2 years beyond Build Out Conditions including another 2 years of natural growth and other planned and scheduled projects in the study area.

TIA Level of Service (LOS). The relationship of travel demand compared to the roadway capacity determines the level of service (LOS) of a roadway. Six levels of service identify the range of possible conditions. Designations range from LOS A, which represents the best operating conditions, to LOS F, which represents the worst operating conditions.

TIA VPD. Vehicles per day either gathered for a 24-hour period or expanded from a smaller sample.

Transportation Impact Analysis or TIA. A specialized study that evaluates the effects of a development's traffic on the surrounding transportation infrastructure.

Traveled Way. That portion of a public right-of-way that is improved for use by self-propelled vehicles or bicycles, including paved or gravel areas and any other area intended for vehicle movement.

Utility Lines and Related Appurtenances. All lines and supporting apparatus or equipment related to the distribution, transmission or disposal of water, storm and sanitary sewage, natural gas, power, and telephone and telecommunication cable. "Related appurtenances" shall include such things as: sewage pump stations, telephone poles, hydrants, transformers, switching boxes, and other similar structures.

Variance. A grant of relief from the requirements of this chapter which permits construction or development in a manner that would otherwise be prohibited by this chapter.

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.

Watershed. The entire land area contributing surface drainage to a specific point or alternatively, the geographic region within which water drains to a particular river, stream, or body of water.

(Ord. No. O-15-13 , 11-26-2013; Ord. No. O-01-15 , § 12, 1-27-2015; Ord. No. O-03-19 , Pt. 3, 1-22-2019)

17.5 Definitions, Floodplain Damage Prevention.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application. For the purpose of applying the standards of Section 12.3, where the definitions of this section differ with those of Section 17.4, the definitions of this section shall prevail.

Accessory Structure (Appurtenant Structure) means a structure 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) means an extension or increase in the floor area or height of a building or structure.

Alteration of a watercourse means 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 means a request for a review of the Floodplain Administrator's interpretation of any provision of this ordinance.

Area of Shallow Flooding means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of Special Flood Hazard. See Special Flood Hazard Area (SFHA).

Area of Future-Conditions Flood Hazard means the land area that would be inundated by the 1-percent-annual-chance (100- year) flood based on future-conditions hydrology.

Base Flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE) means 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 means any area of the building having its floor subgrade (below ground level) on all sides.

Building. See Structure.

Chemical Storage Facility means 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 “Regulatory Flood Protection Elevation.”

Development. Any man-made change to improved or unimproved real estate, including, but not limited to:

a. The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

b. The clearing, excavation, dredging, grading, filling, paving, drilling operations, mining, or alteration of land.

c. Storage of equipment or materials.

d. The subdivision of land as defined in this ordinance.

e. The initiation of substantial change in the use of land or the intensity of use of land.

For stormwater calculation, development shall be considered any land disturbing activity that increases the amount of built upon area or otherwise decreases the infiltration of precipitation into the soil.

Development Activity means 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) means 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 means, as defined in NCGS 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Elevated Building means a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Encroachment means the advance or infringement of uses, fill, excavation, buildings, structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain.

Existing building and existing structure means any building and/or structure for which the "start of construction" commenced before the effective date of the floodplain management regulations adopted by a community.

Existing Manufactured Home Park or Manufactured Home Subdivision means 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** means 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/or

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood Boundary and Floodway Map (FBFM) means 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) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

Flood Insurance means the insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM) means 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) means an examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The Flood Insurance Study report includes Flood Insurance Rate Maps (FIRMs) and Flood Boundary and Floodway Maps (FBFMs), if published.

Flood Prone Area. See Floodplain.

Flood Zone means 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 means any land area susceptible to being inundated by water from any source.

Floodplain Administrator is the individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit means any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity.

Floodplain Management means 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 means this ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power. This term describes Federal, State or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

Flood-resistant material means 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 means 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 (1) foot.

Floodway encroachment analysis means 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 hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

Freeboard means the height added to the Base Flood Elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the Regulatory Flood Protection Elevation.

Functionally Dependent Facility means a facility which cannot be used for its intended purpose unless it is located in close proximity to water, limited to 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 means, as defined in NCGS 130A, Article 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.

Highest Adjacent Grade (HAG) means the highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Historic Structure means any structure that is:

(a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;

(b) 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;

(c) Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or

(d) Certified as contributing to the historical significance of a historic district designated by a community with a Certified Local Government (CLG) Program.

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

Letter of Map Change (LOMC) means 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:

a) 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.

b) 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.

c) 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.

d) 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 means 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:

a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or

b) Designed primarily for transportation of persons and has a capacity of more than 12 persons, or

c) Available with special features enabling off-street or off-highway operation and use.

Lowest Adjacent Grade (LAG) means the elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited 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 ordinance.

Manufactured Home means 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 or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Map Repository means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products has the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data, the NC FRIS website (http://FRIS.NC.GOV/FRIS) is the map repository, and for historical flood hazard data the FloodNC website (http://FLOODNC.GOV/NCFLOOD) is the map repository.

Market Value means the building value, not including the land value and that of any accessory structures or other improvements on the lot. Market value may be established by independent certified appraisal; replacement cost depreciated for age of building and quality of construction (Actual Cash Value); or adjusted tax assessed values.

Mean Sea Level means, for purposes of this ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

New Construction means structures for which the start of construction commenced on or after the effective date of the initial floodplain management regulations and includes any subsequent improvements to such structures.

Non-Conversion Agreement means 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 means 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 (1) foot as designated in the Flood Insurance Study report.

Post-FIRM means construction or other development for which the start of construction occurred on or after the effective date of the initial Flood Insurance Rate Map.

Pre-FIRM means construction or other development for which the start of construction occurred before the effective date of the initial Flood Insurance Rate Map.

Principally Above Ground means that at least 51% of the actual cash value of the structure is above ground.

Public Safety and/or Nuisance means 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) means a vehicle, which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.

Reference Level is the top of the lowest floor for structures within Special Flood Hazard Areas designated as Zones A, AE, AH, AO, A99. The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures within Special Flood Hazard Areas designated as Zone VE.

Regulatory Flood Protection Elevation means the Base Flood Elevation plus the Freeboard. In Special Flood Hazard Areas where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus one (1) foot of freeboard. 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 means to bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

Riverine means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Salvage Yard means any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

Solid Waste Disposal Facility means any facility involved in the disposal of solid waste, as defined in NCGS 130A-290(a)(35).

Solid Waste Disposal Site means, as defined in NCGS 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.

Special Flood Hazard Area (SFHA) means the land in the floodplain subject to a one percent (1%) or greater chance of being flooded in any given year, as determined in Article 3, Section B of this ordinance.

Start of Construction includes substantial improvement, and means 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 on a site, such as the pouring of slab or footings, the installation of piles, the 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 means a walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

Substantial Damage means damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. See definition of substantial improvement. 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.

Substantial Improvement means 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 cumulatively within a 5-year period, regardless of the actual repair work performed. The term does not, however, include either:

(a) 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

(b) 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 Article 4 Section E of this ordinance.

Technical Bulletin and Technical Fact Sheet means 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.

Temperature Controlled means having the temperature regulated by a heating and/or cooling system, built-in or appliance.

Variance is a grant of relief from the requirements of this ordinance.

Violation means 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 Articles 4 and 5 is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation (WSE) means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

Watercourse means 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.

Watershed. The entire land area contributing surface drainage to a specific point or alternatively, the geographic region within which water drains to a particular river, stream, or body of water.