

TOWN OF MARSHALL



NORTH CAROLINA

UNIFIED DEVELOPMENT ORDINANCE

**Adopted
May 16, 2011**



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CHAPTER 1

PURPOSE AND AUTHORITY

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1.1 Title

This Ordinance shall be known and may be cited as the Unified Development Ordinance of Marshall, North Carolina and shall be known as the Unified Development Ordinance (UDO). The official map designating the various zoning districts shall be titled, Town of Marshall Zoning Map, and shall be known as the Zoning Map.

1.2 Purpose

The purpose of the Unified Development Ordinance is to promote the health, safety, morals and general welfare of the community by:

- 1.2.1 Securing safety from fire, panic, and other danger;
- 1.2.2 Facilitating the adequate provisions of transportation, water supply, sewerage, schools, parks, and other public services;
- 1.2.3 Conserving the value of buildings and historic integrity of the Town; and
- 1.2.4 Establishing procedures and standards for the orderly growth and development of the Town.

1.3 Authority

The Board of Aldermen of the Town of Marshall, in pursuance of the authority granted by NCGS 160D-101 and 160D 401 and the authority vested in the Town of Marshall by its charter, does hereby ordain and enact into law this Ordinance.

Section 1.3 as amended by: 2021-UDO-01

1.4 Applicability

1.4.1 Jurisdiction

The provisions of this Ordinance shall be applicable to all land within the corporate limits of the Town of Marshall as established on the map entitled on “Official Zoning Map of the Town of Marshall.

1.4.2 Exemptions to Applicability

These regulations shall not apply to any land or structure for which, prior to the effective date hereof, there is a properly approved site specific plan as required by the requirements previously adopted. Any preliminary or final subdivision plat approvals required for such approved and exempted site specific plans shall be conducted in accordance with the requirements of the Zoning Ordinance or Subdivision Ordinance under which they were approved.

1.5 Abrogation

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the public safety, health, morals, and general welfare. It is not intended by this Ordinance to interfere with, abrogate, or annul easements, covenants, water supply watershed regulations, or other agreements between parties; provided, however, that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this Ordinance shall govern.

1.6 Conformance with Adopted Plans & Right-of-Way Dedication

- (A) In accordance with the requirement of NCGS 160D-501(a), the regulations adopted pursuant to this Ordinance shall be consistent with the Comprehensive Land Use Plan and any specific plans adopted by the Board of Aldermen. All new developments shall be designed in conformance with adopted plans including but not limited to adopted comprehensive plans, comprehensive transportation plans, small area plans, land use plans, parks and recreation plans, and any other adopted plans.
- (B) When a proposed development includes any part of a thoroughfare which has been designated as such upon the officially adopted Comprehensive Transportation Plan, such thoroughfare right(s)-of-way shall be dedicated and constructed by the developer(s) as shown on the plan. Where such right-of way does not currently exist, the developer shall be required to dedicate the necessary right-of-way on the development side of the street.

Section 1.6 as amended by: 2021-UDO-01

1.7 Vested Rights

- (A) Pursuant to NCGS 160D-108 and notwithstanding any other provision of this Ordinance or amendment thereto, a vested right shall be deemed established with respect to any property upon the valid approval of a site specific development plan or a phased development plan, following notice and public hearing by the Board of Aldermen. Such vested right shall confer upon the landowner(s) the right to undertake and complete the development and use of said property under the terms and conditions of the site specific development plan or the phase development plan including any amendments thereto. The Board may approve a site specific development plan or a phased development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety, and welfare. Such approval shall result in a vested right, although failure to abide by such terms and conditions will result in a forfeiture of vested rights. The Board of Aldermen shall not require a landowner to waive his vested rights as

a condition of developmental approval. A site specific development plan or a phase development plan shall be deemed approved upon the effective date of the Board's action. A right which has been vested shall remain vested for a period of two (2) years.

- (B) A vested right, once established and compliant with approved plans, precludes any zoning action which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site specific development plan or an approved phased development plan except:
 - (1) With written consent of the affected landowner.
 - (2) Upon findings that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan or the phased development plan.
 - (3) To the extent that the affected landowner receives compensation for all costs, expenses, and losses incurred.
 - (4) Upon findings that the landowner or his representative intentionally supplies inaccurate information or made material misrepresentations which made a difference in the approval by the Town of the site specific development plan or the phased development plan; or
 - (5) Upon the enactment of a State or Federal law or regulation which precludes development as contemplated in the site specific development plan or the phased development plan.
- (C) Upon request of the applicant, the Town Board of Aldermen may approve an extended vesting period of between two (2) years and five (5) years from the date of approval.

Section 1.7 as amended by: 2021-UDO-01

1.8 Separability

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held to be invalid by the courts, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Aldermen hereby declares that it has passed this Ordinance and each section, subsection, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

1.9 Effective Date

These regulations shall become effective on June 30, 2021. Upon such date, these regulations shall supersede, repeal, and replace the Town of Marshall Zoning Ordinance and the Town of Marshall Subdivision Ordinance. (*Section 1.9 as amended by: 2021-UDO-01*)

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CHAPTER 2

GENERAL PROVISIONS

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2.1 Applicability of General Provisions

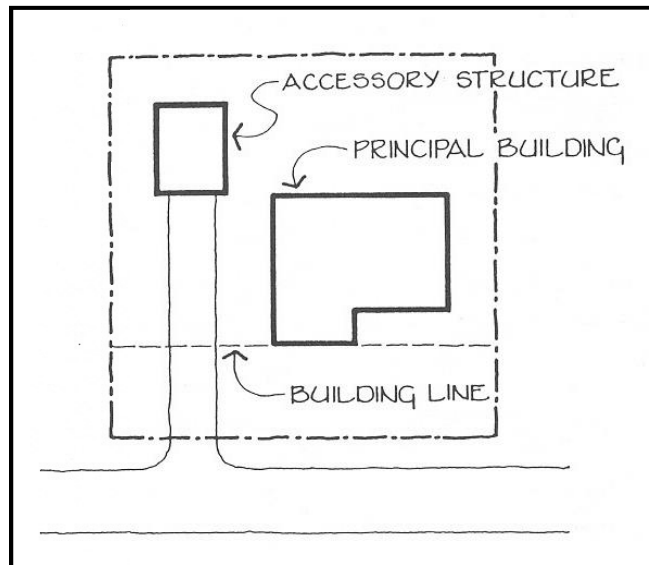
The following provisions shall apply throughout the jurisdiction of this Ordinance, regardless of the underlying regulating district.

2.2 General Lot Standards

2.2.1 Use

- (A) No building, structure, or land shall hereafter be used or occupied, and no building or structure (or part thereof) shall be erected, moved, structurally altered, or altered on the exterior—except in conformity with the regulations of this Ordinance or amendments thereto, for the district in which it is located.
- (B) Only one (1) principal building and its customary accessory structure(s) may hereafter be erected on any lot, except as allowed in individual districts for non-residential and mixed use developments.

FIG. 2.1: PRINCIPAL & ACCESSORY STRUCTURES



2.2.2 Dimensional Standards

- (A) The minimum yards or other open spaces required by this Ordinance for each and every building hereafter erected, moved, or structurally altered shall not be encroached upon or considered as meeting the yard or open space requirements of any other building.
- (B) No yard or lot existing at the time of passage of this Ordinance shall be reduced in size or area below the minimum requirements set forth herein. Yards of lots

created after the effective date of this Ordinance shall be at least the minimum requirements established by this Ordinance.

- (C) The location of required front, side and rear yards on irregularly shaped lots shall be determined by the Administrator. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.
- (D) All lots shall meet any applicable Health Department requirements for private water and septic.

2.2.3 Lot Access

- (A) No building shall be erected on any lot, which does not abut at least 25 feet along a street. Such a street shall meet one of the following criteria:
 - (1) It shall have been accepted by the Town of Marshall as a local public street and be identified by a specified name; or
 - (2) It shall have been accepted by the North Carolina Department of Transportation as a primary or secondary road, with corresponding primary or secondary road number and/or state-identified name; or
 - (3) If neither Subsection (1) or (2) above is applicable, the street shall have all the following characteristics:
 - (a) Be accessible and useable by the Town of Marshall, its agents, and assigns;
 - (b) Have a dedicated right-of-way of at least 25 feet or a deeded right-of-way of at least 20 feet provided that the deed was approved prior to 1975;
 - (c) Have a pavement width of at least 15 feet.
- (B) Through lots (double frontage lots) shall be avoided, wherever possible.

2.3 General Development Standards

2.3.1 Suitability of Land

- (A) Land which, on the basis of engineering or other expert surveys, has been determined to pose an ascertainable danger to life or property by reason of its unsuitability for the use proposed shall not be developed for that purpose, unless and until the developer has taken the necessary measures to correct said conditions and to eliminate said dangers.

- (B) Areas that have been used for disposal of solid waste shall not be developed unless tests by the Health Department, a structural engineer and a soils expert determine that the land is suitable for the purpose proposed.
- (C) All development proposals shall be consistent with the need to minimize flood damage in accordance with regulations of the Flood Damage Prevention provisions of Chapter 7.

2.3.2 Name Duplication

The name of the development shall not duplicate nor closely approximate the name of an existing development within the Town of Marshall.. All final development and street names shall be reviewed and approved by Madison County E-911/Addressing.

2.4 Uses Not Expressly Permitted by Right or Conditionally

- (A) Uses designated as “permitted uses” and “uses permitted with special requirements” are allowed in a district as a matter of right if other applicable regulations of this Ordinance are met.
- (B) Uses classified as “special uses” are permitted upon approval of a Special Use Permit and development plan by the Board of Adjustment.
- (C) The Board of Adjustment may after having held a public hearing in accordance with Chapter 15 determine if a use is permitted within a zoning district based on its interpretation of this Ordinance if the Administrator determines that the use’s permissibility within a zoning district is unclear in the Ordinance.
- (D) Unless a use is allowed as a “permitted”, “use permitted with special requirements”, “special use”, “nonconforming use”, or “temporary use” in this Ordinance, then such use is prohibited.

Section 2.4 as amended by: 2021-UDO-01

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CHAPTER 3

ZONING DISTRICTS

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3.1 Interpretation

3.1.1 Definition of Zoning

- (A)** Zoning is the process by which an area is divided into various districts, each of which is specifically intended for different uses and intensity of uses and within which the use of land and buildings, the height and dimension of buildings, the size of required yards, and the population density are regulated.
- (B)** Further, the regulations are to be made with reasonable consideration, among other things, to the character of the district and its unique suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the town's jurisdiction.

3.1.2 Zoning District Authority

- (A)** In accordance with the requirement of NCGS 160D-703 that zoning regulation be by districts, the Town, as shown on the Zoning Map accompanying this Ordinance, is hereby divided into districts which shall be governed by all of the uniform use and dimensional requirements of this Ordinance.
- (B)** Zoning divides a town's territorial jurisdiction into districts, or zones, of any number, shape, and area that may be deemed best suited to carry out the purposes of NCGS 160D-703. Within those districts, the municipality may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All regulations must be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

3.1.3 Zoning Map

- (A)** For the purposes of this Ordinance, the Town of Marshall is hereby divided into zoning districts whose locations and boundaries are shown on the Official Zoning Map for the Town of Marshall which is hereby adopted by reference and declared to be a part of this Ordinance.
- (B)** This Zoning Map and all the notations, references, and all amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map were all fully described and set out herein. The Zoning Map properly attested is on file in the Town Hall and is available for inspection by the public.
- (C)** The Administrator or his representative shall be responsible for the maintenance and revision of the Official Zoning Map. Upon notification by the Town Board that a zoning change has been made, the Administrator shall make the necessary

changes on the Official Zoning Map.

(D) Where uncertainty exists as to the boundaries of any district shown on the Official Zoning Map, the Administrator shall employ the following rules of interpretation.

(1) Centerline

Where a boundary line lies within and follows a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be in the center of such street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two (2) separate zoning districts. If such right-of-way is abandoned or removed from dedication, the district boundaries shall be construed as following the centerline of the abandoned or vacated street or utility easement.

(2) Edge Line

Where a boundary line follows the edge of a street or alley right-of-way, a railroad right-of-way, or utility easement, the boundary shall be construed to be on the edge of such street or alley right-of-way, railroad right-of-way, or utility easement. If such a street or alley right-of-way, railroad right-of-way, or utility easement forming the boundary between two separate zoning districts is abandoned or removed from dedication, the district boundaries shall be construed as following the edge of the abandoned or vacated street or utility easement.

(3) Lot Line

Boundaries indicated as approximately following lot lines shall be construed as following such lot lines. In the event that a district boundary line divides a lot or tract, each part of the lot or tract so divided shall be used in conformity with the regulations established by this Ordinance for the district in which said part is located.

(4) Town Limits

Boundaries indicated as approximately following town limits or extraterritorial boundary lines shall be construed as following the town limits or extraterritorial boundary lines.

(5) Watercourses

Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines.

(6) Extensions

Boundaries indicated as parallel to or extensions of street or alley rights-of-

way, utility easements, lot lines, city limits, county lines, or extraterritorial boundaries shall be so construed.

(7) Scaling

In a case where a district boundary does not coincide with any boundary lines as above and no distances are described by specific ordinance; the boundary shall be determined by the use of the scale appearing on the map.

- (8)** Where the Administrator determines that physical features existing on the ground, or actual property lines or other man-made boundary lines used to depict zoning district boundaries, are different than those shown on the Official Zoning Map, the Board of Adjustment shall have the authority to interpret Zoning district boundaries.

3.1.4 District & Permitted Use Interpretation

Each zoning district has uses permitted by right, uses permitted with special requirements, and conditional uses. Tables are shown for each district placing uses under one of the three categories. In addition to the individual district tables, is a detailed permitted uses table showing the uses allowed in each district. The following describes the processes of each of the three categories that the uses are subject to:

(A) Permitted by Right

Administrative review and approval subject to district provisions and other applicable requirements only.

(B) Permitted with Special Requirements

Administrative review and approval subject to district provisions, other applicable requirements, and special requirements outlined in Chapter 4.

(C) Special Uses

Board of Adjustment review and approval of Special Use Permit subject to district provisions, other applicable requirements, and conditions of approval. Some Special Uses may also be subject to special requirements outlined in Chapter 4.

3.1.5 Other Requirements

Refer to all other local, state, and federal requirements.

Section 3.1 as amended by: 2021-UDO-01

3.2 Base Zoning Districts

Base zoning districts are created to provide comprehensive land use regulations throughout Marshall. There are eight (8) base zoning districts that provide for a variety of uses that are appropriate to the character of the areas in which they are located. For the purpose of this Ordinance, Marshall is hereby divided into the following base zoning districts. These districts shall comply with all of the general and specific requirements of this Ordinance.

3.2.1 OSR Open Space & Recreation District

The Open Space & Recreation district is established to encourage the conservation of land for flood control, public recreation, community facility sites, natural or man-made bodies of water, forests, and other similar open space uses.

3.2.2 R-1 Low Density Residential District

This district is established for low density single-family residential purposes, to protect existing single-family neighborhoods from incompatible land uses, and to allow for certain nonresidential community facilities that would not be detrimental to the residential character of the district.

3.2.3 R-2 Medium Density Residential District

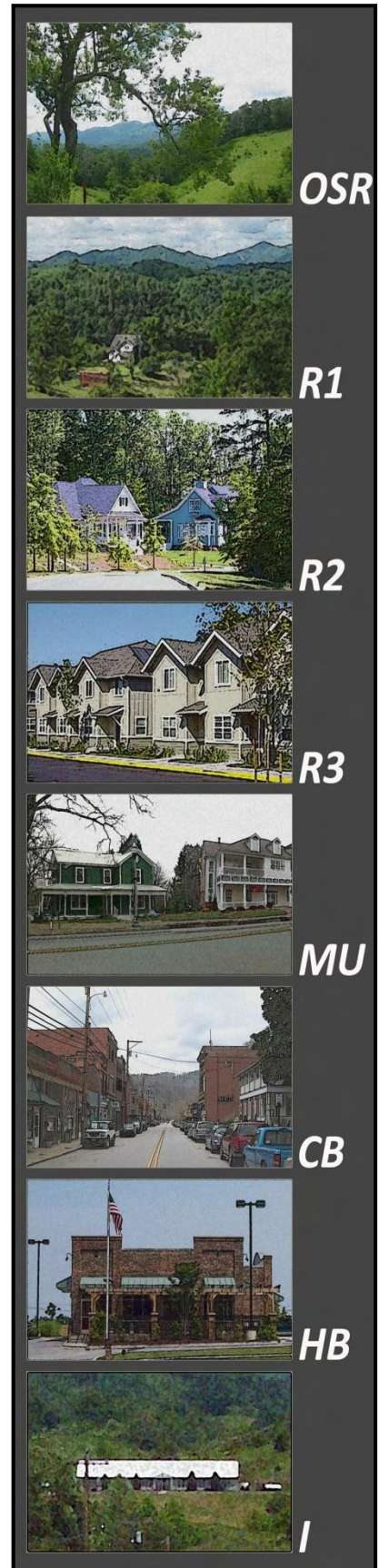
This district is established for medium density single family residential purposes, to protect existing single-family neighborhoods from incompatible land uses, and to allow for certain nonresidential community facilities that would not be detrimental to the residential character of the district.

3.2.4 R-3 High Density Residential District

This district is established for higher density single and multi-family residential purposes and allows for a variety of residential uses and certain nonresidential community facilities that would not be detrimental to the residential character of the district.

3.2.5 MU Mixed Use District

This district is intended to accommodate a variety of



compatible uses including medium to high density residential, limited commercial, and office uses along key corridors and can serve as a transitional buffer between residential districts and commercial districts.

3.2.6 Central Business District

This district is established to protect and promote the continued vitality of the downtown of Marshall. This district is intended to allow for a variety of residential, commercial, and service-oriented uses. It is the intent of this district to provide a concentration of general commercial activities in a pedestrian-oriented setting.

3.2.7 HB Highway Business District

This district is intended to accommodate uses designed primarily to meet the needs of the traveling public and to ensure these uses are attractive, functional, and do not have a harmful effect on adjacent neighborhoods or other commercial areas of the town.

3.2.8 Industrial District

This district is established to provide for manufacturing, warehousing and similar uses. It is not the intent of this district to allow such uses in areas where they would be incompatible with surrounding land uses.

3.3 Permitted Uses Table

3.3.1 Intent

The Permitted Uses Table contains a listing of uses which may be permitted in one or more of the various zoning districts. Uses are listed in alphabetical order within seven (7) categories as follows:

- (A) Residential
- (B) Civic, Government, & Institutional
- (C) Office & Service
- (D) Retail
- (E) Recreation & Entertainment
- (F) Industrial, Manufacturing, Warehousing, Wholesale, Distribution, & Transportation
- (G) Other

TABLE OF PERMITTED USES

3.3.2 Table Key

The following is a list of the meanings of table entries:

- (A) “P” indicates that the use is permitted by right in the zoning district
- (B) “S” indicates that the use is permitted with a Special Use Permit in the zoning district
- (C) A blank space under a zoning district column indicates that a use is not permitted in that district.
- (D) A section number listed in the “SR” column indicates that the use has special requirements for the zoning district in which it is permitted. The section number refers to the regulations in Chapter 4.

Section 3.3 as amended by: 2014-UDO-02, 2015-UDO-02, 2015-UDO-03, 2018-UDO-01, 2018-UDO-02, 2018-UDO-03, 2021-UDO-01

<i>Residential Uses</i>	OSR	R-1	R-2	R-3	MU	CB	HB	I	SR
Accessory dwellings		S	S	S	P				4.2.1
Accessory structures (residential)		P	P	P	P				4.2.2
Boarding or rooming houses				S	S	S			4.2.3
Conservation developments		P	P	P	P				4.2.4
Family care homes		P	P	P	P				4.2.5
Home occupations		P	P	P	P	P			4.2.6
Manufactured homes on individual lots (singlewide and doublewide)		P	P						4.2.7
Manufactured home park				S	P				4.2.8
Multi-family dwellings (includes apartments & townhomes)				P	P	P			4.2.9
Single-family dwellings, detached		P	P	P	P	P			
Temporary emergency manufactured homes	P	P	P	P	P	P	P	P	4.2.10
Two-family dwellings (duplexes)			P	P	P	P			4.2.11
<i>Civic, Government, & Institutional Uses</i>	OSR	R-1	R-2	R-3	MU	CB	HB	I	SR
Cemeteries		S	S	S	S				4.3.1
Colleges, Universities, & associated facilities						S	P		4.3.2
Correctional facilities								S	4.3.3
Daycare Centers		S	S	S	P	S	P		4.3.4
Emergency Services (fire, police, rescue squad, ambulance, EMT, & similar uses)	S	S	S	S	P	P	P	P	
P=Permitted Use S=Special Use Permit required Blank=Not Permitted SR=See Chapter 4 for Special Requirements									

TABLE OF PERMITTED USES

<i>Civic, Government, & Institutional Uses (continued)</i>	OSR	R-1	R-2	R-3	MU	CB	HB	I	SR
Government office buildings	P				P	P	P	P	
Hospitals & medical treatment facilities (greater than 10,000 sq. ft.)					S		S	P	
Instructional Schools (karate, dance gymnastics, music, art, & similar instruction)					P	P	P	S	
Libraries, museums, art galleries, art centers, & similar uses	S	S	S	S	P	P	P		
Post Offices					P	P	P		
Religious institutions & related uses		S	S	S	P	P	P		
Research facilities								P	
Residential care institutions (including halfway houses)					S				4.3.5
Residential care homes (excluding halfway houses)			S	S	S				4.3.5
Schools & associated facilities (public & private elementary & secondary)		S	S	S	P	S	P		4.3.6
Schools (trade & vocational)						S	P	P	4.3.2
Social, fraternal clubs & lodges, union halls, & similar uses operated on a non-profit basis		S	S	S	S	S	P		
<i>Office & Service Uses</i>	OSR	R-1	R-2	R-3	MU	CB	HB	I	SR
Animal services (no outdoor kennels)					P	P	P		
Animal services (with outdoor kennels)							S		4.4.1
Artists, craftsman					P	P	P		
Bed & breakfast inns		S	S	S	P	S			4.4.2
Body piercing & tattoo studios							S		4.4.3
Crematoriums								S	
Dry cleaning and laundry establishments (non-industrial)					P	P	P		
Funeral homes and mortuaries							P		
Hotels, motels, & inns					S	S	P		
Motor vehicle or boat services (no outdoor storage)					S		P	P	4.4.4
Motor vehicle boat services (with outdoor storage)								P	4.4.4
Medical, dental, & optical clinics (less than 10,000 square feet)					P	P	P		
Personal service uses					P	P	P		
Professional Offices					P	P	P	P	
Services, other (inside fully enclosed building)					S	P	P	P	
P=Permitted Use S=Special Use Permit required Blank=Not Permitted SR=See Chapter 4 for Special Requirements									

TABLE OF PERMITTED USES

<i>Retail & Wholesale Uses</i>	OSR	R-1	R-2	R-3	MU	CB	HB	I	SR
Convenience stores (no motor vehicle services)							P		
Microbrewery					P	P	P		
Motor vehicle or boat sales or rental							P		4.5.1
Open air markets (including farmers' markets)	P					S	S		4.5.2
Restaurants (no drive-through)					P	P	P		
Restaurants (with drive-through)							P		4.9.2
Retail uses (less than 5,000 square feet, inside fully enclosed building)					P	P	P		
Retail uses (5,000-20,000 square feet, inside fully enclosed building)					S	S	P		
Retail uses (greater than 20,000 square feet, inside fully enclosed building)							S		
Retail uses (outside fully enclosed building)							P		4.5.3
Wholesale							P	P	
<i>Recreation & Entertainment Uses</i>	OSR	R-1	R-2	R-3	MU	CB	HB	I	SR
Adult Establishments								S	4.6.1
Bars & Nightclubs						S	S		4.6.2
Campgrounds	S	S							4.6.3
Electronic gaming operations							S		4.6.4
Golf, tennis, swimming clubs & related uses (private, not in development)	S	S	S	S					
Golf, tennis, swimming facilities, athletic fields & related uses (public)	P	S	S	S			S	S	
Parks (public)	P	P	P	P	P	P	P	P	
Recreation facility (indoor, designed to accommodate less than 1,000 people)	P				S	S	P		
Recreation facility (indoor, designed to accommodate 1,000 or more people)							S		
Recreation facility (outdoor, including golf driving ranges, miniature golf, skateboard parks, water slides, batting cages & similar uses)	S						S		
Theater (indoor)					S	P	P		
Theater (outdoor)	P						S		
<i>Industrial, Warehousing, & Transportation Uses</i>	OSR	R-1	R-2	R-3	MU	CB	HB	I	SR
Accessory Structures								P	4.7.4
Airports & heliports								S	4.7.1
Asphalt plants								S	
Automobile parking lots or garages (principal use)					P	P	P		
P=Permitted Use S=Special Use Permit required Blank=Not Permitted SR=See Chapter 4 for Special Requirements									

TABLE OF PERMITTED USES

<i>Industrial, Warehousing, & Transportation Uses (continued)</i>	OSR	R-1	R-2	R-3	MU	CB	HB	I	SR
Bus & train stations						P	P		
Distribution centers								P	
Hazardous material storage								S	
Junkyards, salvage yards, recycling operations, and similar uses								S	4.7.2
Landfill (construction, demolition, land clearing & inert debris)								S	
Landfill (sanitary)								S	
Manufacturing, processing, & assembly (inside fully enclosed building)							S	P	
Manufacturing, processing, & assembly (outside fully enclosed building)								S	
Quarrying operations								S	4.7.3
Recycling centers (excluding recycling operations)							P		
Taxicab stands or offices					P	P	P		
Trucking terminals								P	
Warehouse uses							P	P	
Warehouse, mini							S		
<i>Agricultural Uses</i>	OSR	R-1	R-2	R-3	MU	CB	HB	I	SR
Agricultural operations, farming & livestock (excluding equestrian uses & swine production)	P	P	P	S	S		P		4.8.1
Equestrian uses (horseback riding, stables)	P	S	S	S	S				4.8.2
Greenhouse or horticultural nursery (no on-premises sales)	P	P	S		P		P		
Greenhouse or horticultural nursery, commercial (with on-premises sales)					S		P		
Produce Stand (permanent)	P	P							4.8.3
Silvicultural operations	P	P							
<i>Other Uses</i>	OSR	R-1	R-2	R-3	MU	CB	HB	I	SR
Communications towers	S	S	S	S	S	S	S	S	4.9.1
Drive-through/Drive-in uses (associated with permitted use)					S	S	P		4.9.2
Elevated water tank	P	S	S	S	S	S	P	P	4.9.3
Mixed-use building					P	P	P		4.9.4
Outdoor Storage (excluding outdoor sales display)							P	P	4.9.5
Temporary Uses	P	P	P	P	P	P	P	P	4.9.6
Temporary Food Vendors	P				P	P	P	P	4.9.6
Utility facilities	S	S	S	S	S	S	S	S	4.9.7
P=Permitted Use S=Special Use Permit required Blank=Not Permitted SR=See Chapter 4 for Special Requirements									

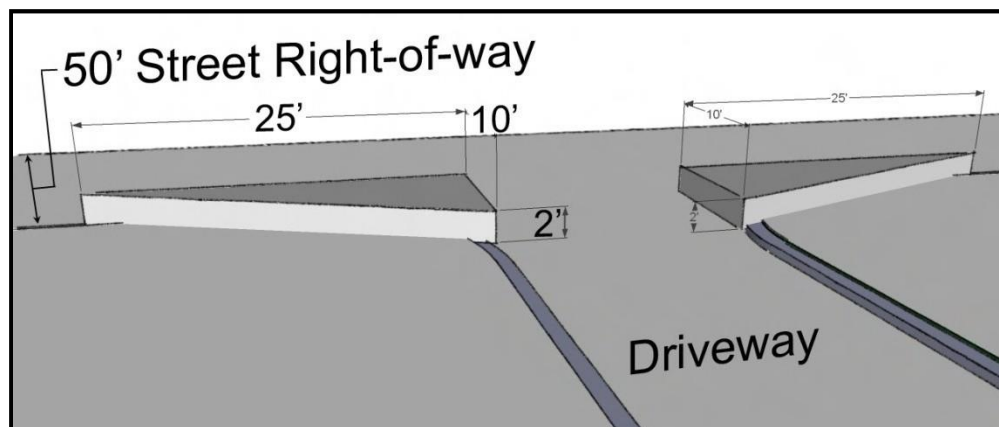
3.4 Dimensional Requirements

3.4.1 General Provisions

- (A) All setbacks shall be measured from the property line to the nearest point of the structure.
- (B) Where a property abuts a street right-of-way, the setback shall be measured from the right-of-way line.
- (C) A minimum of 25 feet of street frontage is required for each lot.
- (D) The front setbacks of flag lots shall be established where the lot width is met.
- (E) Front and side yard setbacks for infill lot development shall be equal to the average for similar principal structures on the same side of the street and within the same zoning district within 300 feet of either side of the lot in question.
- (F) No planting, structure, fence, wall, or other obstruction to vision that is more than two (2) feet tall as measured at street level shall be placed in the sight triangle. The sight triangle is the area formed by a diagonal line connecting two points located on intersecting property lines (or a property line and the curb or a driveway). The following are the distances used to establish a sight triangle as measured from an intersecting right-of-way:

Right-of-Way Width (feet)	Distance (feet)
Driveway	10
50	25
60	30
70	35
80	40
90	45
100 or greater	50

FIG. 3.1: SIGHT TRIANGLE



3.4.2 Dimensional Table

District	Max. Residential Density ¹	Min. Lot Area (sq. ft.)	Min. Lot width (feet) ²	Front Setback (feet) ^{2,3}	Corner Side Setback (feet) ³	Side Setback (feet) ²	Rear Setback (feet) ²	Max. Height (feet) ⁴
OSR	N/A	21,780	100	25	20	10	25	35
R-1	1 DUA	43,560	80	25	20	10	20	35
R-2	2 DUA	21,780	50	20	15	10	15	35
R-3	10 DUA	5,000	20	10	10	5 (0 ft. for attached housing)	10 (20 ft. on alley)	40
MU	10 DUA	N/A	N/A	10	20	10	25	40
CB	10 DUA	N/A	N/A	0	0	0 ⁵	0 (20 ft. on alley)	30 (Main Street-river side) 40 (Main Street-non-river side)
HB	N/A	21,780	50	30	25	10	20	40
I	N/A	21,780	50	25	20	20	20	40

N/A=Not applicable

DUA=Dwelling Units per Acre

¹Residential density may be used for Conservation Developments in lieu of minimum lot areas in accordance with Section 4.2.4. Overall allowable density may be affected by the steep slope development provisions set forth in Section 7.3.

²Minimum lot widths and setbacks in Conservation Developments may be reduced in accordance Section 4.2.4.

³The front and corner side setbacks shall be measured from the edge of the roadway. Where a right-of-way is not established, the setback shall be measured from the centerline of the road.

⁴Maximum height shall not exceed the height of the nearest ridgeline and shall comply with Section 7.3.

⁵Minimum six foot setback for infill buildings and additions adjacent to existing buildings with windows or openings on side.

3.4.3 Exceptions

- (A) The dimensional provisions of this section do not apply to residential accessory structures, which are regulated in Section 4.2.2.
- (B) Utility uses as defined by this Ordinance are not subject to the minimum lot sizes set forth for each zoning district.
- (C) Canopies, awnings, open stairways, uncovered porches, uncovered decks, uncovered patios, bay windows, chimneys, and heating units may encroach into the setback up to three (3) feet.

- (D) The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, and shall neither apply to monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, radio towers, television towers, masts, aerials, and similar structure, except in the vicinity of airports and as regulated by Chapter 4 Special Requirements.

Section 3.4 as amended by: 2015-UDO-02

3.5 Conditional Zoning Districts

3.5.1 Purpose

- (A) Conditional Zoning districts are created to correspond to each of the base zoning districts created in Section 3.2. Conditional Zoning (CZ) Districts allow specific uses to be established in accordance with prescribed conditions pertaining to an individual project.
- (B) The purpose is to provide a voluntary alternative procedure for the rezoning of a property for a specific use. A broad range of uses are permitted in the base district. However, there are instances where a base zoning district designation is clearly inappropriate for a property, but a specific use or uses permitted under this district and subject to development requirements would be consistent with the spirit and intent of this Ordinance. Conditional Zoning districts, herein established, are intended to accommodate such situations. This voluntary procedure is intended for firm development proposals, and is neither intended nor suited for securing early zoning for tentative uses which may not be undertaken for a long period of time.
- (C) Just as there are eight (8) base zoning districts, there are eight (8) corresponding Conditional Zoning Districts.
 - (1) CZ OSR - Conditional Zoning Open Space and Recreational
 - (2) CZ R-1 - Conditional Zoning Low Density Residential
 - (3) CZ R-2 - Conditional Zoning Medium Density Residential
 - (4) CZ R-3 - Conditional Zoning High Density Residential
 - (5) CZ MU - Conditional Zoning Mixed Use
 - (6) CZ CB - Conditional Zoning Central Business
 - (7) CZ HB - Conditional Zoning Highway Business
 - (8) CZ I - Conditional Zoning Industrial

3.5.2 Applicability

- (A) Property may be placed in a Conditional Zoning District only in response to a petition by the owners of all the property to be included.
- (B) Specific conditions applicable to these districts may be proposed by the petitioner or the Town or its agencies, but only those conditions mutually approved by the Town and the petitioner may be incorporated into the requirements of the district. Conditions and site-specific standards imposed in a Conditional Zoning District shall be limited to those that address the conformance of the development and use of the site to the Town's ordinances and to any officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.
- (C) Conditional Zoning Districts allows specific standards for a particular use after review and comment from the public. A petition to rezone a property to a Conditional Zoning District shall be accompanied by a site specific plan.
- (D) Within a CZ district, only those uses authorized as either permitted or conditional uses in the base zoning district with which the CZ district corresponds shall be permitted, and all other requirements of the corresponding district shall be met as minimum standards.
- (E) In approving a CZ district, the Board of Aldermen may impose such additional reasonable and appropriate safeguards upon such permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured, and substantial justice done.
- (F) If for any reason any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of this Ordinance that the authorization of such CZ district shall be null and void and of no effect, and that proceedings shall be instituted to rezone the property to its previous zoning classification.
- (G) Conditional Zoning districts shall be approved in accordance with the process outlined in Chapter 14.

3.6 Overlay Districts

3.6.1 Gateway Overlay (G-O)

- (A) The intent of the Gateway Overlay is to create town entrances that are integral to an outsider's perception of the Town. It is important that these areas be attractive and informative for visitors and passers-by to spur interest in what Marshall has to offer. Two types of gateway nodes have been indicated on the Land Development Concept Map in the Town of Marshall Comprehensive Land Use Plan, downtown gateways and town gateways.

- (B)** The following uses shall be prohibited from the Gateway Overlay:
- (1)** Any use listed under “Industrial, Warehousing, & Transportation Uses” or “Agricultural Uses” in the Permitted Uses Table in Section 3.3.
 - (2)** Adult establishments
 - (3)** Animal services (with outdoor kennels)
 - (4)** Body piercing & tattoo studios
 - (5)** Correctional facilities
 - (6)** Crematoriums
 - (7)** Drive-through/Drive-in uses (associated with permitted use)
 - (8)** Elevated water tank
 - (9)** Manufactured homes on individual lots
 - (10)** Manufactured home parks
 - (11)** Motor vehicle or boat sales or rental
 - (12)** Motor vehicle or boat services
 - (13)** Outdoor Storage (excluding outdoor sales display)
 - (14)** Recreation facility: outdoor, including golf driving ranges, miniature golf, skateboard parks, water slides, batting cages & similar uses (excluding public parks and river portages)
 - (15)** Retail uses (outside fully enclosed building)
 - (16)** Theater (outdoor)
 - (17)** Tower & antennas (more than 50 feet tall)
 - (18)** Utility facilities

CHAPTER 4

SPECIAL REQUIREMENTS

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4.1 Purpose

The Town of Marshall finds that there are certain uses that exist which may be constructed, continued, and/or expanded provided they meet certain mitigating requirements specific to their design and/or operation. Such special requirements ensure compatibility among other uses. This Chapter specifies those requirements that must be met by all the uses listed in the uses permitted with Special Requirements section for each district in Chapter 3.

Each use shall be permitted in compliance with all conditions listed for the use in this Chapter. Certain uses are also classified as Special Uses and require Board of Adjustment approval.

Section 4.1 as amended by: 2021-UDO-01

4.2 Residential Uses

4.2.1 Accessory Dwellings

Accessory dwellings may be located in a building separate from the principal dwelling subject to the following requirements:

- (A) The principal dwelling shall be owner occupied.
- (B) The accessory dwelling shall not exceed one-half (½) of the total area of the principal dwelling.
- (C) Accessory dwellings shall meet the principal structure setbacks as set forth for the zoning district in which it is located in Section 3.4.
- (D) Accessory dwellings shall be built to North Carolina Building Standards.

4.2.2 Accessory Structures (Residential)

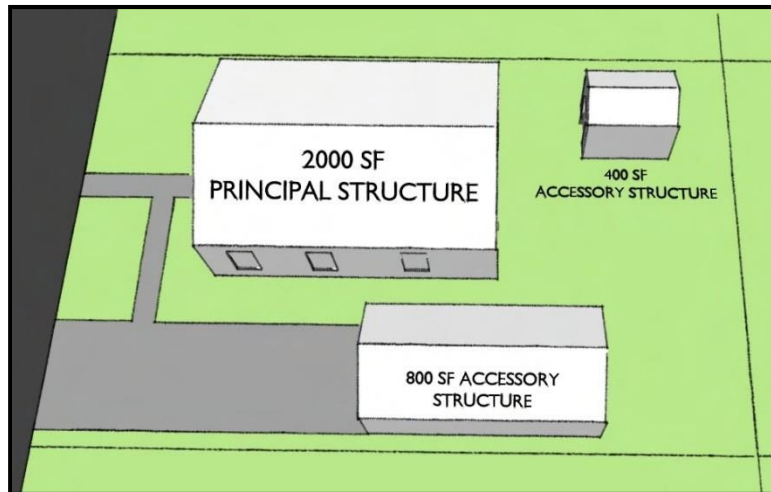
- (A) There shall be a principal residential structure on any lot for which there is an accessory structure.
- (B) Maximum lot coverage for the principal structure and accessory structure(s) combined shall be 30 percent. The total combined area of accessory structures shall not exceed the size of the principal structure, and no single accessory structure shall exceed 40 percent of the size of the principal structure.
- (C) The maximum height for accessory structures shall be the height of the principal structure. Accessory structures that are greater than 15 feet tall shall meet the district setbacks set forth in Section 3.4. Accessory structures that are less than 15 feet tall shall meet the following setbacks:

District	Max. Height-15 feet		
	Front ^{1,2} (feet)	Side ² (feet)	Rear ² (feet)
R-1	25	10	10
R-2	20	5	5
R-3	10	5	5
MU	10	0	0
CB	0	0	0

¹No accessory structure shall be located in front of the front building wall of the principal structure.

²Detached garages shall be set back a minimum of 20 feet from any front or side corner setback.

FIG. 4.1 ACCESSORY STRUCTURE LOT COVERAGE



- (D) Any structure attached to the principal structure shall be subject to all regulations applicable to the principal structure.
- (E) Accessory structures shall be constructed in the side or rear yard. In the R-1 district, accessory structures may be placed in the front yard where the accessory structure is set back a minimum of 150 feet from the street right-of-way.
- (F) No accessory structure shall be located closer than six (6) feet from any other building on the same lot.
- (G) Mailboxes, newspaper boxes, walls, fences, birdhouses, flagpoles and pump covers may be placed in any yard, and no zoning permit is needed for these structures.
- (H) Doghouses up to 15 square feet of total area are permitted in the rear yard. No zoning permit is required.
- (I) No accessory structure shall be permitted that involves or requires any external features which are not primarily residential in nature or character.
- (J) Satellite dishes do not require a zoning permit and shall be regulated as follows:
 - (1) Satellite dishes shall be no larger than two (2) feet in diameter unless the

applicant can demonstrate the need for a larger size.

- (2) Satellite dishes whose reflective surface is solid shall be painted a subdued or natural color.
- (K) Under no circumstances may a vehicle, trailer, or manufactured home be used as an accessory structure.
- (L) Swimming pools shall be enclosed with a fence of at least four (4) feet in height.

4.2.3 Boarding or Rooming Houses

- (A) The maximum number of guest bedrooms shall be five (5).
- (B) The boarding house shall be operated by a resident manager.
- (C) The use shall be located in a structure which was originally constructed as a dwelling.
- (D) The use shall contain only one (1) kitchen facility. Meals served on the premises shall be only for overnight residents and guests of the facility.

4.2.4 Conservation Developments

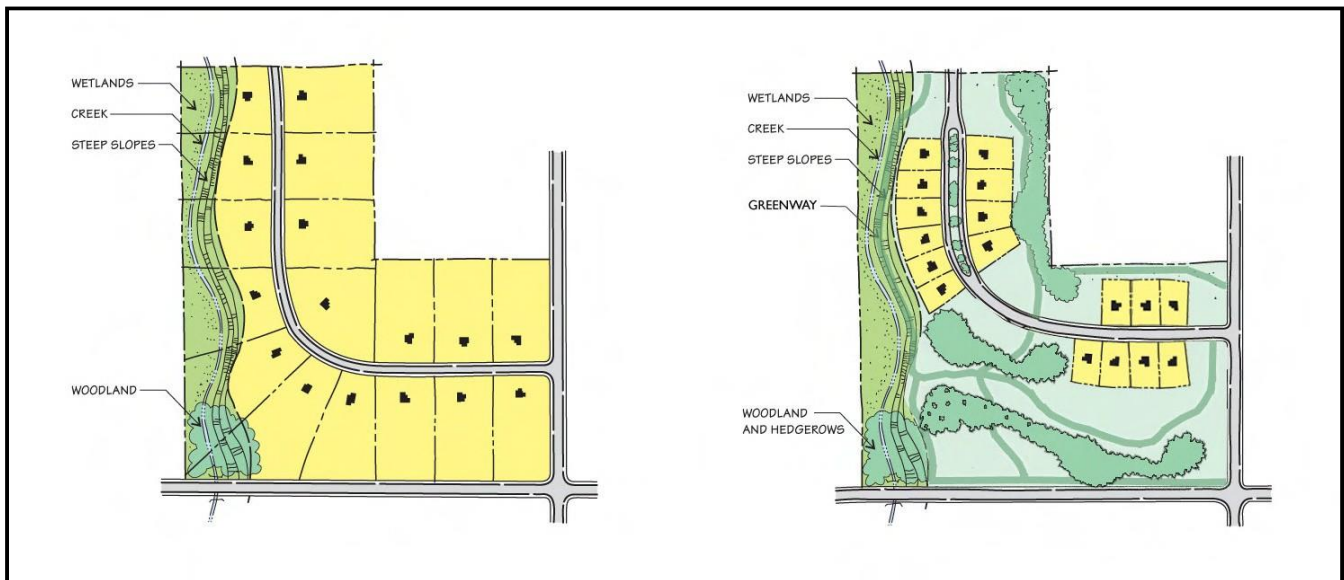
The purpose of Conservation Development design is to preserve agricultural and forestry lands, natural and cultural features, and environmentally sensitive areas that would be likely lost through conventional development approaches. Lot widths and setbacks in residential districts may be reduced subject to the following requirements:

- (A) The development density shall not exceed the overall density permitted in the zoning district in which the development is located. Areas with slopes of greater than 50 percent and floodway areas shall not be included in the overall allowable density calculation.
- (B) The district setbacks set forth in Section 3.4 shall apply along the boundaries of the development. Setbacks within the development shall be set forth as part of the design process as outlined in Subsection (C).
- (C) A minimum of 50 percent of the total area of the development shall be set aside in Common Open Space and shall meet the requirements of Section 7.6.
- (D) Each Master Plan for a Conservation Development shall follow a four-step design process as described below. When the conceptual Master Plan is submitted, applicants shall be prepared to demonstrate to the Town that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots and greenway lands.
 - (1) During the first step all potential Conservation Areas (both Primary and Secondary) shall be identified, using the Existing Features Plan described in

Section 7.2.1. Primary Conservation Areas shall consist of wetlands, floodplains, steep slopes (greater than 25%), and other environmentally protected areas. Secondary Conservation Areas shall include the most sensitive and noteworthy natural, scenic and cultural resources including viewsheds, rock outcroppings, specimen trees, significant tree stands, and historic sites.

- (2) During the second step, potential building sites are tentatively located. Because the proposed location of the buildings within each lot represents a significant decision with potential impacts on the ability of the development to meet the requirements of the Ordinance, applicants shall identify tentative house sites on the conceptual Sketch Plan. House sites should generally be located not closer than 50 feet to Primary Conservation Areas.
- (3) The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids, or at least minimizes, adverse impacts on both the Primary and Secondary Conservation Areas. Wetland crossings shall be avoided. Street connections shall be provided to minimize the number of cul-de-sacs and to facilitate easy access to and from homes in different parts of the property (and on adjoining parcels).
- (4) The fourth step is simply to draw the lot lines where applicable.

FIGURE 4.2 CONSERVATION DEVELOPMENT EXAMPLE



Source: Southeastern Wisconsin Regional Planning Commission (SEWRPC). "Conservation Subdivision Design." 2002 & modified by Benchmark, CMR, Inc., 2009

4.2.5 Family Care Homes

In accordance with NC General Statute Chapters 122C, 131D, 160D-907 and 168, these uses are deemed residential uses and are permitted in all residential districts subject to the following conditions:

- (A) No more than six (6) residents other than the homeowner and the homeowner's immediate family are permitted to live in a Family Care Home.
- (B) A Family Care Home must be licensed with the NC Department of Health and Human Services Division of Facility Services before operating.
- (C) No Family Care Home may be located within a one-half (1/2) mile radius of any other residential care home.
- (D) No exterior signage is permitted.
- (E) No lockdown, violent, or dangerous residents.
- (F) Only incidental and occasional medical care may be provided.

4.2.6 Home Occupations

- (A) Customary Home Occupations
 - (1) The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential character of the dwelling.
 - (2) No outside storage of materials or equipment shall be allowed in connection with the home occupation.
 - (3) Use of the dwelling for the home occupation shall be limited to 25 percent of the heated finished area of the principal residential structure. Any portion of an attached garage or basement may also be devoted to the home occupation.
 - (4) Residents of the dwelling plus a maximum of one (1) non-resident employee may be engaged in the customary home occupation or otherwise report to work at the dwelling.
 - (5) No merchandise shall be sold or displayed on the premises.
 - (6) No external alterations inconsistent with the residential use of the dwelling shall be permitted.
 - (7) Only vehicles used primarily as passenger vehicles of no greater than two (2) axles shall be permitted in connection with the conduct of the customary home occupation.

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- (8) Chemical, mechanical, or electrical equipment that creates odors, light emission, noises, or interference in radio or television reception detectable outside the dwelling unit shall be prohibited.
- (9) Customary home occupations may be in operation at any time between the hours of 7:00 A.M. and 8:00 P.M.

(B) Child Care Home Occupation

- (1) In addition to the requirements for a Customary Home Occupation, the following requirements shall apply to a Child Care Home Occupation:
- (2) Child Care Home Occupations shall be limited to a maximum of five (5) children in addition to any children of the operator.
- (3) A minimum of 100 square feet of outdoor play area per child shall be provided in the rear yard. This area shall be fenced to a minimum height of four (4) feet.

(C) Rural Home Occupations (R-1 district only)

- (1) Minimum lot size: 2 acres
- (2) The rural home occupation shall be incidental to the use of the property for a principal dwelling.
- (3) The occupation activity may take place either in the principal dwelling or accessory structure. If the rural home occupation is located in an accessory structure, then the structure shall meet the principal structure setbacks for the zoning district.
- (4) No outside storage of materials or equipment shall be allowed in connection with the home occupation.
- (5) Chemical, mechanical, or electrical equipment that creates odors, light emission, noises, or interference in radio or television reception detectable beyond the property line shall be prohibited.
- (6) The operator of the rural home occupation must reside on the property.
- (7) No more than three (3) persons who do not reside on the premises shall be employed at the occupation.
- (8) Rural home occupations may be in operation at any time between the hours of 7:00 A.M. and 8:00 P.M.
- (9) Rural home occupations shall be limited to office and service uses inside a fully enclosed building.

4.2.7 Manufactured Homes (on individual lots)

- (A) The minimum lot width on which an individual manufactured home is located shall have a width no less than that required for a single-family residential use for the district in which the manufactured home is located.
- (B) The setbacks for a manufactured home on an individual lot shall be that as required for a single-family for the district in which the manufactured home is located.
- (C) The manufactured home shall be constructed after July 13, 1994, and shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.
- (D) The pitch of the home's roof shall have a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run (2.2:12).
- (E) All roof structures shall provide an eave projection of no less than six inches.
- (F) The exterior siding shall consist predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.
- (G) The tongue, axles, transporting lights, and removable towing apparatus shall be removed after placement on the lot and before a Certificate of Occupancy is issued.
- (H) All manufactured homes permitted under this section shall be placed on a foundation with piers and masonry curtain walls with anchorage.
- (I) A permanent front porch of at least 32 square feet in area shall be constructed within 12 inches of the floor elevation and. All secondary entrances and exits to the Manufactured Home shall also have concrete steps or similar approved steps.
- (J) The front of the manufactured home shall generally be parallel to the front property line, except on corner lots.

4.2.8 Manufactured Home Parks

This section sets forth the standards required for all new Manufactured Home Parks and expansions of existing Manufactured Home Parks. A manufactured home park shall include any premises where two (2) or more manufactured homes are set up for

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living and sleeping purposes, or any premises used or set apart for the purpose of supplying to the public parking space for two (2) or more manufactured homes for living and sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended for use as part of such manufactured home park.

- (A) There shall be no more than eight (8) manufactured homes per acre and no more than 20 manufactured homes per park.
- (B) No manufactured homes or other structures within a manufactured home park shall be closer to each other than 20 feet, except that storage or other auxiliary structures for the exclusive use of a manufactured home may be closer to that manufactured home than 20 feet.
- (C) There shall be at least two (2) off-street parking spaces for each manufactured home. These spaces shall be provided either on the same site as the manufactured home served, or in a designated parking area serving several or all manufactured homes within the park. Parking spaces shall consist of not less than four (4) inches of crushed stone or other suitable material on a well compacted sub-base.
- (D) No manufactured home or other structure shall be located closer than 20 feet to the exterior boundary of the manufactured home park or highway right-of-way.
- (E) A densely planted buffer strip, consisting of evergreen trees or shrubs shall be located along all sides of the manufactured home park, but shall not extend beyond the established setback line along any street. Such buffer strip shall not be less than four feet in width and shall be composed of trees or shrubs of a type which at maturity shall not be less than six feet in height. This planting requirement may be modified by the Board of Adjustment where adequate buffering exists in the form of vegetation and/or terrain.
- (F) The manufactured home park owner is responsible for making arrangements for the collection of all garbage and trash and shall be in accordance with town policies related to the collection and disposal of solid waste.
- (G) All manufactured homes shall be underpinned or skirted.
- (H) All streets within a manufactured home park shall be at least 20 feet in width for two-way traffic, or 12 feet in width for one-way traffic. All streets shall have unobstructed access to a public street or highway and shall be paved surfaces, or properly compacted gravel of at least four (4) inches in depth, well marked and lighted by the manufactured home park owner, with a maximum grade of 15 percent for streets within the property.
- (I) All manufactured home parks shall be served by the public water system. The water distribution system within the park shall meet all requirements of Article D-9 of Appendix D, entitled "Plumbing Installation Standards for Mobile Homes and Travel Trailers and Parks" of the North Carolina Plumbing Code.

- (J) All manufactured home parks served by a public sewage collection and treatment system shall meet the requirements of Article D-8 of Appendix D of the North Carolina Plumbing Code. Any manufactured home park not served by the public sewage system must be approved by the county health department.
- (K) Anchors or tie-downs, such as cast-in-place concrete “dead men” eyelets imbedded in concrete screw augers, or arrow head anchors, shall be placed at each corner of the manufactured home stand and at intervals and of such strength as required to conform to the requirements of the State of North Carolina regulations for Mobile Homes and Modular Housing.
- (L) The manufactured home stand shall be improved to provide adequate support for the placement and tie-down of the mobile home. The stand shall not heave, shift or settle unevenly under the weight of the manufactured home due to frost action, inadequate drainage, vibration, wind, or other force activity on the structure.
- (M) All manufactured homes placed in the park shall meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction.

4.2.9 Multi-Family Dwellings

- (A) No building shall exceed a length of 150 feet.
- (B) A distance of at least 20 feet shall be maintained between all buildings within the development.
- (C) All sanitary containers shall be completely screened from view of the street and adjacent properties with fencing and/or landscaping.
- (D) Multi-family dwellings shall not occupy the first floor or ground level in the CB district.

4.2.10 Temporary Emergency Manufactured Homes

Manufactured homes may be allowed on a temporary basis in a zoning district in which such use is not listed as a permitted use, if a disaster occurs which results in an occupied, single-family dwelling being destroyed (i.e., it receives damage greater than 60 percent of its tax value as indicated on the most current tax listings). In this instance, a manufactured home may be placed on the lot containing the dwelling unit which was destroyed. The purpose of allowing such manufactured home on said lot is to give the occupants of the destroyed dwelling unit a place to live while a new dwelling unit is being constructed or damage to the original dwelling unit is being

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repaired. If a manufactured home is used for such an occurrence, it is subject to the following conditions:

- (A) Temporary emergency residences shall not be placed in the front yard and shall be located no closer than 15 feet to another principal residential structure on another lot and no closer than 10 feet to any lot line.
- (B) The Administrator shall be given the authority to issue a zoning permit for such temporary residence on a one-time basis only for a period of up to one (1) year. Such permit may be renewed on a one-time only basis (for a period of no greater than six months (6) months) by the Administrator.

4.2.11 Two-family Dwellings (Duplexes)

- (A) Developments consisting only of duplexes shall not exceed three (3) acres.
- (B) Duplexes on corner lots shall be designed in a way that each unit fronts on a different street.

Section 4.2 as amended by: 2014-UDO-01, 2021-UDO-01

4.3 Civic, Government, & Institutional Uses

4.3.1 Cemeteries

- (A) A minimum lot size of two (2) acres shall be provided.
- (B) Evidence that the requirements of the North Carolina General Statutes, Chapter 65 (Cemeteries), and that the standards of the North Carolina Cemetery Commission can be achieved shall be submitted with the application.
- (C) The site shall have direct access to a collector or arterial street. No more than three (3) access points shall be permitted, and no more than one access point shall be open at any one time, unless two (2) or more funerals are being conducted within the cemetery.
- (D) There shall be adequate space within the site for the parking and maneuvering of funeral entourages and cortege at each proposed burial site.
- (E) No interments shall take place within 30 feet of any lot line.
- (F) All interior vehicular access and maneuvering spaces shall be paved.

4.3.2 Colleges, Universities, Vocational or Trade Schools, & Associated Facilities

- (A) A master plan shall be submitted for the entire campus and shall indicate time schedules for construction of phases.
- (B) Adequate parking for students, faculty, visitors, and others as shall be provided on site.

- (C) Sufficient driveways shall be provided to accommodate automobiles so that vehicles do not disrupt traffic on public streets, or interfere with adjacent uses.
- (D) A lighting plan shall be submitted indicating the locations of outdoor lighting fixtures and ensuring that outdoor lighting will not spill over onto adjacent properties.
- (E) All State permits and licenses that are required for the facility or evidence that the facility can meet all requirements shall be submitted with the application.

4.3.3 Correctional Facilities

- (A) A minimum lot size of one (1) acre shall be provided in order to accommodate outdoor recreational facilities and to allow for potential building expansion.
- (B) All buildings and containment areas shall be established at least 1,000 feet from the nearest property line.
- (C) The property of the facility shall not be located within 1,000 feet of a public or private school, child care center, child care institution, family child care home, or place of worship.

4.3.4 Daycare Centers

- (A) The lot on which the daycare center is located shall have access onto an arterial or collector street in residential zoning districts.
- (B) Evidence that the facility will meet the minimum requirements to qualify for a State of North Carolina License is satisfied shall be submitted with the application.
- (C) A statement from the appropriate public service agencies concerning the method and adequacy of water supply and wastewater treatment for the proposed use shall be submitted with the application.
- (D) Evidence shall be submitted indicating that adequate access to and from the site, as well as adequate space off the road right-of-way, is provided for the safe pick-up and discharge of clients and is provided in such a manner that traffic generated by the facility is not disruptive to adjacent residentially developed properties.
- (E) Fencing and/or screening shall be provided that assures the protection of clients receiving care, protects adjacent residentially developed properties from trespass, effectively screens the view of any outdoor recreational areas, and reduces noise associated with the operation of the use.

4.3.5 Residential Care Institutions & Homes

- (A) The following information shall be submitted as part of the application:
 - (1) A description of the type of persons to be cared for, the nature of the care to be provided, and the number of staff persons and specialists involved;
 - (2) If structural alterations to existing structures or new construction is required, a complete description of the nature and extent of the alterations or new construction.
- (B) The proposed facility shall not be located within 1,000 feet of an existing residential care institution or home. The distance shall be measured by following a straight line from the nearest point of the lot line of the proposed use to the nearest point of the lot line for the lot on which the existing facility is located.
- (C) Parking areas shall be to the side and/or rear of the building.
- (D) Operators shall have a licensing permit or letter from the appropriate State agency that it will be issued.
- (E) For halfway houses, there shall be on-site supervision at all times by persons employed by or volunteers trained by the agency operating the halfway house. Rules of conduct shall be established and enforced by the agency operating a halfway house. These rules shall prohibit the use or possession of drugs, alcohol, or weapons, as well as disorderly conduct.

4.3.6 Schools & Associated Facilities (public & private, elementary & secondary)

- (A) Site plans submitted for review shall include the following information in addition to the standard site plan requirements of Chapter 12:
 - (1) Total student capacity of the school as designed;
 - (2) Total number of employees on the largest shift;
 - (3) Number and dimensions of designated parking spaces for school buses;
 - (4) Number of designated parking spaces for employees, visitors, and students;
 - (5) Location of student drop off points with stacking spaces identified;
 - (6) Location of all proposed and future athletic fields and structures, including the total number of seats for spectators and the location of concession stands, if any are anticipated;
 - (7) Proposed public roadway improvements; and

- (8)** Existing and proposed infrastructure improvements.
- (B)** A lighting plan shall be submitted indicating the locations of outdoor lighting fixtures and ensuring that outdoor lighting from athletic field and security lighting will not spill over onto adjacent properties.
- (C)** A report indicating estimated water usage for structures, landscaping, and athletic fields shall be submitted with the application.
- (D)** The project shall meet all applicable requirements of this Ordinance.
- (E)** The project shall meet all service provision criteria as set forth below:
 - (1)** Fire – identifies the primary and secondary responders and the source(s) of water.
 - (2)** Police – identifies the primary and secondary responders.
 - (3)** Rescue Services – identifies the primary and secondary responders.
 - (4)** Water Supply – identification of public or private utility source and capacity of water supply or identification of water source through a water resource study.
 - (5)** Wastewater Treatment Method – provider and capacity of wastewater treatment source.
- (F)** The minimum lot size shall be, with respect to non-charter public schools, as required by the School Construction Standards adopted from time to time by the Madison County Board of Education. The lot size shall be adequate to accommodate all activities. The proposed manner to handle the maximum number of participants and patrons for any single event shall be provided while also adhering to safe vehicular and pedestrian circulation.
- (G)** There shall be a minimum of two (2) access points to the site. Access points shall separate student drop-off areas and visitor parking from bus traffic. If school buses are used, then at least one access shall be limited to school employee and bus use during normal school hours. All access points shall be located to provide maximum visibility and safety. No driveway shall be permitted in a location that will hinder or congest traffic movement on a public street.
- (H)** The site shall be designed so as to take advantage of shared use opportunities, such as use for parks and recreation activities as needed by the Town of Marshall and/or Madison County.
- (I)** All State permits and licenses that are required for the facility or evidence that the facility can meet all requirements shall be submitted with the application.

4.4 Office & Service Uses

4.4.1 Animal Services (with outdoor kennels)

- (A) No outdoor containment of animals shall be located less than 250 feet from any residentially zoned property and 50 feet from any other adjacent property line.
- (B) Kennel areas must be surrounded by an opaque fence of not less than six (6) feet in height and enclosed as to prevent escape.
- (C) Kennels shall be designed to effectively buffer noise audible to surrounding properties.

4.4.2 Bed & Breakfast Inns

- (A) Bed and Breakfast inns shall have a minimum heated floor area of 1,500 square feet.
- (B) The maximum number of guest bedrooms shall be six (6).
- (C) The inn shall be operated by a resident manager.
- (D) All parking shall be located to the side or rear of the home. There shall be one parking space per bedroom.
- (E) The use of such a facility by any one patron shall be limited to no more than 15 days per 60 day period.

4.4.3 Body Piercing & Tattoo Studios

- (A) All body piercing and tattooing shall take place in an area of the establishment that cannot be viewed by other customers or by the general public from any public or private street right-of-way or any area commonly accessed by the public (i.e. parking lots, mall corridors, promenades, sidewalks), whether on the same or a nearby property.
- (B) Window signs and displays shall be limited to business identification, open and closed signs, and hours of operation.

4.4.4 Motor Vehicle & Boat Services

- (A) All Motor Vehicle Services (including gasoline sales)
 - (1) The lot shall front on a collector or arterial street and have direct access thereto. Proposals for lots with double frontage that desire multiple driveways shall be limited to one curb cut on the higher classified street. Additional cuts shall be on streets of lower classification. Driveway Permits shall be approved by the North Carolina Department of Transportation (NCDOT) for access to State roads.

- (2) Driveways shall not be located within 300 feet of any intersecting street or within 750 feet of driveways intersecting the same street and serving another existing or approved motor vehicle services. These distances shall be measured centerline to centerline.
 - (3) Adequate provision shall be made for ventilation and the dispersion and removal of fumes, and for the removal of hazardous chemicals and fluids. Hazardous materials and byproducts such as fuel, lubricants, antifreeze (ethylene glycol), asbestos, freon, carbon monoxide, automobile batteries, and solvents must be registered, stored, handled, and disposed of in accordance with all State and Federal regulations.
 - (4) Air compressors, hydraulic hoists, pits, repair equipment, greasing and lubrication equipment, and similar equipment shall be entirely enclosed within a building.
 - (5) No outside storage of materials shall be permitted. The number of vehicles temporarily stored outdoors shall not exceed the number of service bays at the establishment.
 - (6) Canopy overhangs shall be at least five (5) feet from property lines and street rights-of-way.
 - (7) Certification by a registered, licensed engineer shall be required to ensure the prevention of petroleum and petroleum related product runoffs into the existing municipal storm drainage system.
 - (8) The Fire Chief shall review and approve a submitted fire protection plan submitted by the applicant prior to the issuance of a Zoning Permit.
 - (9) All garbage and refuse shall be stored in mechanical loading containers located at the rear of the lot or building, but not less than 20 feet from any adjacent property lines.
 - (10) A photometric lighting plan shall be submitted with the site plan that includes fixture details, light intensity contours and overlap, and a statement regarding light trespass on adjacent properties. Lighting shall not exceed six (6) footcandles anywhere on the site and shall not exceed one (1) footcandle at the property line.
 - (11) No outdoor servicing, repair or disassembly of vehicles shall be permitted.
 - (12) Outside storage of secondhand material for resale shall be prohibited.
- (B) Motor Vehicle Services (with Vehicle Storage)**

In addition to the requirements for all Motor Vehicle Services in Section 4.4.4(A) above, the following shall apply to motor vehicle services which have vehicle storage:

- (1) Buildings shall be located forward towards the street and parking and vehicle storage areas shall be located to the side and rear of the lot whenever possible. Applicable setbacks shall be observed.
- (2) Any vehicle stored on a lot where such use occurs must have a valid registration, be stored in a substantially enclosed structure, or located within a fenced or walled enclosure. Fences and/or walls used for such enclosure shall be at least six (6) feet in height and completely opaque.

4.5 Retail & Wholesale Uses

4.5.1 Motor Vehicle Sales or Rental

- (A) A permanent structure with permanent restroom facilities built in accordance with NC Building Code shall be located on the premises.
- (B) A written description of the proposed operation, including square footage, number of employees, hours of operation, and activities expected on site shall be submitted with the application.
- (C) The lot shall front on a collector or arterial street and have direct access thereto.
- (D) No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.
- (E) No vehicle or boat shall be stored or displayed within the right-of-way of any public street.
- (F) A North Carolina auto manufacturer dealership license shall be obtained prior to occupancy and shall be prominently displayed at the place of business.

4.5.2 Outdoor Markets (including farmers' markets)

- (A) Any sales of items where booths or spaces may be rented to individuals or businesses that take place on the same property or by the same organizer(s) more than four (4) days per calendar year shall be considered an outdoor market.
- (B) All sales shall take place under cover of an approved structure or tent.
- (C) Adequate restroom facilities shall be provided. These facilities shall not be located between the permanent structure and the street right-of-way and shall be screened from view.
- (D) Trailers for delivery or pick-up may be stored temporarily on-site for not more than three (3) days at a time and shall be to the rear of the permanent structure.
- (E) When the outdoor retail market is not open for business, all items shall be removed or screened from view of the street and any adjacent residentially zoned properties.

4.5.3 Retail Sales (outside fully enclosed building)

- (A) A permanent structure with permanent restroom facilities built in accordance with NC Building Code shall be located on the premises.
- (B) A written description of the proposed operation, including square footage, number of employees, hours of operation, and activities expected on site shall be submitted with the application.
- (C) Items for sale shall not be displayed within any right-of-way.
- (D) No outdoor sound system shall be permitted which can be heard beyond the boundaries of the property.

4.6 Recreational & Entertainment Uses**4.6.1 Adult Establishments****(A) Purpose and Intent**

Adult establishments, because of their nature, are recognized as having characteristics which may be objectionable to nearby residential districts and certain other uses considered to be sensitive—namely, churches, schools, parks, libraries, day care centers, nursing homes, and medical centers. Studies have shown that properties tend to be devalued and crime rates tend to be increased by the concentration of adult establishments. The Board of Aldermen determines that regulation of these uses is necessary to ensure that these adverse effects do not contribute to the blighting or downgrading of nearby residential districts and to protect the integrity of those sensitive uses listed above. The purpose of having regulations for adult establishments is to identify the appropriate locations in which adult entertainment or sexually oriented businesses may be established within the Town of Marshall’s zoning jurisdiction.

(B) Definitions

Adult establishment: Any structure or use of land that is defined in N. C. General Statute 14-202.10 and/or including the following:

- (1) Adult arcades
- (2) Adult bookstores
- (3) Adult cabarets/clubs (such as “topless” dancing)
- (4) Adult live entertainment
- (5) Adult live entertainment business
- (6) Adult motels or hotels

- (7) Adult motion picture theaters
- (8) Adult mini-motion picture shows
- (9) Adult theaters
- (10) Adult video stores
- (11) Escort agencies
- (12) Massage businesses
- (13) Nude model studios
- (14) Sexual encounter centers

(C) Regulations

- (1) No adult establishment shall be located within 1,000 feet of any other adult establishment, church, public or private school, day care center or nursery school, public park, or residentially used or zoned property.
- (2) Except for adult motels, no adult establishment shall have sleeping quarters.
- (3) There shall not be more than one adult establishment in the same building, structure, or portion thereof. No other principal or accessory use may occupy the same building, structure, property, or portion thereof with any adult establishment.
- (4) Except for a business identification sign permitted in accordance with Chapter 6 – Signs, no other exterior advertising, promotional materials, or signage that is visible to the public from a road, sidewalk, or walkway shall be permitted.

4.6.2 Bars and Nightclubs

- (A) A statement shall be submitted with the application giving a detailed description of the type of operation proposed, including types and frequency of live entertainment or amplified sound systems, the maximum design occupancy of the building, the number of employees, and the hours and days of operation.
- (B) Plans and specifications for soundproofing those buildings that will be used for entertainment with an amplified sound system shall be submitted with the application. The applicant shall supply a signed statement outlining his/her understanding that no live entertainment or amplified sound system shall be allowed in locations that do not provide soundproofing of the building at the time of permit application. The applicant shall also provide certification from a competent professional that the noise level at the lot line shall not exceed 45 decibels.

- (C) There shall be sufficient number of employees to maintain the safe and orderly operation of the establishment. Live entertainment or amplified music shall cease no later than 12:00 AM.

4.6.3 Campgrounds

(A) Campground & Camping Unit Types

- (1) A campground is any parcel or tract of land under the control of any person, organization, or governmental entity, wherein sites are offered for the use of the public or members of any organization for the establishment of temporary living sites for two or more recreational vehicles or camping units. Campgrounds may be one of the following types:
 - (a) Primitive - A campground accessible only by walk-in, pack-in, or equestrian campers where no facilities are provided for the comfort or convenience of the campers.
 - (b) Semi-Primitive - A campground accessible only by walk-in, pack-in, equestrian, or motorized trail vehicles where rudimentary facilities (privies and/or fireplaces) may be provided for the comfort and convenience of the campers.
 - (c) Semi-Developed - A campground with two or more camping unit sites, accessible by vehicular traffic. Roads, facilities (toilets and/or privies) are provided.
 - (d) Developed - A campground with two or more camping unit sites, accessible by vehicular traffic where sites are substantially developed and tables, refuse containers, flush toilets, bathing facilities, and water are provided.
 - (e) Fully Developed - A campground with two or more camping unit sites, accessible by vehicular traffic and provided with one or more service buildings. These sites may have individual water, sewer, and electrical connections.
- (B) A camping unit is designed, or used for temporary human occupancy. A camping unit site is a specific area within a campground or recreational vehicle park and can include the following camping unit types:
 - (1) Tent
 - (2) Yurt - a tentlike dwelling of the Mongol and Turkic peoples of central Asia, consisting of a cylindrical wall of poles in a lattice arrangement with a conical roof of poles, both covered by felt or skins. Any construction patterned on such a dwelling.
 - (3) Cabin - A small one-story house built and designed for temporary use.

- (4) Recreational Vehicle - 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 towed by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

(C) Application Requirements

- (1) Prior to submitting a development plan, the developer shall meet with the Town of Marshall Water and Sewer Department and the Town of Marshall Planning Board as well as the Administrator.
- (2) The application for a Campground shall comply with the Special Use Permit application provisions set forth in Chapter 11.
- (3) In addition to the site plan or subdivision plat requirements (as applicable) set forth in Chapter 12, site plans for Campgrounds shall include:
 - (a) Name, address, and telephone number of applicant.
 - (b) Interest of the applicant in the proposed campground.
 - (c) Name(s) of the adjoining property owner(s).
 - (d) North arrow, and vicinity map.
 - (e) Name and seal of the registered surveyor or engineer.
 - (f) The plan will have a title indicating the type of campground
 - (g) The names of proposed streets
 - (h) The number, size, and location of camping unit sites and parking areas;
 - (i) The location, right-of-way, and surface roadway width, and surfacing materials of roadways and walkways;
 - (j) The proposed interior vehicular and pedestrian circulation patterns;
 - (k) The location of service buildings, sanitary stations, and any other existing or proposed structures;
 - (l) The location of water and sewer lines and rise pipes;
 - (m) Plans and specifications of the water supply, sewage disposal, and refuse facilities;
 - (n) Plans and specifications of all buildings constructed or to be constructed within the campground;
 - (o) The location of all drainage easements;

- (p) Proof of conformance with all applicable floodplain, storm water management, and erosion control standards;
- (q) The location and details of lighting, electric, and gas systems;
- (r) Road design, including construction materials, roadway width, and drainage pipe size(s);

(D) Design Standards

- (1) Where a campground is proposed for construction in a series of stages, a master plan for the development of the entire tract of land shall be submitted along with the detailed plans and specifications for the initial stage, as well as any subsequent stages.
- (2) Water supply, sewage disposal, sewage collection, other sanitary facilities, and insect and rodent control plans and specifications shall be approved by the Town of Marshall Water and Sewer Department and the Madison County Health Department - Environmental Health Division or appropriate state agency.
- (3) Sanitary facilities, such as toilet, lavatory, and bathing facilities shall be provided. Every campground shall have at least one toilet for each sex, except that in isolated campgrounds limited to infrequent or casual use and where access is by foot, horseback, or trail vehicles, one restroom or toilet may be utilized by both sexes. A water supply shall be provided by a hand pump or water spigot. Where a campground is designed and operated for exclusive use by independent or self-contained camping vehicles only, at least one toilet and one lavatory shall be provided for each sex at the rate of one for every 100 camping unit sites or fractional part thereof. Where a campground accepts or accommodates dependent camping vehicles and camping equipment campers, at least one toilet and one lavatory shall be provided for each sex at the rate of one each for every 15 camping unit sites or fractional part thereof, and one shower shall be provided for each sex for every 30 camping unit sites or fractional part thereof. Lavatories shall be provided at each building containing toilet facilities.
- (4) Accessory uses, such as management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, and other uses and structures customarily incidental to the operation of a campground are permitted as accessory uses.
- (5) In addition, stores, restaurants, beauty parlors, barber shops, and other convenience establishments may be considered by the Board of Adjustment and shall be restricted to no more than five (5) per cent of the gross area of the campground and be internally located.
- (6) A minimum of eight (8) per cent of the gross site area of the campground

shall be set aside as common use areas for open or enclosed recreation.

- (7)** The minimum park area shall be five (5) acres where permanent camping unit sites are established. Where primitive camping is intended, the minimum area shall be 2 acres.
- (8)** The maximum park area shall be ten (10) acres.
- (9)** Sites. Each camping site shall be at least two thousand five hundred (2,500) square feet in area with a minimum site width of forty (40) feet. Each site shall contain a stabilized vehicular parking pad of shell, marl, paving, or other suitable material.
- (10)** No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.
- (11)** Streets in campgrounds shall be private, but shall be constructed with a stabilized travel way (marl, shell, paving, or other suitable material) and shall meet the following minimum stabilized travel way width requirements:

 - (a)** One-way, no parking: 11 feet
 - (b)** One-way with parking on one side or two-way with no parking: 12 feet
 - (c)** Two-way with parking on one side: 27 feet
 - (d)** Two-way with parking on both sides: 34 feet
- (12)** Entrances and exits to campgrounds shall be designed for safe and convenient movement of traffic into and out of the campground and to minimize marginal friction with free movement of traffic on adjacent streets. All traffic into and out of the campground shall be through such entrances and exits. No entrance or exit shall require a turn at an acute angle for vehicles moving in the direction intended, and radii of curbs and pavements at intersections shall be such as to facilitate easy turning movements for recreational vehicles.
- (13)** No material impediment to visibility shall be created or maintained which obscures the view of an approaching driver in the right lane of the street within:

 - (a)** 100 feet where the speed limit is 45 miles per hour, or
 - (b)** 150 feet where the speed limit is 45 miles per hour or more, of any portion of the approach lane of the access way within 25 feet of its intersection with the right hand lane of the street.
- (14)** All campgrounds shall be provided with safe and convenient vehicular

access from an improved public street. The North Carolina Department of Transportation shall approve all access and entrance locations and improvements where ingress and egress in onto a state maintained road, if ingress and egress is onto a Town street, the driveway provisions of the Section 9.7 must be complied with before the issuance of a permit.

- (15)** Camping units shall be separated from each other and from other structures by at least 10 feet. No part of a recreational vehicle or other unit placed on a camping unit site shall be closer than five (5) feet to a site line.
- (16)** At least one and one-half (1.5) parking spaces shall be provided in the campground per camping unit site. At least one (1) parking space shall be provided at each site. Off-street parking may be provided in common areas or on individual sites. Parking for accessory buildings shall be based on the type of use as detailed in Chapter 9.
- (17)** A fifty (50) foot buffer area between any camping unit site and adjoining property lines and public streets shall remain open space and can be considered as part of the recreation area.
- (18)** Fires will be permitted only in facilities, which have provided for such purposes or where open fires are allowed. Fireplaces, fire pits, charcoal braziers, wood burning stoves, or other cooking facilities shall be located, constructed, maintained, and used to minimize fire hazard and smoke nuisance in the campground and the neighborhood properties.
- (19)** No camping unit site shall be used as a permanent place of abode. Continuous occupancy extending beyond three (3) months in any 12-month period shall be presumed to be permanent occupancy. Any action toward removal of wheels of a recreational vehicle except for temporary purposes of repair or to attach the trailer to the grounds for stabilizing purposes is hereby prohibited.
- (20)** Where cabins are to be utilized a minimum of 20,000 square feet area shall be provided per cabin.
- (21)** Clustering is allowed provided the minimum site area is allotted.
- (22)** One recreational vehicle disposal station shall be provided for each 100 recreational vehicle sites, or parts thereof, which are not equipped with individual sewer and water connections. Each station shall be level, convenient of access from the service road, and shall provide easy ingress and egress. The sanitary disposal station(s) shall be constructed according to specifications approved by Madison County Health Department - Environmental Health Division.
- (23)** Stands shall be provided for all trash containers. Such container stands shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration, and to facilitate cleaning around them.

Dumpsters must be screened.

- (24) Each street shall have a permanent sign installed with a designated name identifying each street, and traffic control signs (stop, yield, one-way, speed, etc.) shall be placed throughout the campground where appropriate.

(E) Inspection

- (1) The Madison County Health Department - Environmental Health Division, Madison County Building Inspection Department, the Town of Marshall Board of Zoning Adjustment and the Town of Marshall Zoning Enforcement Officer are hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this ordinance and the North Carolina Building Codes. It shall be the duty of the owner(s) of the campground to give these agencies free access to such premises for the purpose of inspection.
- (2) The owner(s) or management shall operate the campground in compliance with this ordinance and shall provide adequate supervision to maintain the campground, its facilities and equipment in good repair and in a clean and sanitary condition.

(F) Administration

- (1) Penalty: Any violation of these provisions is subject to the penalties set forth in Chapter 15.
- (2) Special Exceptions: Any special exception to the requirements of this section shall be entered in the minutes of the Board of Adjustment and the reasoning on which the departure was justified shall be set forth.

4.6.4 Electronic Gaming Operations

- (A) Hours of operation are limited to 8:00am to 11:00pm Monday through Friday.
- (B) The maximum number of gaming machines/terminals/computers is 12.
- (C) Parking must be paved and provided at minimum rate of one (1) parking space for every two (2) gaming machines/terminals/computers or one for every 100 square feet of gross floor area, whichever is greater.
- (D) If food or beverage is served, the establishment must comply with the requirements of the Madison County Health Department.
- (E) The establishment shall be a minimum of 500 feet from any residentially used or zoned property.
- (F) The establishment shall be a minimum of 1,000 feet from any other gaming establishment or any adult establishment.

- (G) The establishment shall be a minimum of 1,000 feet from any religious institution, school, daycare center/home, library, public park, recreation area, or movie theater.
- (H) For the purposes of this section all measurements shall be in a straight line from the closest point of the parcel at which the electronic gaming operation is located.
- (I) No alcoholic beverage shall be served or consumed on the premises of electronic gaming operations.

Section 4.6 as amended by: 2014-UDO-01, 2015-UDO-02, 2021-UDO-01

4.7 Industrial, Warehousing, Distribution, & Transportation Uses

4.7.1 Airports and Heliports

- (A) A configuration diagram depicting the layout of runways, taxiways, approach zones and overrun areas shall be submitted with the application. These diagrams shall also be depicted on aerial photographs that also show the area within five (5) miles of the proposed site.
- (B) A plan indicating isotonic contours that show the effects of aircraft operations upon land within one mile of the boundary of the proposed site shall be submitted with the application.
- (C) The number and type of aircraft proposed to be stored including the storage area for aircraft, fuel and motor vehicles, and service areas for the aircraft shall be documented in the application and on the submitted site plan.
- (D) A statement as to how on-site fire and rescue services will be provided, and a letter from the appropriate agency stating services are available and adequate to protect the proposed facility, shall be submitted with the application.
- (E) A list of land uses within the final approach zones of the airport/heliport shall be submitted with the application.
- (F) A certification that all Federal Aviation Administration (FAA) and State standards and requirements have been, or will be, met shall be submitted with the application.
- (G) A minimum of 50 acres is required for Basic Utility Stage 1 airports with a 2,000-foot runway. Additional area is required for larger airports.
- (H) Airport and heliport size and layout shall conform to FAA Advisory Circular 150/5300-4B.
- (I) There shall be a minimum 300-foot distance between the airport/heliport property and the nearest residence.
- (J) Security fencing shall be provided that is sufficient to control access to runways and taxiways. The fencing shall be a minimum of six (6) feet in height.

- (K)** The site and its operations shall not adversely affect existing adjacent land uses.
- (L)** The land required for the provision of approach zones and overrun areas shall be owned or controlled by the applicant.
- (M)** Adequate land area shall be provided for all of the proposed uses, buildings, and storage areas.
- (N)** Screening of buildings, storage, and maintenance areas shall be provided from adjacent residentially-zoned or used land.
- (O)** A finding shall be made that compatible land uses are located in the final approach areas of the airport.

4.7.2 Junkyards, Salvage Yards, Recycling Operations, & Similar Uses

- (A)** A junkyard may not be placed within 50 feet of a public street right-of-way.
- (B)** Junkyards shall be screened so as not to be visible from any public street right-of-way using a minimum six (6) foot privacy fence. No items may be stacked in a manner so that they protrude above the top of the fence.
- (C)** Burning shall not be permitted.
- (D)** Disposal of garbage shall be in an approved container and regularly maintained. Open dumping of garbage shall be prohibited.
- (E)** Disposal of toxic/hazardous matter is prohibited anywhere without a state permit.
- (F)** Stock piling of tires and batteries is prohibited.
- (G)** Storage of items shall be so arranged as to permit easy access for fire fighting purposes.

4.7.3 Quarrying Operations

- (A)** A site plan containing the following information:
 - (1)** The extent of the area to be excavated;
 - (2)** An aerial photograph of the site and all areas within 1,000 feet of the perimeter of the property flown within two (2) months of the application for the permit;
 - (3)** Existing topography at a contour interval of two (2) feet based on mean sea level datum;
 - (4)** Land use, road system, natural features, and topographical (10-foot contour intervals) details for the area within 1,000 feet of the perimeter of the property;

- (5) Typical cross-sections showing extent of overburden, extent of sand and gravel deposits, and water table;
- (6) Proposed handling and storage areas for overburden, by-products and excavated materials;
- (7) Location and results of groundwater borings showing depth of groundwater;
- (8) Any areas proposed for ponding;
- (9) Wind pattern details and on-site windbreaks;
- (10) Soils details and statement addressing reclamation;
- (11) Traffic impact analysis addressing the capacity of the roads to serve the site;
- (12) Access roads to the site, as well as on-site roads, with indication of surface treatment to limit dust, and sight distances on all roads used for access to the site;
- (13) Required setback areas, including screening/buffering existing and proposed. If plant materials are to be installed, the number and location, size and type of plants are to be identified;
- (14) A truck routing plan showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses that will be negatively affected by truck traffic.

(B) An Operations Plan shall be submitted including the following:

- (1) The date proposed to commence operations and their expected duration;
- (2) Proposed hours and days of operations;
- (3) Estimated type and volume of extraction;
- (4) Description of method of operation, including the disposition of topsoil, overburden, and by-products;
- (5) Methods to control and respond to spillage of extracted materials, overburden, by-products, and vehicular mud on off-site roads;
- (6) Description of equipment to be used in the extraction process;
- (7) Methods to prevent pollution of surface and groundwater;
- (8) Operation test wells and schedule of results and analysis and response;
- (9) Compliance with State Erosion and Sedimentation Control regulations;

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- (10) Depth of extractive operations;
- (11) Any phasing of the operation and the relationship among the various phases;
- (12) Operating practices will be followed to comply with the performance standards applicable to the operation.

(C) A Rehabilitation Plan shall be submitted including the following:

- (1) A statement of planned rehabilitation of the excavated land, including detailed methods of accomplishment and planned future use of the rehabilitated land;
- (2) A map showing the final topography, after rehabilitation, to the same scale as the site plan, depicting any water areas and methods of preventing stagnation and pollution thereof, landscaping and ground cover proposed to be installed, and the amount and type of back fill to be employed, if any;
- (3) Typical cross-section showing rehabilitation;
- (4) A phasing and timing plan, related to the phasing and timing portion of the Operations Plan, showing the progression of the rehabilitation and the date when it will be complete;
- (5) The method of disposing of all equipment, structures, dikes and spoil piles associated with the operations;
- (6) A written, legal description or survey of the property, prepared by a North Carolina professional land surveyor or registered, licensed engineer.

(D) The following standards shall be met:

- (1) The applicant must demonstrate that the activity fulfills primarily a local need as opposed to a regional need in terms of supplying sand and/or gravel for building and construction purposes;
- (2) All operations associated with extraction shall conform to the following performance standards:
- (3) Direct illumination resulting from the operation shall not fall upon any land not covered by the application;
- (4) Equivalent sound levels at the boundaries of the site shall not exceed the following standards:

Time of Day	Decibels (dBA)
Between 7:00 AM & 7:00 PM	68
Between 7:00 PM & 7:00 AM	58

- (5) Vibration levels at the boundaries of the site shall not exceed the following standards:

Maximum Peak Particle Velocity	
Steady State	1.0 Inches per Second
Impact	2.0 Inches per Second

Note: The maximum particle velocity shall be the product of 2 times the frequency in cycles per second times the sum of 3 mutually perpendicular displacement components recorded simultaneously. For purposes of this Ordinance, steady state vibrations are vibrations that are continuous, or vibrations in discrete impulses more frequent than 60 per minute. Discrete impulses that do not exceed 60 per minute shall be considered impact vibrations. Maximum air blast vibration, measured at the lot lines of the lot containing the mining use, shall be 125 decibels on the linear scale.

- (6) The Rehabilitation Plan shall be referred to the Madison County Soil and Water Conservation District for review and recommendation, that shall not be binding on the permit issuing authority, in particular regarding the landscape material specified, the planting and maintenance proposed to insure continuous growth and development, and the acceptability of the proposals for the handling of lakes, ponds, etc.;
- (7) The permanent roads, defined as those to be used in excess of one year within the excavation site, shall be surfaced with dust free material such as soil cement, bituminous concrete or Portland Cement concrete from the nearest public road to the yard area. Also, all permanent roads located within 300 feet of residentially zoned land shall be treated in the same manner;
- (8) Roads, other than permanent roads, shall be treated with dust inhibitors, to be specified in the Operations Plan that will reduce to a minimum the generation of dust from the road surfaces as a result of wind or vehicular action. Properly operated water wagons shall be an acceptable method of dust inhibition;
- (9) Where the proposed use shall take place within 300 feet of a dwelling, school, church, hospital, commercial or industrial building, public building, or public land, a security fence at least 6 feet in height shall be installed;
- (10) Spoil piles and other accumulations of by-products shall not be created to a height more than 35 feet above the original contour and shall be so graded that the vertical slope shall not exceed the material's natural angle of response;
- (11) The Operations Plan and the Rehabilitation Plan shall be coordinated so that the amount of disturbed land is kept at the absolute minimum consonant with good practices and so that rehabilitation proceeds in concert with extraction;
- (12) No land disturbance shall take place within 250 feet of the property line.

Within the 250-foot setback area, existing vegetation shall be retained for the purpose of providing a visual screen and noise buffer. No disturbance or removal of vegetation shall be permitted except for access roads leading from the excavation area to public roads. Where vegetation within the 250-foot setback does not exist, the applicant shall be required to provide a dense, evergreen buffer consistent with the purpose cited above. The buffer shall be in place prior to the initiation of any excavation activities;

- (13) The applicant shall submit operational reports, prepared on an annual basis, detailing the amounts of material extracted, extent of extractive area, depth of extractive area, and results of groundwater test borings;
- (14) Annual inspections of the operation shall be conducted by the Administrator following submittal of the annual operations reports to determine compliance with the provisions of the permit;
- (15) In cases of abandonment or termination of operations for a period of 12 consecutive months, application for a new permit is required;
- (16) The permit issuing authority shall require for all uses in this category, a performance guarantee to insure that the provisions of the Rehabilitation Plan are met. Such performance guarantee shall be in a form approved by the Town Attorney. The amount of such guarantee shall cover the cost of rehabilitation on a per acre basis, if the cost does not exceed the amount posted with the State. If the rehabilitation cost exceeds the amounts required by the State, then the difference shall be made up in a bond to the Town;
- (17) A valid State issued mining permit must be obtained prior to commencement of the operation.

4.7.4 Accessory Structures

- (A) A maximum of three (3) accessory structures will be allowed if the structure does not exceed 10% of the main warehouse square footage. *Section 4.7 as amended by: 2018-UDO-03*

4.8 Agricultural Uses

4.8.1 Agricultural Operations, Farming & Livestock (excluding equestrian uses and swine production)

- (A) Structures for the storage of farm equipment and supplies, maintenance equipment and supplies, livestock, and similar items associated with bona fide farms are permitted subject to the issuance of a zoning permit. Such structures are not subject to the requirements of Section 4.2.2 if the property is greater than one (1) acre, except that they are subject to the accessory structure setbacks for their respective zoning districts and they shall not cover more than 30 percent of the total lot area.

- (B) No livestock shall be kept, maintained or stabled on any lot less than one (1) acre.
- (C) Not more than one (1) animal unit shall be kept, maintained or stabled per 10,890 square feet (1/4 acre). For the purposes, of this section, one (1) animal unit shall mean a goat, sheep, horse, cow, llama, alpaca, ostrich, or similar animal. Five (5) chickens or similar fowl shall count as one (1) animal unit. The keeping of hogs is not permitted.
- (D) All livestock shall be fenced so that they are no closer than 150 feet from an adjacent dwelling unit. This shall not apply to residences constructed after the establishment of such livestock containment area. However, the containment area may not encroach further towards the newly established residence.

4.8.2 Equestrian facilities, riding/boarding stables

- (A) Common barns and stables and manure storage areas shall be located a minimum of 100 feet from any adjacent residentially used or zoned property.
- (B) All unpaved areas shall be maintained in a manner to prevent dust from adversely impacting adjacent properties.
- (C) Outdoor lighting structures shall be located, angled, shielded, or limited in intensity so as to cast no direct light on adjacent property and to avoid the creation of a visual safety hazard to any adjacent right-of-way.

4.8.3 Produce Stands (permanent)

- (A) A permanent produce stand shall be allowed as an accessory use to an agricultural operation only. All produce sold shall be grown on a lot under the same ownership as the lot upon which the produce stand is located. All other produce stands shall be considered temporary uses and shall follow the special requirements for temporary uses.
- (B) A produce stand shall not be located in a street right-of-way.
- (C) A produce stand shall not be located closer than 10 feet to any side lot line unless a greater setback is required for the zoning district in which it is located.
- (D) Signs for a produce stand shall not be illuminated, nor shall they exceed four (4) square feet in area. Off-premises signs are not permitted.
- (E) During the times of the year in which the produce stand is not in operation, the stand shall be properly closed up and maintained.

4.9 Other Uses

4.9.1 Communications Tower

It is the desire of the Town of Marshall to encourage communication facilities in order to insure an adequate level of service to the Town, while at the same time, protecting

the health, safety, welfare and scenic beauty of the Town. A communication facility is a tower or other transmission or receiving device operating for the purpose of broadcasting or receiving verbal or visual communication signals.

(A) Permit Required

- (1)** All communication towers shall be subject to a Special Use Permit granted by the Board of Adjustment in accordance with Chapter 11. A communication facility may be sited in all zoning districts of the Town.
- (2)** It shall be unlawful for any person, corporation or entity to erect any communication facility without first obtaining a permit from the Administrator. Permits must be obtained for all commercial broadcast and re-broadcast facilities. A permit, however, shall not be required for the erection of any non-commercial communication facility, such as shortwave, CB and T.V. antennas, having a height from its location on the ground of less than 75 feet.
- (3)** Any individual, corporation or entity desiring to construct a communication facility shall submit an application for permit to the Administrator and shall pay an application fee in the amount of \$500.
- (4)** The application shall be on a form approved by the Administrator and shall include or have attached thereto a site development plan which contains the following information:
 - (a)** The name of the telecommunications tower owner and/or property owner and tax identification number of the parcel.
 - (b)** All identifiable structures located on the parcel; to wit, all private and public roads, highways and underground and overhead utilities.
 - (c)** Surveyed boundary lines of the parcel containing the proposed communication facility, construction area and its fall area.
 - (d)** The names, addresses and tax parcel numbers of all the adjoining property owners.
 - (e)** The elevation of the proposed tower's base.
 - (f)** A preliminary tower design plan prepared by a registered professional engineer showing all guideline anchors and support structures, proposed building and other improvements, including access roads and utility connections.
 - (g)** Showing the proposed height of the tower, lighting and antennas and the tower's design of load.

- (h) All possible alternative existing structures within the proposed broadcast area and explain why given those facilities the proposed tower is necessary.

(B) Written Statement

Written statements shall be provided from the Federal Aviation Administration and the Federal Communications Commission establishing that the proposed communication facility complies with all regulations administered by the FAA and FCC, or establishing that the proposed facility is exempt from administration by the FAA and the FCC.

(C) Conditions to be Met

- (1) Prior to granting a permit for construction of a communication facility, the Board of Adjustment shall conduct a public hearing as required by this Ordinance, and shall establish that the facility meets at least the following minimal standards:
 - (a) The facility shall be situated in such a manner so it will not fall across a public street or adjoining property lines in the event of structural failure. Same may be established by either siting the tower a distance from the adjoining property line greater than the height of the tower, or by using a self-collapsing structure that will collapse upon itself. Any self-collapsing structure must be documented by a professional engineer.
 - (b) The setbacks for the communication facility and any accessory structures shall not be less than that required in the underlying zoning district in which the facility is located.
 - (c) The tower must be set back a distance greater than the height of it from any residence or structure on adjoining properties.
 - (d) A professional engineer must certify under seal his estimate as to the cost of removing the tower, and the applicant must post a bond for 125 percent of the amount of that estimate to guarantee that should the facility cease to be used that its removal cost would be made.
- (2) The communication facility must be of a type or height such that the Federal Aviation Administration would not require the tower to be lighted or painted.
- (3) All communication facilities for broadcast must be designed and constructed to provide for the co-location of a minimum of two (2) services. Certification must be provided by a professional engineer establishing that the tower will accommodate at least two (2) users, prior to a Special Use Permit issuing.

- (4) The applicant must certify that future co-locations on the tower will be allowed and made available at a fair market value, and the application must outline the method to be used by the applicant in determining what would constitute a fair value.
- (5) As a condition for the issuance of any permit for construction of a communications facility, the owner must record in the office of the Madison County Register of Deeds, a letter of intent to allow such co-locations, which shall bind all subsequent owners for the facility.
- (6) No new broadcast communication facilities shall be approved unless the Board of Adjustment finds that the equipment for the proposed tower cannot be accommodated on existing towers located within a one mile search radius of the proposed site.
- (7) The only acceptable reason why a communications facility could not be located on the existing tower would be that the equipment exceeds the structural capacity of the existing tower, or that the planned equipment would cause interference with equipment already located on the tower which could not be prevented at a reasonable cost.
- (8) Showing must be made that the applicant for the communication facility is licensed by the Federal Communication Commission to provide communication services, or if the applicant is not such a licensee, it must demonstrate it has binding commitments from one or more FCC licensees to utilize the proposed facility.
- (9) The owner of a communication facility shall provide a certificate of insurance evidencing it has liability coverage in the amount of at least \$1,000,000 and the certificate shall contain certification that the insurance company will notify the Town of Marshall 30 days prior to the cancellation or modification of said policy.
- (10) The Board of Adjustment shall not issue a Special Use Permit for the purposes of this Section, unless the following conditions are also made a part of the permit:

 - (a) All communication facilities and their accessory structures and equipment shall be enclosed within a secure fence.
 - (b) No advertising of any kind will be permitted on or about the communication facility.
 - (c) If a communication facility ceases to function for its intended purpose for a continuing period of 90 days, the owner of the tower and/or the owner of the property upon which the property is located shall be required to dismantle and remove the entire structure within 90 days of notification of the expiration of the aforesaid 90 day period.

- (d) The owner of the tower shall be required to provide the Administrator a copy of any notice of cessation of operation which is filed with the FCC, within seven (7) days of said filing, and likewise, shall be required to provide the Administrator within seven days any notices issued by the FCC directing the cessation of operation of the facility.
- (e) All towers shall be unpainted, light grey or environmental green.
- (f) The owner of the tower must allow the location of telecommunication facilities operated by the Town of Marshall, if it is determined that the proposed tower is situated in a location that will benefit the telecommunications system of the Town of Marshall, provided that the Town of Marshall makes said request within 60 days of the filing of the permit application.
- (g) Each telecommunication facility must be designed to survive a natural disaster without interruption in operation. Said design shall include the following: non-flammable exterior wall and roof covering, openings and all equipment enclosures shall be protected against penetration by fire and in blown embers, the tower, when fully loaded, must be designed to withstand “maximum credible earthquake” and all equipment shall be mounted in such a manner that a quake will not tip them over, throw equipment off shelves or otherwise apt to damage equipment and back-up generators must be available for us all communication facilities.

(D) Additional Requirements

The Board of Adjustment may impose additional requirements before the issuance of the permit to address the following:

- (1) To prevent the facility from causing significant adverse visual impact on nearby residences.
- (2) To provide for the public safety.
- (3) To ensure that the communication needs of the Town of Marshall are met.

(E) Technical Assistance

If in the course of its consideration of an application, the Board of Adjustment deems it necessary, it may employ an engineer or other expert of its choosing to review the application submitted, and shall in such cases, assess the reasonable costs for same to the applicant in an amount not to exceed \$2,500.

(F) Renewal of Special Use Permit

- (1) An annual telecommunication permit shall be required for each communication facility constructed pursuant to this Section. The holder of any such permit must file an annual report, on a form provided by the

Administrator, which should demonstrate the continued compliance with the requirements of this Section. A \$250 annual permit fee shall be required, and said fee shall not be prorated.

- (2) The Administrator shall make an annual inspection of each site as a part of the permit renewal to certify that all conditions set forth by the Board of Adjustment are being met, that fences are in good repair, that no unauthorized communication facilities are present and to determine whether there are any hazards associated with the facility. Failure to obtain the annual permit within 30 days after the commencement of the annual period shall result in the facility being deemed abandoned and subject to removal.

4.9.2 Drive-through Uses

- (A) Stand alone ATMs may be permitted as accessory uses (i.e. in a shopping center parking lot).
- (B) Drive-through lanes shall not be located to the front of a building or facing the primary street.
- (C) Vehicle storage for drive-throughs shall be located outside of and physically separated from the right-of-way of any street. This area shall not interfere with the efficient internal circulation of traffic on the site, adjacent property, or adjacent street right-of-way. There shall be adequate vehicular stacking area so that vehicles waiting for the drive-through do not back up into the street.

4.9.3 Elevated Water Storage Tank

- (A) Plans and elevations for all proposed structures and descriptions of the color and nature of all exterior materials shall be submitted with the application.
- (B) Adequate provisions shall be made, by means of fencing or otherwise, for the security of the site, including the provision of a gate at the access entrance of the access roads leading to the facility.
- (C) The lot size shall be adequate for the proposed use.
- (D) Adequate provision shall be made for the protection of adjacent property from the dangers of collapse, fire, flooding, or other menaces to public health and safety.

4.9.4 Mixed-use Buildings

For buildings with a residential component and a commercial component within the same building the following shall apply:

- (A) The residential component shall not be located at the ground level of the building.

- (B) Retail space shall not be located above the second floor.

4.9.5 Outdoor Storage (non-residential)

- (A) All outdoor storage shall be located in the rear yard only.
- (B) All outdoor storage shall be screened from view of the street with a minimum six (6) foot opaque fence.

4.9.6 Temporary Uses

Temporary structures and uses, when in compliance with all applicable provisions of this Ordinance, and all other ordinances of the Town of Marshall, shall be allowed. The following temporary structures and uses shall be permitted:

(A) Construction Trailers

Construction trailers used in conjunction with construction projects provided that the following requirements are met:

- (1) Such construction trailers may be located at a building site where there is a valid building permit for the construction project, or, in the case of a residential subdivision, a valid building permit for at least one of the residential units being constructed.
- (2) All construction trailers shall be located at least 10 feet off any street right-of-way and not be placed in any required rear or side yard setback.
- (3) In addition to construction trailers, at any construction site for a construction project valued at one million dollars or more, one or more security guard houses may be installed. Use of such structures may include overnight stay provided adequate sanitary facilities are provided and the same conditions for construction trailers are met.

(B) Residential Sales Offices

- (1) Structures, whether temporary or permanent, located in a subdivision containing 25 or more lots, and used as sales offices for the subdivision development are permitted.
- (2) Any temporary structure used as a sales office shall be located on a lot which is in compliance with the regulations of this Ordinance and shall meet all yard requirements for the applicable zoning district.
- (3) At least five (5) off-street parking spaces shall be provided on the lot to accommodate persons using the sales office.
- (4) If a permanent residential structure is used as the sales office, future use of said structure shall be for residential purposes.

- (5)** A trailer may be used as a temporary sales office, provided that the following conditions are met:
 - (a)** The trailer shall be provided with underpinning, from the bottom of the walls to the ground, made of masonry, vinyl, pre-painted aluminum material, or other similar material.
 - (b)** Landscaping shall be provided around the base of the trailer.
 - (c)** At the completion of the sales in a tract, or two (2) years from the date the temporary sales office began operation, whichever is sooner, said sales office shall cease operation unless the Administrator determines that substantial progress is being made in the selling and/or marketing of the lots and/or homes in the subdivision. In such case, one or more extensions (each not to exceed one year in duration) may be so authorized by the Administrator. If a temporary structure is used as the sales office, it shall be removed after its use as a sales office is terminated. Immediately after the structure is removed, the lot shall be returned to a natural state. Any paved or graveled driveway and/or parking area associated with the sales office shall also be removed. All bare soil areas on the lot shall be returned to a natural vegetative state (reseeded or sodded) immediately after removal of the sales office and driveway/parking area.

(C) School Manufactured Units

Public or private schools may install temporary manufactured classroom units with the issuance of a zoning permit.

(D) Temporary Sales

- (1)** Certain uses of a temporary nature may be permitted. The Administrator may grant a zoning permit for the following temporary uses:
 - (a)** Temporary retail sales
 - (b)** Produce Stands (temporary)
 - (c)** Christmas Trees Sales
 - (d)** Civic and religious organization sales
 - (e)** Government-sponsored sales
- (2)** Such uses are subject to the following conditions:
 - (a)** Temporary retail sales shall be limited to the MU, CB, OSR and HB zoning districts only.

- (b) Truck trailers and flat beds are not permitted except for short-term delivery services.
- (c) Temporary uses shall be permitted for a maximum of 60 days per calendar year on any individual property.
- (d) No portion of the temporary use may be located within the public street right-of-way.
- (e) Temporary uses shall present proof of property owner approval prior to the issuance of a permit.
- (f) The proposed use will not materially endanger the public, health, welfare and safety.
- (g) The proposed use will not have a substantial negative effect on adjoining properties.
- (h) The site shall have adequate parking for the temporary use in addition to parking for any permanent use located on the property.
- (i) Civic and religious organizations are allowed temporary use permits for retail sales on their property, regardless of zoning district.

(E) Yard Sales

- (1) A yard sale may be conducted by civic or religious organization, an individual occupant of a residence, or in cooperation with neighbors for the purpose of selling surplus household items for profit or for charitable purposes.
- (2) Yard sales shall not be conducted at the same location or by the same organizer(s) more than four (4) days per calendar year.
- (3) A total of one (1) on-premises sign and three (3) off-premises signs that are no greater than 6 square feet each may be displayed for the yard sale provided that the signs are not located within the street right-of-way, on street signs, or on utility poles. Such signs may be displayed no more than 24 hours before the yard sale and shall be taken down no more than 24 hours after the yard sale.

(F) Mobile Food Vendors

- (1) Mobile food vendors are licensed motor vehicles or mobile food units which offer for sale and consumption food and beverages (except alcohol).
- (2) Permits required.
 - (a) The owner, or authorized agent thereof, of any property upon which a mobile food vendor(s) proposes to operate, shall secure a permit for the establishment of a mobile food vendor site. Applicants shall provide such information as is deemed necessary by the Administrator to demonstrate

compliance with this Ordinance; such information shall include, but shall not be limited to, a listing of the mobile food vendors authorized to operate upon the subject property.

- (b)** Mobile food vendors shall secure a permit to operate within the jurisdiction of the Town of Marshall. Applicants shall provide such information as is deemed necessary by the administrator to demonstrate compliance with this Ordinance; such information shall include, but shall not be limited to, a list of the mobile food vendor sites upon which the vendor proposes to operate, as well as confirmation of compliance with all applicable health regulations.
- (c)** In the issuance of permits for mobile food vendor sites and mobile food vendors, the Administrator shall have broad discretion to assign such conditions as may be necessary to protect the health, safety, and welfare of the public.
- (d)** Permits for mobile food vendor sites and mobile food vendors shall be valid for a period of one (1) year, and shall be renewed annually. Permit fees shall be determined by the Town of Marshall Board of Aldermen as set forth in the Town of Marshall Schedule of Taxes, Charges, and Fees.
- (3)** Mobile food vendors must have a base of operations such as a restaurant or commissary and must report to said base for supplies, cleaning, and servicing.

 - (a)** If the base of operations is under different ownership than the mobile food vendor, a written agreement for use must be submitted as part of the zoning application.
 - (b)** No waste, grease, or wastewater shall be released into the Town's sanitary sewer or stormwater collection system, ditches, tree wells, or other public spaces.
- (4)** There shall be no limit to the number of mobile food vendors for parcel so long as all other separation and site requirements as set forth below are met.
- (5)** Separation and setbacks.

 - (a)** Mobile food vendors shall be subject to all site requirements as set forth in Section 3.4.2 except as modified below.
 - (b)** Setback, generally.

Mobile food vendors shall be situated at least ten (10) feet from all property lines and any road right-of-way, shall not encroach onto any street, sidewalk, or travel way, and shall not obstruct any loading zone or handicapped parking space. This requirement shall not apply to special events approved by the Town of Marshall for placement upon public streets.

- (c)** Separation between mobile food vendors.

Mobile food vendors shall be situated at least twenty (20) feet from one
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another.

(d) Separation between mobile food vendors and permanent structure.

- i.) Mobile food vendors shall be situated at least twenty-five (25) feet from any permanent structures.
- ii.) The Administrator may, upon recommendation of the Fire Marshal, approve the placement of mobile food vendors within twenty-five (25) feet or less of a permanent structure. Such approval shall be based upon building type, building materials, existing fire breaks, and other pertinent information. Such reductions shall be reviewed on a case-by-case basis, at the discretion of the Administrator.
- iii.) There shall be no reduction in separation between mobile food vendors and permanent structure within the Downtown Central Business District.
- iv.) Mobile food vendors shall be situated at least two-hundred (200) feet from any residential structure that is located within a Residential zoning district.

(e) Mobile food vendors must be setback at minimum ten (10) feet in all directions from fire hydrants.

(6) Power

(a) Outside of the Downtown Business District, generators may be used to power the vending unit.

(b) For dedicated power supplies the applicant must present documentation that power load supplied to the vehicle is sufficient to meet the vehicle's needs while in operation.

(c) Vendors are subject to the requirements of the Town of Marshall Noise Ordinance, North Carolina Health Code, and North Carolina Building Code.

(7) Hours of operation for mobile food vendors shall be limited to 7:00 am to 10:00 pm, except during an approved special event, when other operating hours may be established as part of the event.

(8) Vendors must vacate the site each day unless the vendor owns the site.

(9) Mobile food vendors operators or their designee must be present at all times during operation, except in the event of an emergency.

(10) Each food truck shall supply at least one (1) waste receptacle which must be removed and emptied at the end of each day. Town trash receptacles shall not be used for food truck waste.

(11) Signage

(a) Mobile food vendors shall be limited to the following:

- i.) One (1) wall sign affixed to the vehicle or trailer per side of the vehicle or trailer. Said sign shall be no larger than 32 square feet.
- ii.) One small A-frame sign not to exceed four (4) feet in height and eight (8) square feet of surface area may be placed within five (5) feet of the vehicle or trailer to display daily specials, menus or other similar information.

(G) Recreational Vehicles as Temporary Dwelling

Outside of campground use as regulated in Section 4.6.3 of this ordinance, a recreational vehicle may be permitted as a temporary dwelling **only** in situations in which **all** of the following conditions are met:

- (1)** The recreational vehicle being used as a dwelling is located on a parcel where the primary residence is under construction or under major renovation that makes the primary residence uninhabitable, and the recreational vehicle is occupied by the owner of the primary residence.
- (2)** The recreational vehicle is fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or a jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions).
- (3)** The recreational vehicle complies with all Madison County Environmental Health regulations pertaining to sewage disposal.
- (4)** The recreational vehicle being used as a dwelling shall comply with all setback requirements for permanent structures for the zoning district where it is located.

If all of the above conditions are met, the zoning administrator may issue a temporary permit authorizing use of the recreational vehicle as a dwelling for up to 180 days. The zoning administrator may renew the permit at the end of 180 days if a good faith effort is under way to complete construction of the primary residence in a timely manner.

4.9.7 Utility Facilities

(A) Wind Energy Facilities

- (1)** No wind energy facility, or addition of a wind turbine to an existing wind energy facility, shall be constructed unless a permit has been issued to the facility owner or operator approving construction of the facility under this Ordinance. Permit application of the expansion shall be based on the total rated capacity, including existing facility but excluding like-kind replacements.

- (2) Any physical modification to an existing and permitted wind energy facility that materially alters the size and/or type of wind turbines or other equipment shall require a permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.
- (3) **The permit application shall contain the following:**

 - (a) A narrative describing the proposed wind energy facility, including an overview of the project;
 - (b) The proposed total rated capacity of the wind energy facility;
 - (c) The proposed number, representative types and height or range of heights of wind turbines to be constructed; including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities;
 - (d) Identification and location of the properties on which the proposed Wind Energy Facility will be located;
 - (e) A site plan showing the planned location of all wind turbines, property lines, setback lines, access roads and turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, building(s), transmission and distribution lines. The site plan must also include the location of all structures and properties, demonstrating compliance of the setbacks;
 - (f) Certification of compliance with applicable local, state and Federal regulations, such as FAA and FCC regulations.
 - (g) An Environmental Assessment for large wind energy facilities, which shall be provided for review by the applicant to the agency point of contact and to the state clearinghouse for distribution. The applicant must also present a certification of distribution of the environmental assessment;
 - (h) Other relevant information as may be reasonably requested by Board of Adjustment to ensure compliance with the requirements of this Ordinance.
 - (i) Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the wind power project will be decommissioned and the site restored;
 - (j) Documentation of agreement between participating landowner(s) and the facility owner/operator of the wind energy facility; and
 - (k) Signature of the Applicant.

- (4) Changes to the approved application that do not materially alter the initial site plan may be adopted administratively.
- (5) Setbacks for wind energy facilities shall be as follows:

Wind Energy Facility Type	Minimum Setback Multiplier ¹			
	From Occupied Buildings on Participating Landowner Property	From Occupied Buildings on Non-Participating Landowner Property	From Property Lines on Non-Participating Landowner Property	From Public Roads
Small System	2	2.5	2	2
Medium System	2	2.5	2	2
Large Scale	2	2.5	2	2

¹ The setback is calculated by multiplying the required setback number by the Wind Turbine Height and measured from the center of the wind turbine base to the property line, Public Road, or nearest point on the foundation of an Occupied Building.

- (6) Noise and shadow flicker shall be regulated as follows:
 - (a) This section shall only apply to large wind energy facilities. Noise and shadow flicker issues for small and medium wind energy facilities are addressed by setbacks, or will be addressed by an existing noise ordinance.
 - (b) Audible sound from a large wind energy facility shall not exceed 55 dBA, as measured at any occupied building of a non-participating landowner.
 - (c) Shadow flicker at any occupied building on a non-participating landowner’s property caused by a large wind energy facility located within 2,500 ft of the occupied building shall not exceed 30 hours per year.
 - (d) Noise and/or shadow flicker provisions may be waived if the following conditions are met:
 - (e) Property owners may waive the noise and/or shadow flicker provisions of this Ordinance by signing a waiver of their rights.
 - (f) The written waiver shall notify applicable property owner(s) of the noise and/or flicker limits required by this Ordinance, describe how the wind energy facility is not in compliance, and state that consent is granted for the wind Energy Facility to waive noise and/or flicker limits as required by this Ordinance.

CHAPTER 4 – SPECIAL REQUIREMENTS

- (g)** Any such waiver shall be signed by the applicant and the Non-Participating Landowner(s), and recorded in the Deeds Office where the property is located.
- (7)** The installation and design of the wind energy facility shall conform to applicable industry standards, including those of the American National Standards Institute, and take into consideration local conditions.
- (8)** All structural, electrical and mechanical components of the wind energy facility shall conform to relevant and applicable local, state and national codes.
- (9)** Any on-site collector system shall, to the maximum extent possible, be placed underground.
- (10)** The visual appearance of wind energy facilities shall at a minimum:
 - (a)** Be a non-obtrusive color such as white, off-white or gray;
 - (b)** Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; and,
 - (c)** Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, facility owner and operator.
- (11)** Decommissioning shall be regulated as follows:
 - (a)** The wind energy facility owner shall have six (6) months to complete decommissioning of the facility if no electricity is generated for a continuous period of 12 months.
 - (b)** Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities down to 36 inches below grade.
 - (c)** Disturbed earth shall be graded and re-seeded, unless the landowner requests in writing that the access roads or other land surface areas not be restored.

Section 4.9 as amended by : 2015-UDO-02, 2015-UDO-03, 2021-UDO-01, 2021-UDO-02

CHAPTER 5

BUILDING DESIGN GUIDELINES

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5.1 Purpose and Applicability

The purpose of this Chapter is to ensure architectural compatibility and the establishment and preservation of architectural character throughout the Town. Enumerated in the sections below are general guidelines for all buildings as well as guidelines specific to building use, typology, and location.

5.2 General Guidelines

- 5.2.1 Adjacent buildings should be compatible in regards to spacing, setbacks, proportions, materials, massing, and scale.
- 5.2.2 The primary entrance shall be architecturally and functionally designed on the front façade facing the primary public street.
- 5.2.3 The front façade of the principal structure shall be parallel to the front lot line and street.

5.3 Residential Buildings

- 5.3.1 Exterior materials should be durable and residential in character. Exterior wall materials should be wood, brick, stone, stucco, vinyl, or similar materials. Roof materials should be asphalt shingles, standing seam metal, slate, or similar materials.

Acceptable



Wood Shingles and Clapboard Siding

Unacceptable



Asphalt Shingles for Siding

5.3.2 Roofs should be in scale with the house and should have an overhang of approximately 9 inches or more to facilitate proper water run-off.

Acceptable



Approximately 12 inch Overhang

Unacceptable



Less than 9-inch Overhang

5.3.3 Front loaded garages should not have visual prominence on the front façade and should not compose more than 50 percent of the total length of the front elevation.

Acceptable



Recessed Garage

Unacceptable



Prominent Garage

5.3.4 Attached garages for more than two (2) cars should not, wherever possible, face the primary street. Such garages on corner lots may face the non-fronting street.

Acceptable



Side-loaded Three-Car Garage

Unacceptable



Front-loaded Three (3) Car Garage

5.3.5 Multiple-car garages on the front façade of any single-family attached or multi-family dwelling unit should utilize separated individual door

Acceptable



Single-Car Garage on Front Façade

Unacceptable



Two-Car Garage on Front Façade

5.3.6 Two-family (duplex) residences should be designed in such a way that the primary entrances are not both on the same plane of the front façade. Two-family residences are preferred on corner lots with one unit's primary entrance facing one fronting street and the other units facing the other fronting street.

Acceptable



Entrances on Different Plane of Façade

Unacceptable



Entrances on Same Plane of Façade

5.4 Non-residential Buildings

5.4.1 Materials & Color

- (A) Front facades and exterior walls visible from the public right(s)-of-way shall be at least 75 percent brick, decorative concrete block, stucco, stone, or other materials similar in appearance and durability. Vinyl siding, plain concrete block, cast concrete, metal may be used on building walls not visible from a public street or as minority elements or accent materials on walls that are visible from the public street provided that they do not compose greater than 25 percent of the façade. Two wall materials may be combined horizontally on one façade. The heavier material should be below. Pitched roofs should be clad in standing seam metal, slate, asphalt shingles, or similar material. All accessory buildings shall be similar in appearance and architecture to the principal structure.

Acceptable



Brick Façade

Unacceptable



Plain Concrete Block & Metal Façade

- (B) Facade colors should be of low reflectance earth tone, muted, subtle, or neutral colors. The use of high-intensity, metallic, fluorescent, or neon colors is not permitted. Variations in color schemes are encouraged in order to articulate entryways, architectural features and public amenities so as to give greater recognition to these features.

Acceptable



Muted Neutral Colors

Unacceptable



High Intensity Colors

5.4.2 Building Design

- (A) Roof pitches less than 3:12 and flat roofs should incorporate a parapet wall on all sides visible from the street. Parapet walls should have decorative cornices or caps. Roof lines should be varied to reduce the scale of structures and visual interest.

Acceptable



Parapet with Decorative Cap
& Varied Roof Line

Unacceptable



Parapet on Front Façade Only-
No Decorative Cap

CHAPTER 5 – BUILDING DESIGN GUIDELINES

(B) Except for civic and industrial buildings, at least 40 percent of the length of the first floor on primary street fronting facades should be in windows or doorways. Street level windows should be visually permeable. For buildings on a corner, the first floor secondary street façade should be at least 10 percent windows. A window or functional general access doorway should be located along the length of the facade at least every 20 feet. A window is measured as follows:

- (1) Maximum Sill Height (first floor): 42 inches
- (2) Minimum Area: 16 square feet
- (3) Minimum Width: 3 feet
- (4) Minimum Height: 4 feet

Acceptable



First Floor Windows

Unacceptable



Windows Covered for Interior Display

(C) Facades greater than 100 feet in length should incorporate recesses and projections along at least 20 percent of the length of the façade.

Acceptable



Facade with Recesses & Projections

Unacceptable

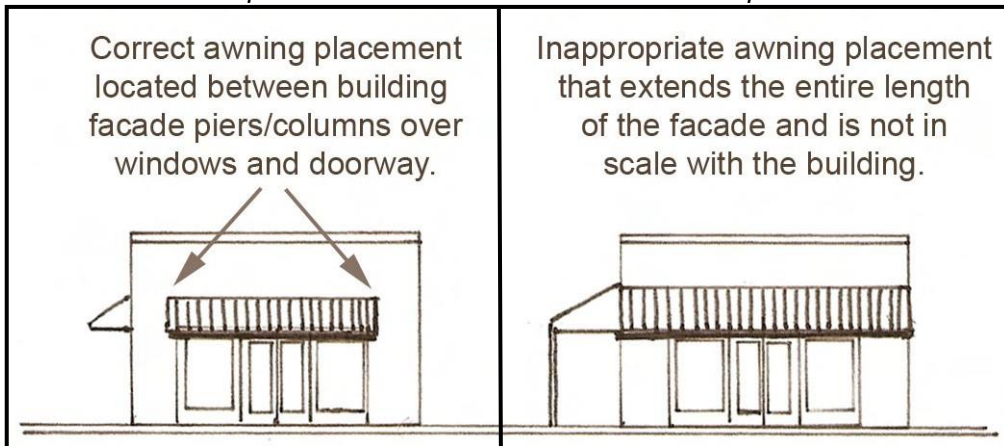


Façade without Recesses & Projections

- (D) When used, awnings and canopies should be placed at the top of window or doorway openings, and should not extend beyond such openings. No awning shall extend more than the width of the sidewalk or 10 feet, whichever is less. Awnings shall be self-supporting from the wall. No supports should rest on or interfere with the use of pedestrian walkways or streets. In no case, shall any awning extend beyond the street curb or interfere with street trees or public utilities.

Acceptable

Unacceptable



5.5 Downtown Buildings

Marshall’s downtown is a designated National Register Historic District. These design guidelines are intended to maintain downtown Marshall’s historic character and ensure that infill development is compatible. These guidelines apply to the CB zoning district. In general, the Secretary of Interior’s Standards for Rehabilitation should be used when repairing, adding on, or rehabilitating an existing building in the downtown.

5.5.1 Secretary of the Interior’s Standards for Rehabilitation

- (A) A property shall be used for its historical purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

- (B) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
- (C) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
- (D) Most properties change over time; those changes that have acquired historical significance in their own right shall be retained and preserved.
- (E) Distinctive features, finishes, and constructive techniques or examples of craftsmanship that characterize a property shall be preserved.
- (F) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new one shall match the old in design, color, texture, and other visual qualities and where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
- (G) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
- (H) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- (I) New additions, exterior alterations, or related new construction shall not destroy historical materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, and architectural features to protect the historic integrity of the property and its environment.
- (J) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

5.5.2 Maintenance and Repair of Existing Historic Features

- (A) Historic entrances should be retained and not enclosed or relocated. If an entrance needs to be modified to meet ADA requirements, it should be modified in a manner that has minimal impact on the original location and configuration and meets the NC Building Code standards for rehabilitation.
- (B) Existing display and transom windows openings should be retained. Original windows openings that have been covered or altered can often be restored easily by carefully removing the modern cladding or infill material.

- (C) Retain transom windows to add light to the building. Repair glass and framing using original style materials. Do not paint the transom windows or fill them in.
- (D) Remove any modern cladding that covers historic materials.
- (E) Properly paint or seal any wood or metal features, including doors, trim bulkheads and cornice to prevent deterioration and rust.
- (F) Properly maintain and caulk or repoint any joints in brick, stone or other material to protect from water infiltration and deterioration.
- (G) Replace broken glass in display windows, transoms and doors.
- (H) Use interior storm windows or awnings to reduce heat gain and improve energy efficiency.
- (I) If new framing is required for insulated glass, install so that framing matches the exterior profile and material of the existing historic storefront.
- (J) In order to match the design and material of other features that are intact, the following methods should be employed:
 - (1) Look for physical evidence (shadow lines) of missing features.
 - (2) Look for evidence of missing features in historic photographs.
 - (3) Look for features on similar buildings nearby to replicate.
 - (4) When no physical evidence exists, keep the design of the replacement feature simple.



Acceptable

Unacceptable

5.5.3 New Storefront Design

- (A) If a historic storefront has been significantly altered or replaced with a modern storefront, it may be best to replace it with a new and more compatible storefront.
- (B) When building a new storefront, historical research and physical evidence can provide clues for an appropriate reconstruction. If no evidence of the original storefront can be found, a new design should incorporate traditional storefront elements that reflect the scale, design, materials, and colors of other district buildings.
- (C) A traditional storefront configuration that is either flush with the building or has a recessed entrance with flanking display windows should be used.
- (D) The new storefront and primary entrance should occupy the entire first floor facade.
- (E) Transom windows or sign board panels can occupy the vertical space between the display windows and the storefront or roof cornice.

FIG. 5.1: STOREFRONT DETAIL



- (F) Building materials that are compatible with the building should be used.
- (G) Display windows should consist of large expanses of glass to allow visibility into the space.
- (H) Awnings, canopies, or transparent low-E glass may be used to reduce excessive sunlight and heat gain. Tinted or reflective glass should not be used.
- (I) Entrance doors should be either single or double-leaf and consist of large expanse of glass to provide visibility. Door frames can be either wood or metal.
- (J) Doors may include a transom to create an opening the same height as the display windows.

5.5.4 New Building Design

- (A) New buildings should be designed so that they are similar in mass, scale, rhythm, design, materials, and orientation to surrounding buildings.
- (B) New buildings should be oriented close to the street and in line with adjacent buildings.
- (C) Window and door patterns that are symmetrical and reflect the historic patterns found in existing buildings should be used.
- (D) Infill buildings should not be constructed closer than six (6) feet from a wall with an existing functional window or doorway on the side of an adjacent existing building.
- (E) Historic styles should not be copied. Each building should be a product of its own time. Contemporary design that is in context with surrounding buildings and is complementary in mass, scale, design, and materials is more appropriate.

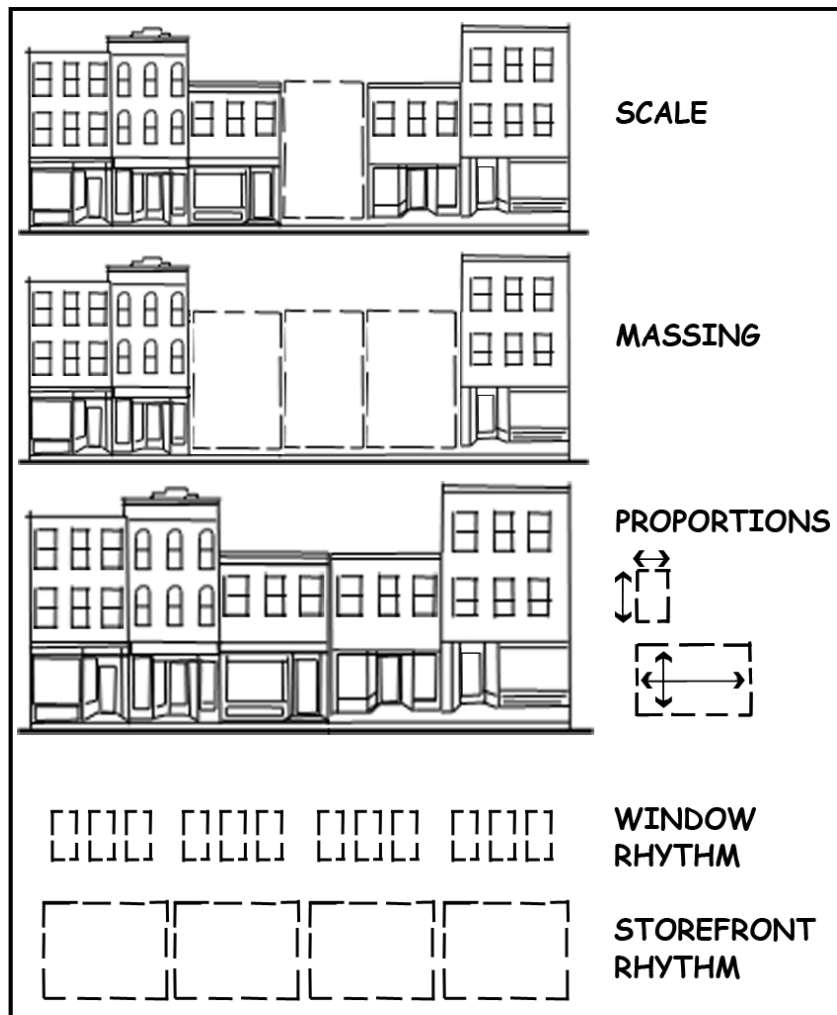
Acceptable



Unacceptable



FIG. 5.2: SCALE, MASSING, PROPORTIONS, RHYTHM



5.5.5 Building Addition Design

- (A) Additions should be compatible with existing buildings in size, scale, proportions, color and materials.
- (B) Additions should be oriented so that they are subordinate to the primary building. An addition should remain subordinate in location, size and appearance to the main body of the building.
- (C) Care should be taken not to damage or block existing character-defining architectural features.
- (D) Additions should be designed so that they can be removed at a later date without compromising the form and character of the original building.
- (E) Additions should not be constructed closer than six (6) feet from a wall with an existing functional window or doorway on the side of an adjacent existing building.

Acceptable



Unacceptable



5.6 Guideline Evaluation

5.6.1 Optional Evaluation by Planning Board

At the request of the applicant, the Planning Board may review proposed building design to advise the applicant of the design's conformance to these guidelines and the compatibility with surrounding buildings. The Planning Board shall assist the applicant in evaluating the design by taking into account the land use of adjacent property, the orientation of the building to public streets, the building typology, the intended use of the structure, attention to architectural detail, and building scale and massing as they relate to the guidelines of this Chapter.

5.6.2 Use of Alternate Plan, Material, or Methods

Alternate design plans, building materials or construction techniques may be used when unreasonable or impractical situations would result from the application of architectural design standards. Such situations may result from unique site conditions, innovative design applications, and/or unified development design.

CHAPTER 6

SIGNS

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6.1 Purpose and Applicability

6.1.1 The purpose of this section is to support and complement the various land uses allowed in the Marshall area by the adoption of policies and regulations concerning the placement of signs. The outdoor placement of signs is a legitimate use of private property, but the erection of signs should be controlled and regulated in order to promote the health, safety, welfare, convenience, and enjoyment of travel on roadways, as well as protect the public investment in such roadways. The provisions of this section are also intended to promote the reasonable, orderly, and effective display of such signs, displays, and devices. It is also the intent of this section to prevent signs from dominating the visual appearance of the area in which they are located and to enhance the aesthetic environment of the Marshall area. Signage is regulated in accordance with NCGS 160D-912.

6.1.2 Except as otherwise provided in this Ordinance, it shall be unlawful for any person to erect, construct, enlarge, move, or replace any sign, without first having obtained a sign permit for such sign from the Administrator as required by this Ordinance. A fee, in accordance with a fee schedule adopted by the Town Board, shall be charged for each sign permit issued.

Section 6.1 as amended by: 2021-UDO-01

6.2 General Provisions

6.2.1 Sign Design Guidelines

- (A) Materials, colors, and shapes of proposed signs should be compatible with the buildings and the surrounding area of its location.
- (B) The sign shall not be the dominant feature of its location.
- (C) A uniform sign plan shall be required for all office and retail complexes and multi-tenant buildings. All tenants shall comply with the approved uniform sign plan.

6.2.2 Maximum Number of Signs Allowed

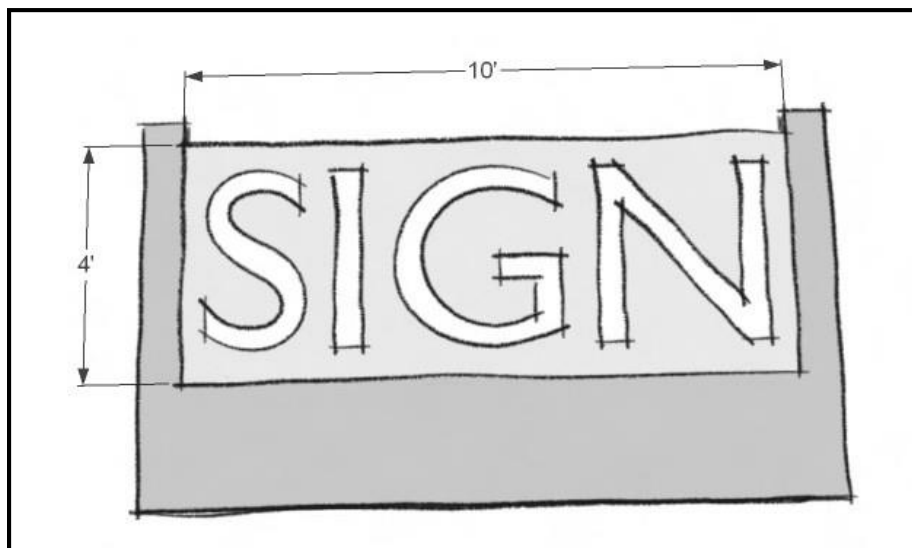
- (A) Unless otherwise specified in this Section, no establishment shall have more than one primary identification sign.
- (B) Corner lots may be permitted to have one (1) sign per street frontage.
- (C) Accessory structures subordinate to the principle structure are permitted one wall sign.

6.2.3 Sign Area

The surface area of a sign is computed as including the entire area within a parallelogram, triangle, circle, semi-circle or other regular geometric figure, including

all of the elements of the display, but not including blank masking (a plain strip, bearing no advertising matter around the edge of a sign), frames, display of identification or licensing officially required by any governmental body, or structural elements outside the sign surface and bearing no advertising matter. In the case of signs mounted back-to-back, only one side of the sign is to be included in the area. Otherwise, the surface area of each sign is to be separately computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces are included in computations of area. In the case of embellishments (display portions of signs extending outside the general display area), surface area extending outside the general display area and bearing advertising material is to be computed separately (according to the method described immediately above in this Section) as part of the total surface area of the sign. If a sign is attached to an entrance wall or fence, only that portion of that wall or fence onto which the sign face or letters are placed shall be calculated in the sign area onto which the sign face or letter.

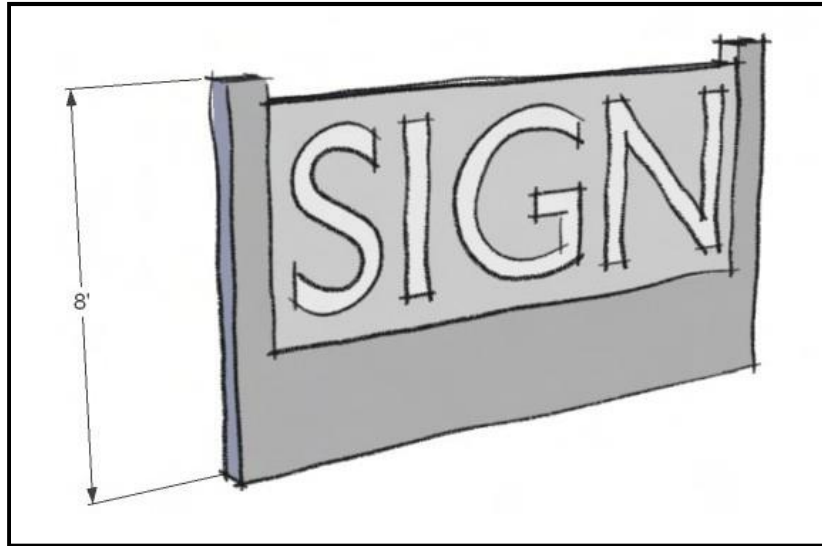
FIG. 6.1: SIGN AREA



6.2.4 Sign Height

The height of a sign shall be measured from the highest point of a sign to the point of ground surface beneath it. Ornamentation such as caps, spires, and finials shall not extend more than 2 feet from the top of the sign. The use of berms or raised landscape areas is only permitted to raise the base of the sign to the mean elevation of the fronting street.

FIG. 6.2: SIGN HEIGHT



6.2.5 Sign Setbacks

All signs shall be set back a minimum five (5) feet from the right-of-way or utility easement of a public or private street or eight (8) feet from the edge of pavement, whichever is greater. The setback shall be measured from the leading edge of the sign. At intersections, no sign shall be in the sight triangle as defined by this Ordinance. No freestanding sign shall be located within 50 feet of any other freestanding sign unless the Administrator determines that practical difficulties exist for locating the sign.

6.2.6 Sign Illumination

Illuminated signs shall conform to the following:

- (A) All illuminated signs shall have their lighting directed in such a manner as to illuminate only the face of the sign.
- (B) External light sources shall not be visible from the right-of-way nor cause glare hazards to pedestrians, motorists, or adjacent properties.
- (C) All lighting shall meet all applicable electrical codes.
- (D) A new commercial sign within 100 feet of an existing residential structure shall not be illuminated between the hours of 11:00 p.m. and 6:00 a.m.

6.2.7 Maintenance and Upkeep of Signs

All signs and all components thereof, including supports, braces, and anchors shall be kept in a good state of repair, in compliance with all building and electrical codes, and in conformance with the requirements of this Ordinance (unless deemed a legal non-conforming sign by Chapter 13 of this Ordinance). Any sign which is determined by the

Administrator or building inspector as being insecure, in danger of falling or otherwise endangering the public safety shall be immediately removed by its owner unless it is repaired and made to otherwise comply with the requirements of this Ordinance.

6.2.8 Removal of Signs in the Right-of-Way

The Administrator or his designee may remove and destroy or otherwise dispose of any sign placed on public property or within any right-of-way of any public or private street. Penalties shall be levied for each such sign as outlined in Chapter 15 of this Ordinance.

6.3 Permanent Signs That Do Not Require a Permit

The following types of signs are exempt from permit requirements and may be placed in any zoning district. Such signs shall otherwise be in conformance with all applicable requirements contained in this Ordinance. All such signs (except government signs) shall be located outside of the street right-of-way and shall not be illuminated.

6.3.1 Wayfinding signs (town-sponsored).

Town-sponsored wayfinding signs may be posted within the zoning jurisdiction of Marshall. Such signs shall direct travelers and tourists to points of interest including the Central Business District, government facilities, cultural arts facilities, galleries, accommodations, restaurants, and shops.



Max. Area	16 square feet
Max. Height	15 feet
Min. Setback	May be located in right-of-way
Other	Text on directory signs shall be generic in nature and not list the name of any specific business. The Town shall install and maintain the signs and shall have discretion over the text posted on the signs. This shall not apply to directory signs installed and maintained by NCDOT.

6.3.2 Building Marker Signs

A sign etched into masonry, bronze or similar material on a building that identifies the name of the building, designer, year constructed, or provides similar information.



Max. Area	20 square feet
Max. Height	N/A (wall mounted)
Max. Number	1 per building
Min. Setback	N/A (wall mounted)

N/A = Not Applicable

6.3.3 Civic Signs (off-premises)

Signs which denote the location of religious, charitable, fraternal, military or service organizations.



Max. Area	12 square feet per organization, up to 18 square feet per sign structure
Max. Height	4 feet tall
Max. Number	2 off-premises signs per organization
Min. Setback	Outside of right-of-way

6.3.4 Construction/Contractor’s and Subdivision Project Signs

Signs to identify future occupants, home builders, contractors, and architectural or engineering designers during the period of construction.



Construction Sign

Max. Area	32 square feet per site
Max. Height	8 feet tall
Max. Number	1 per contractor
Min. Setback	Outside of right-of-way
Other	Signs shall be removed no later than 30 days after completion

6.3.5 Directional Signs (on-premises)

Signs that are located on the premise/property to provide directions.



On-premises Directional Sign

Max. Area	16 square feet
Max. Height	8 feet tall
Max. Number	2 per entrance/exit
Min. Setback	Outside of right-of-way
Other	Signs shall contain no copy other than directional information.

6.3.6 Flags

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.



Flags

Max. Area	45 square feet
Max. Height	maximum district height
Max. Number	4 per lot of record
Min. Setback	Outside of right-of-way

6.3.7 Government Signs

Signs posted or authorized by various local, state, and federal agencies in the performance of their duties including providing community information and facilitating economic development. Such signs include regulatory signs, traffic signs, welcome signs, bulletin board, and directory signs.



Government Sign

Max. Height	maximum district height
Min. Setback	May be located in right-of-way

6.3.8 Legal and Warning Signs

Signs erected to warn of danger or hazardous conditions such as signs erected by public utility companies or construction companies; signs required for or specifically authorized for a public purpose by any law, statute or ordinance.



Warning Sign

Max. Area	8 square feet
Max. Height	10 feet
Min. Setback	May be located in right-of-way

6.3.9 Occupant/Address Number Signs

Signs affixed to structures, mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or occupant.



Address Number Sign

Max. Area	8 square feet
Max. Height	N/A (structure mounted)
Max. Number	1 per street frontage or entrance
Other	All such signs shall be placed in such a manner as to be visible from the street.

6.3.10 Placard Sign

Small signs attached to a wall near the building entrance which displays historic designations or the name, address, and/or logo, trademark, occupation or profession of the occupant or building.



Max. Area	2 square feet
Max. Number	1 per street frontage

6.4 Temporary Signs That Do Not Require A Permit

Temporary signs shall not be located within a public street right-of-way or sight triangle and shall not be attached to trees or utility poles or on publicly-owned property. Temporary signs shall not be illuminated except for temporary holiday decorations. Temporary signs that do not fit into one of the following categories are not permitted.

6.4.1 Real Estate Signs (Off-premise)

Off-premise signs that advertise the sale of residential property.



Max. Area	6 square feet
Max. Height	3 feet
Max. Number	3 off-premises signs
Min. Setback	Outside of right-of-way

6.4.2 Political Signs

Signs displaying support or opposition to for a candidate, political party, or referendum.



Max. Area	8 square feet
Max. Height	4 feet tall
Max. Number	1 per candidate/referendum per lot of record
Min. Setback	Outside of right-of-way
Other	No earlier than 60 days prior to an election, primary, or referendum and removed 1 week after the election. A deposit shall be placed with the Town Clerk in an amount determined on the schedule of fees prior to placement of any political signs in the Town. Upon successful removal of the signs within 1 week after the election, the deposit will be returned.

6.4.3 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.



Min. Setback	Outside of right-of-way
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6.4.4 Real Estate Signs (On-premises)

On-premises real-estate signs advertise the sale or lease of the property on which said sign is located.



Max. Area	8 square feet for individual single-family residential properties & 32 square feet for multi-family residential properties, non-residential properties, vacant properties, & subdivisions
Max. Height	6 feet tall
Max. Number	1 per street frontage per lot of record
Min. Setback	Outside of right-of-way
Other	Shall be removed within 7 days of the sale or lease of the property. Signs advertising lots for sale within an approved subdivision may be posted at the entrance to the subdivision and shall be allowed until 75 percent of the lots are sold within the subdivision.

6.4.5 Incidental signs

Signs that cannot be read from the street right-of-way which inform or instruct customers or visitors on-site (i.e. drive-through menu boards, gas pump signs, bulletin boards, signs inside of a stadium).



Other	Sign shall not legible or attract attention from off site
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6.4.6 Special Event Signs

Signs may be erected by public or non-profit organizations such as schools and churches for promoting public events such as fund drives, fairs, festivals, sporting events, etc.

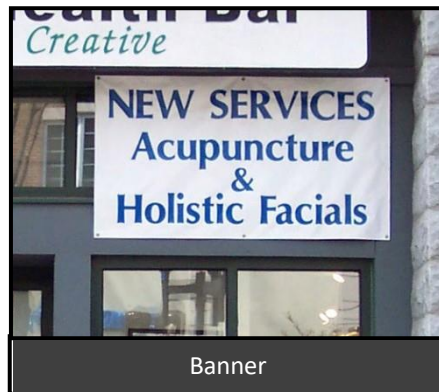


Special Events Sign

Max. Area	32 square feet 100 square feet for permitted over-street banners
Max. Height	8 feet tall (except over-street banners)
Max. Number	1 on-premises sign & 3 off-premises signs
Min. Setback	Outside of right-of-way
Other	May be displayed during a period beginning 30 days prior to the event and concluding 48 hours after the event. Shall not be illuminated.

6.4.7 Banners

Flexible signs advertising a special sale or feature.



Banner

Max. Area	32 square feet
Other	Shall be hung against the building wall. Shall not be attached to a roof, fence, or existing sign. Maximum 15-day time period, no more than 4 times annually. Shall not be located above a second floor level. While a permit is not required, a waiver shall be issued for banners by the Administrator for tracking purposes.

6.4.8 Yard Sale Signs

Signs that advertise a yard sale for an individual residence, neighborhood, or civic organization.



Max. Area	6 square feet
Max. Height	3 feet
Max. Number	1 on-premises sign per street frontage & 2 off-premises signs
Min. Setback	Outside of right-of-way
Other	Signs shall displayed no sooner than one (1) day before the sale and shall be removed no later than one (1) day after the sale.

6.4.9 Window Signs (temporary)

Signs temporarily attached or temporarily painted to a window or door, announcing sale or special features, MAXIMUM COVERAGE: 50% of window area



Max. Area	50 percent of window area
Other	Signs that exceed 50% of the area of said window shall be treated as wall signs. Signs shall be removed within two (2) days after the termination of such sale or special event.

6.4.10 A-frame Signs

Flexible signs advertising a special sale or feature.



Max. Area	8 square feet (per side)
Max. Height	4 feet
Max. Number	1 per establishment per street frontage
Min. Setback	Outside of right-of-way
Other	<p>Shall be professionally made and constructed of weatherproof materials. Shall be weighed down to prevent the sign from being blown into the street or structures.</p> <p>Shall not interfere with pedestrian or vehicular circulation or sightlines.</p> <p>Shall maintain at least 5 feet of continuous sidewalk clearance.</p> <p>Shall be removed at the close of business each day.</p>

6.5 Signs That Require a Permit

All of the signs enumerated in this section require a Zoning Permit prior to construction or alteration of a sign.

6.5.1 Signs Permitted by Zoning District

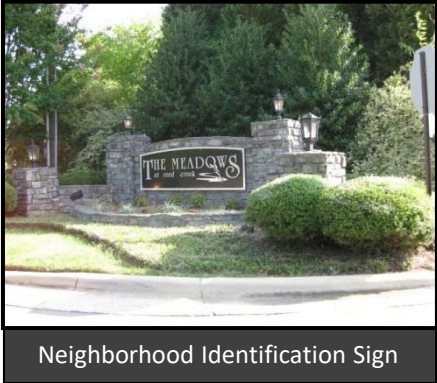
The table below indicates if specific sign type is allowed in each zoning district.

Sign Type	OSR	R-1	R-2	R-3	MU	CB	HB	I
Neighborhood/Development Identification	PL*	PL*	PL*	PL*	PL*	PL*	PL	PL
Wall	PL*	C	C	C	PL	PL*	PL	PL
Freestanding	PL*	PL*	PL*	PL*	PL	-	PL	PL

P: Sign permitted C: Sign permitted for Civic uses only L: Illumination Allowed *: External illumination only

6.5.2 Sign Requirements by Type

(A) Neighborhood/Development Identification Sign



Max. Area	32 square feet
Max. Height	8 feet
Max. Number	1 per neighborhood entrance (max. area may be split for two signs on either side of entrance)
Min. Setback	5 feet from adjacent property lines and street right-of-way

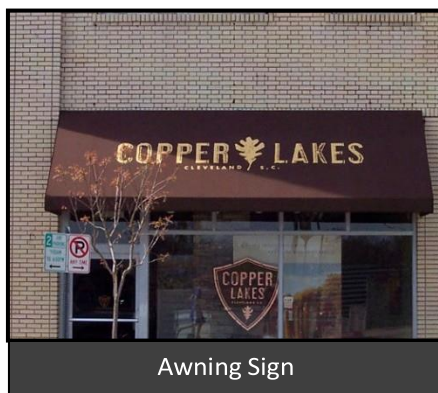
(B) Wall Sign



- (1) The following shall be included in the wall sign category:**
- (a) canopy & marquee signs
 - (b) awning signs
 - (c) projecting signs



Canopy Sign



Awning Sign



Projecting Sign

Max. Area	10 percent of wall area of first floor frontage
Max. Number	Up to 4 signs per business may make up allowable area.
Other	<p>Wall signs shall front on a public street or face a parking lot where a main building entrance is located.</p> <p>Maximum projection is 18 inches from the wall face, except for projecting signs which may project up to four (4) feet.</p> <p>Signs shall not extend above the peak of the roof.</p>

(C) Freestanding Sign



Freestanding Multi-Tenant Sign



Freestanding Monument Sign



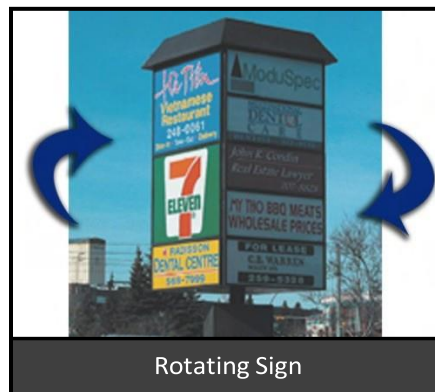
Freestanding Arm Sign

Max. Area	32 square feet plus 8 square feet per tenant up to a maximum of 104 square feet
Max. Height	15 feet
Max. Number	1 per street frontage
Min. Setback	5 feet from adjacent property lines and street right-of-way
Other	Developments with two (2) or more tenants shall utilize a multi-tenant sign. All freestanding signs shall be monument or arm style signs.

6.6 Prohibited Signs

The following signs are prohibited:

- 6.6.1 Any sign which the Zoning Administrator determines obstructs the view of bicyclists or motorists using any street, approach to any street intersection, or which interferes with the effectiveness of or obscures any traffic sign, device, or signal shall be prohibited.
- 6.6.2 Illuminated, highly reflective signs, or spot lights which hamper the vision of motorists or bicyclists.
- 6.6.3 Signs not erected by a public authority which may be erroneously construed as government signs or emergency warning signs. An example of this is a sign which contains a picture of a traffic sign plus the word "Stop", "Yield", etc.
- 6.6.4 Any sign located outdoors which interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air.
- 6.6.5 Rotating signs, other than on-premise rotating identification names which contain a logo and/or business name on it.

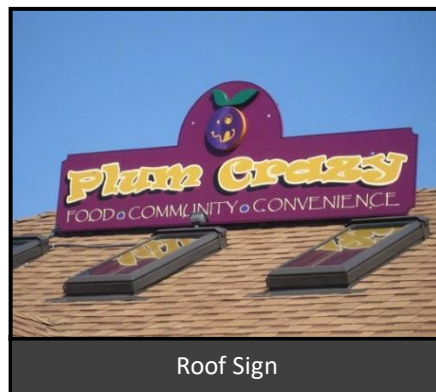


- 6.6.6 Any sign (other than a government sign), banner or display placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other surface located on, over, or across any public street or right-of-way, unless otherwise permitted.
- 6.6.7 Any sign located to intentionally deny an adjoining property owner visual access to an existing sign.
- 6.6.8 Flashing signs, signs with flashing or reflective disks, signs with flashing lights or lights of changing degree of intensity or color.
- 6.6.9 Signs placed on property without permission of its owners or agent.

- 6.6.10 Illuminated tubing or strands of lights except for temporary holiday displays as permitted by Section 6.4.3
- 6.6.11 Portable or temporary signs except as permitted by Section 6.4.
- 6.6.12 Facsimile signs, three-dimensional objects, or human figures which 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.



6.6.13 Roof signs



6.6.14 Pole Signs

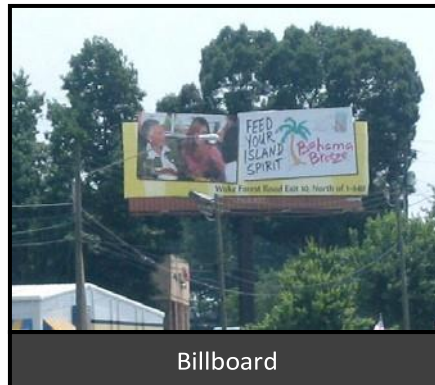


6.6.15 Parked vehicles with messages (exempting vehicles with commercial advertising which are used regularly and customarily to transport persons or property for business).



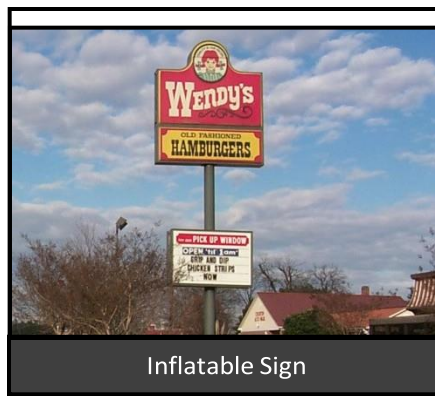
Vehicle Sign

6.6.16 Billboards (off-premises advertising).



Billboard

6.6.17 Inflatable signs including inflated balloons having a diameter of greater than two (2) feet.



Inflatable Sign

- 6.6.18** Any sign whose sign face was initially constructed and designed to be placed and/or transported on wheels, regardless if said sign face is removed from its base and placed on or in the ground so as to otherwise classify said sign as a "freestanding" sign as herein defined.



- 6.6.19** Other signs not expressly permitted in this Ordinance.

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CHAPTER 7

ENVIRONMENTAL PROTECTION AND OPEN SPACE

- 7.1 Purpose.....7-1
- 7.2 Environmental Assessment and Suitability of Land.....7-1
- 7.3 Steep Slope and Ridge Development.....7-2
- 7.4 Stream Buffers7-4
- 7.5 Flood Damage Prevention.....7-8
- 7.6 Open Space Requirements7-30

7.1 Purpose

The purpose of this Chapter is:

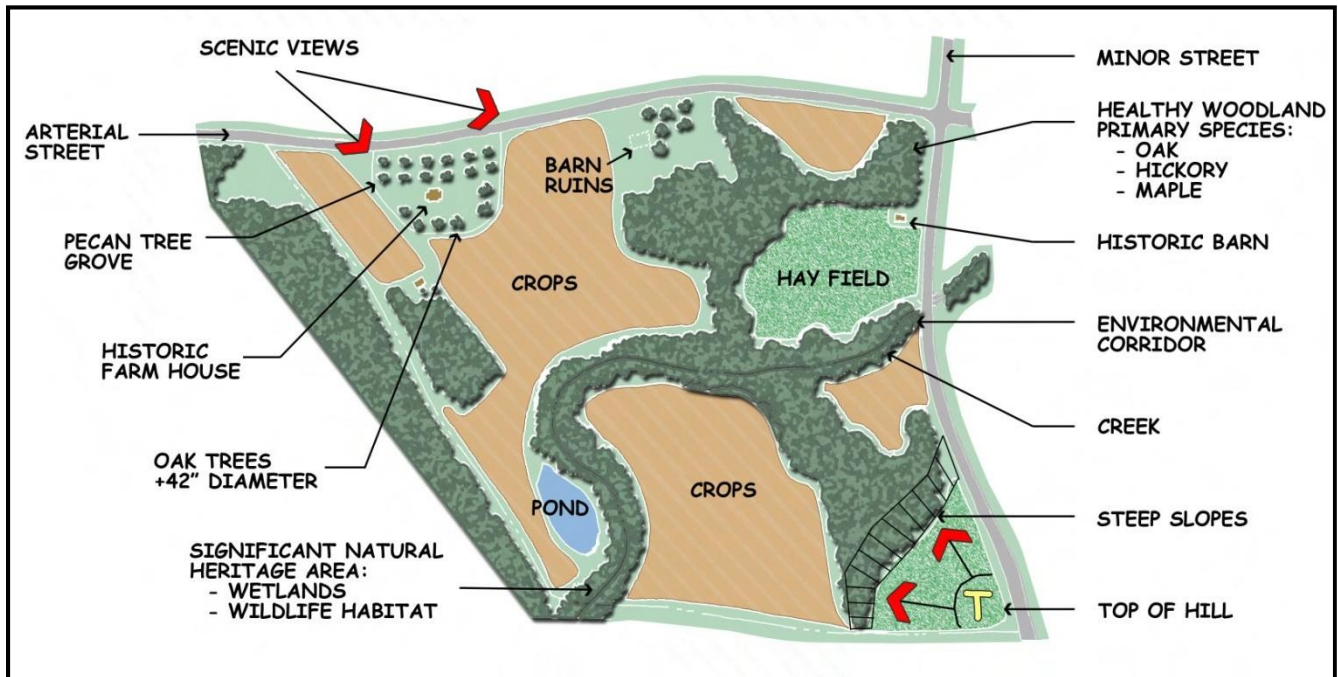
- 7.1.1 To protect existing environmental resources including streams, wetlands, floodplains, soils, forest stands, specimen trees and other significant vegetation and wildlife.
- 7.1.2 To protect life and property through the regulation of steep slope development
- 7.1.3 To promote the reservation of open space in environmentally sensitive areas
- 7.1.4 To provide of recreational amenities for the residents of the Town.

7.2 Environmental Assessment and Suitability of Land

7.2.1 Existing Features Plan

Existing Features Plans are required for during the Sketch Plan step of all subdivisions of greater than five (5) lots and with Zoning Permit applications for developments of greater than one (1) acre and shall be submitted in accordance with Section 12.2.

FIG. 7.1: Example Existing Features Plan



7.2.2 Preservation of Trees and Natural Features Encouraged

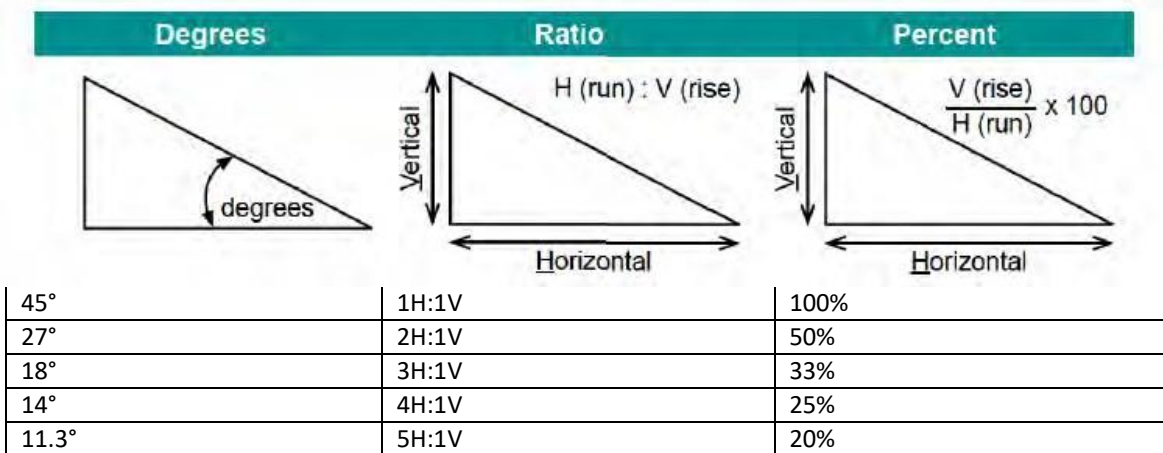
- (A) Significant forest stands, natural vegetation, specimen trees, severe natural topography, drainage features and water courses are encouraged to be preserved to the extent that is reasonable and practical while otherwise not reasonably prohibiting development.
- (B) Forested and vegetated areas whose physical site conditions render them unsuitable for development should be set aside as conservation areas or as open space. Wooded sites should be developed with careful consideration of the natural characteristics of the site. When portions of forested stands must be developed, careful consideration should be given to preserving wooded perimeters or the most desirable natural features in order to retain the aesthetic or visual character of the site. Isolated pockets of existing trees or specimen trees should be protected as a valuable asset of the property.

7.3 Steep Slope and Ridge Development

7.3.1 Measurement of Slope

- (A) There are three common measurement of slope: degrees, ratio, and percent. For the purposes of this ordinance slope will be measured as a percentage. Any slope over 20 percent shall be considered a steep slope.

FIG. 7.2: Example of Slope Calculation

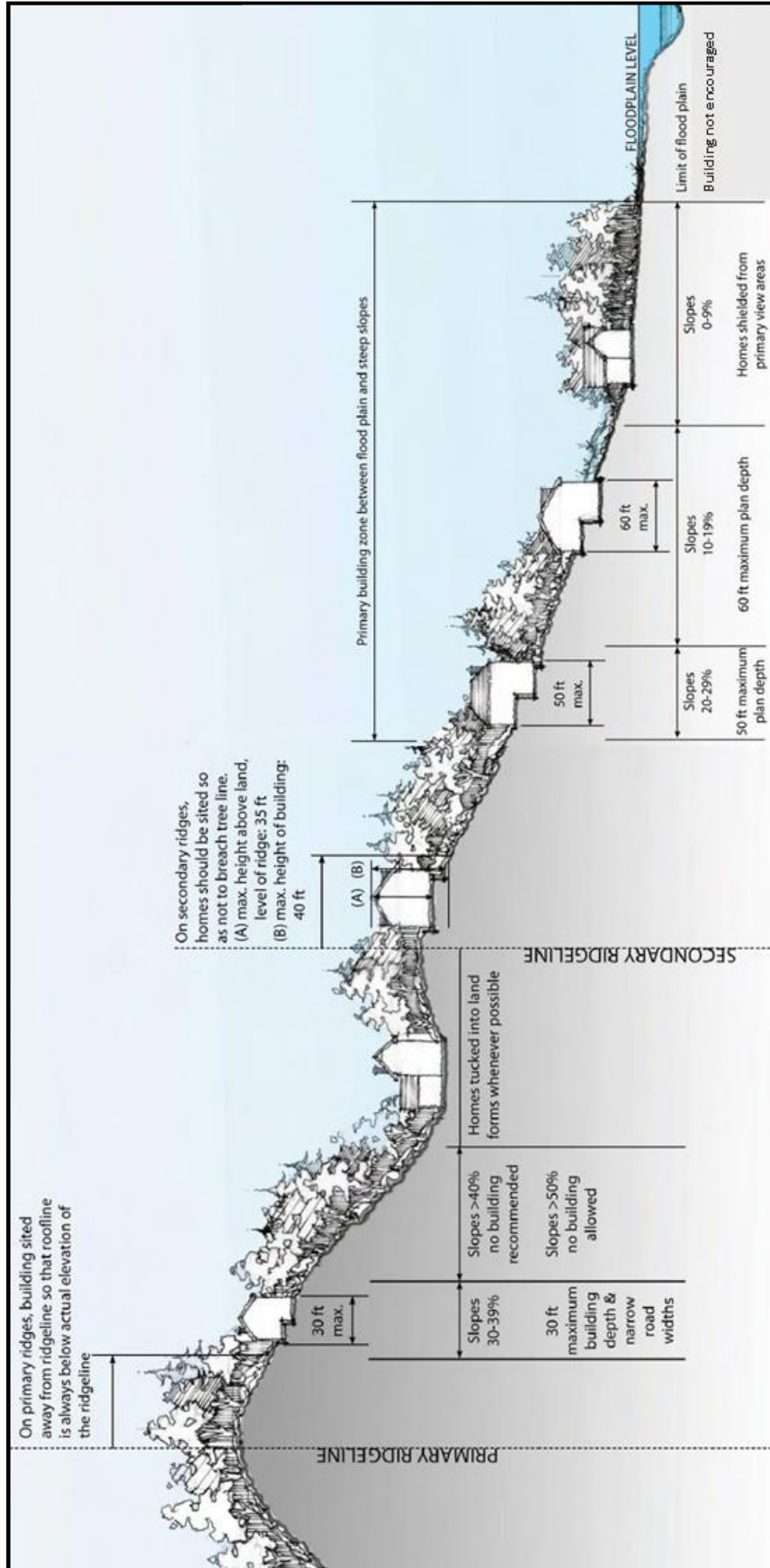


- (B) The Existing Features Plan required by Section 7.2 shall include a topographic detail showing contours of five (5) foot intervals, at a minimum. The survey shall identify all areas with a slope of 20 percent of greater.

7.3.2 Development Requirements for Slopes and Ridges

The following diagram and tables indicate best practices for development according to slope. These practices are hereby adopted as requirements in order to minimize landslide potential, minimize sewage failure, and protect viewsheds.

FIG. 7.3: DEVELOPMENT BEST PRACTICES BY SLOPE



CHAPTER 7 – ENVIRONMENTAL PROTECTION AND OPEN SPACE

Slope Range	Maximum Building Site Depth	Additional Considerations
Floodplain	Building Not Recommended	See Section 7.5
0-9%	Unlimited	Best suited for roadways and vehicle maneuverability
10-19%	60 feet	
20-29%	50 feet	
30-39%	30 feet	Narrow road widths
40-50%	Building Not Recommended	
50%	Building Not Permitted	

Ridge Positioning	Maximum Building Height
Not on Ridge	Maximum zoning district height
Within 500 feet of Secondary Ridgeline	35 feet above ridge
Within 500 feet of Primary Ridgeline	Shall not extend above ridge elevation

On development sites with a slope of greater than 20 percent, a maximum of 10 percent impervious area is permitted and a minimum of 50 percent of the development site shall be maintained as forested area.

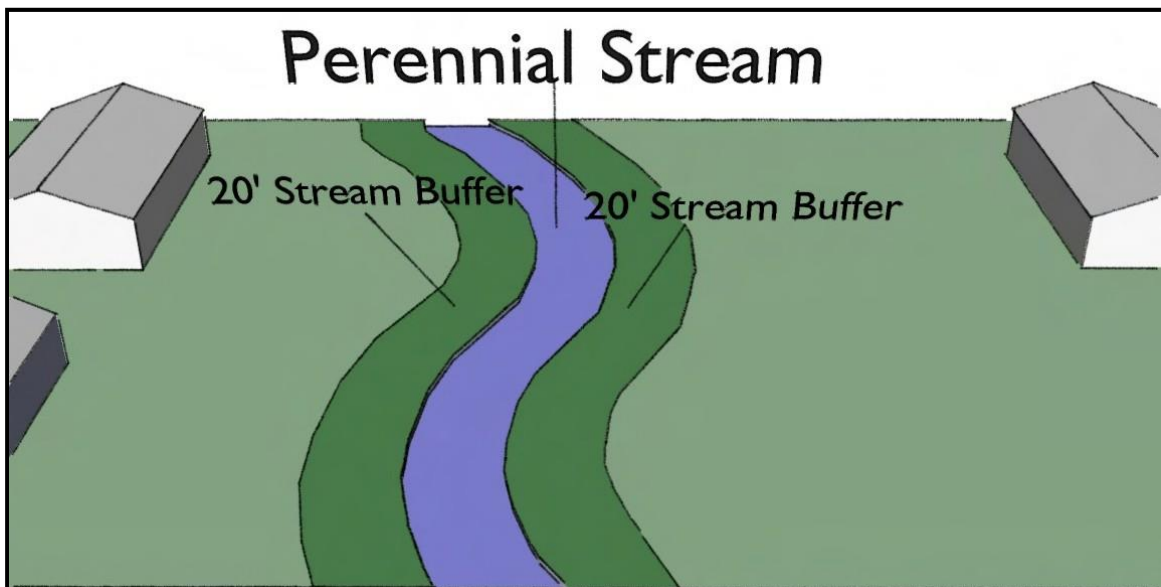
Sources: Southwestern Commission’s Region A Toolbox: A Pilot of the Mountain Landscapes Initiative. Southwestern Planning and Economic Development Commission, the Community Foundation of Western North Carolina, and The Lawrence Group Architects of North Carolina, Inc., August 2008 (Draft). & Mountain Ridge & Steep Slope Protection Strategies. Mountain Ridge and Steep Slope Protection Advisory Committee with assistance from Land-of-Sky Regional Council, 2008.

7.4 Stream Buffers

7.4.1 Minimum Buffer

Stream buffers shall be established on all perennial streams. The buffer shall be located a minimum of 20 feet from each side of the stream bed. Buffers shall remain undisturbed except that narrow walking paths may be utilized as part of the open space for a development.

FIG. 7.4: STREAM BUFFER



7.4.2 Acceptable Stream Plantings

Below are lists of acceptable plants for stream restoration and preservation for the mountain region of North Carolina based on known commercial availability. This list is intended to be a basic guide. Not all plants are appropriate for all sites.

(A) Trees

- (1) *Aesculus octandra* – yellow buckeye
- (2) *Betula lenta* – cherry birch
- (3) *Betula nigra* – river birch
- (4) *Carya cordiformis* – bitternut hickory
- (5) *Carya ovata* – shagbark hickory
- (6) *Diospyros virginiana* – persimmon
- (7) *Fraxinus pennsylvanica* – green ash
- (8) *Halesia caroliniana* – silverbell
- (9) *Nyssa sylvatica* – blackgum
- (10) *Platanus occidentalis* – sycamore
- (11) *Salix nigra* – black widow
- (12) *Tilia heterophylla* – white basswood

(B) Small Trees and Shrubs

- (1) *Alnus serrulata* – tag alder
- (2) *Amelanchier arborea* – serviceberry
- (3) *Aronia arbutifolia* – red chokeberry
- (4) *Asimina triloba* – common pawpaw
- (5) *Calycanthus floridus* – sweet-shrub
- (6) *Carpinus caroliniana* – ironwood
- (7) *Cornus alternifolia* – alternate leaf dogwood
- (8) *Cornus amomum* – silky dogwood
- (9) *Corylus Americana* – hazel-nut
- (10) *Hamamelis virginiana* – witch hazel

- (11) *Ilex verticillata* – winter berry
- (12) *Leucothoe axillaris* – doghobble
- (13) *Lindera benzoin* – spicebush
- (14) *Lyonia ligustrina* – male-berry
- (15) *Magnolia tripetala* – umbrella tree
- (16) *Physocarpus opulifolius* – ninebark
- (17) *Rhodendron periclymenoides* – wild azalea
- (18) *Rhodendron viscosum* – swamp azalea
- (19) *Rosa palustris* – swamp rose
- (20) *Salix sericea* – silky willow
- (21) *Spirea latifolia* – meadowsweet
- (22) *Symplocos tinctoria* – sweet leaf
- (23) *Viburnum cassinoides* – withe-rod
- (24) *Xanthorhiza simplicissima* – yellow-root

(C) Herbaceous Plants

- (1) *Arisaema triphyllum* – jack-in-the-pulpit
- (2) *Asclepias incarnata* – swamp milkweed
- (3) *Carex crinata* – fringed sedge
- (4) *Carex intumescens* – bladder sedge
- (5) *Carex lupulina* – hop sedge
- (6) *Carex lurida* – lurid sedge
- (7) *Carex scoparia* – broom sedge
- (8) *Carex stricta* – tussock sedge
- (9) *Carex vulpinoidea* – fox sedge
- (10) *Chelone glabra* – turtlehead
- (11) *Cyperus strigosus* – umbrella sedge
- (12) *Elymus hystrix* – bottlebrush grass

- (13) Eupatorium fistulosum – joe-pye-weed
- (14) Eupatorium perfoliatum – boneset
- (15) Impatiens capensis – jewel-weed
- (16) Juncus effuses – soft rush
- (17) Leersia oryzoides – rice cutgrass
- (18) Lobelia cardinalis – cardinal flower
- (19) Lobelia siphilitica – great blue lobelia
- (20) Ludwigia – alternifolia – bushy seedbox
- (21) Panicum virgatum – switchgrass
- (22) Polygonum sagittatum – tearthumb
- (23) Scirpus altrovirens – green bulrush
- (24) Scirpus cyperinus – woolgrass
- (25) Scirpus validus – soft stem bulrush
- (26) Sparganium americanum – bur-reed
- (27) Thelypteris palustris – marsh fern
- (28) Uniola latifolia – river oats
- (29) Vernonia noveboracensis - ironweed

(D) Prohibited Invasive Plants

- (1) Ailanthus altissima – Tree-of-heaven
- (2) Celastrus orbiculatus – Oriental Bittersweet
- (3) Elaeagnus umbellata – Silverberry
- (4) Hedera helix – English Ivy
- (5) Ligustrum sinense – Chinese Privet
- (6) Lonicera japonica – Japanese Honeysuckle
- (7) Microstegium vimineum – Microstegium
- (8) Polygonum cuspidatum – Japanese Knotweed
- (9) Pueraria lobata – Kudzu

(10) Rosa multiflora – Multiflora Rose

Source: Hall, Karen. Recommended Native Plant Species for Stream Restoration in North Carolina. Raleigh, NC: North Carolina State University, NC Stream Restoration Institute, May 2003.

7.5 Flood Damage Prevention

The following regulations were adopted May 18, 2009 in accordance with the state model ordinance:

7.5.1 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; Chapter 160D-702 and Chapter 160D-923 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 Board of Aldermen of the Town of Marshall, North Carolina, does ordain as follows:

7.5.2 Findings of Fact

- (A)** The flood prone areas within the jurisdiction of the Town of Marshall are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- (B)** These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

7.5.3 Statement of Purpose

It is the purpose of this Section to promote public health, safety, and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

- (A)** Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities;
- (B)** Require that uses vulnerable to floods, including facilities that serve such uses,

be protected against flood damage at the time of initial construction;

- (C) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (D) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (E) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

7.5.4 Objectives

The objectives of this Section are to:

- (A) Protect human life, safety, and health;
- (B) Minimize expenditure of public money for costly flood control projects;
- (C) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (D) Minimize prolonged business losses and interruptions;
- (E) Minimize damage to public facilities and utilities (i.e. Water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (F) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (G) Ensure that potential buyers are aware that property is in a special flood hazard area.

7.5.5 Definitions

See Appendix A for Flood Damage Prevention Definitions. Unless specifically defined in Appendix A, words or phrases used in this subsection shall be interpreted so as to give them the meaning they have in common usage and to give this Section its most reasonable application.

7.5.6 General Provisions

(A) Applicability

This Section shall apply to all Special Flood Hazard Areas within the jurisdiction of the Town of Marshall and within the jurisdiction of any other community whose governing body agrees, by resolution, to such applicability.

(B) Basis for Establish 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 Flood Insurance Study (FIS) for Madison County dated June 2, 2009 and its accompanying Flood Insurance Rate Map Panels (8796, 9705¹, 9706, 9707, 9715, 9716, & 9717), which are adopted by reference and declared to be a part of this Section. The initial Flood Insurance Rate Maps are as follows for the jurisdictional areas at the initial date:

- (1) Madison County Unincorporated Area, dated September 2, 1982.
- (2) Town of Marshall, dated May 15, 1978.

(C) Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required in conformance with the provisions of this Section prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 7.5.3, Subsection 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 Section and other applicable regulations.

(E) Abrogation and Greater Restrictions

This Section is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(F) Interpretation

In the interpretation and application of this Section, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) 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 Section 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 Section 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 Section shall not create liability on the part of the Town of Marshall or by any officer or employee thereof for any flood damages that result from reliance on this Section or any administrative decision lawfully made hereunder.

(H) Penalties for Violation

Violation of the provisions of this Section 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 misdemeanor. Any person who violates this Section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$50.00 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 Marshall from taking such other lawfulness as is necessary to prevent or remedy any violation.

7.5.7 Administration

(A) Designation of Floodplain Administrator

The Town Clerk or his/her designee, hereinafter referred to as the “Floodplain Administrator”, is hereby appointed to administer and implement the provisions of this Section.

(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 7.5.3, subsection 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 7.5.3, subsection b;
 - iv. The boundary of the floodway(s) or non-encroachment area(s) as determined in section 7.5.3, subsection b;
 - v. The base flood elevation (bfe) where provided as set forth in section 7.5.3, subsection b; section 7.5.4, subsection c; or section 7.5.5, subsection 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 professional 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 Section 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 7.5.5, Subsection B(4)(c) when solid foundation perimeter walls are used in Zones A, AO, AE, and A1-30.

- (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 7.5.5, Subsection B, (6) and (7) 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 description of the development to be permitted under the floodplain development permit.
- (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 7.5.3, Subsection 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, as applicable.
- (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).

(3) Certification Requirements

(a) Elevation Certificates

- i. An Elevation Certificate (FEMA Form 81-31) 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. A final as-built Elevation Certificate (FEMA Form 81-31) 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 81-65), 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 mean sea level. 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.

- (c) If a manufactured home is placed within Zone A, AO, AE, or A1-30 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 7.5.5, Subsection 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 Zone A, AO, AE or A1-30, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:

- i. Recreational Vehicles meeting requirements of Section 7.5.5, Subsection B(6)(a);
- ii. Temporary Structures meeting requirements of Section 7.5.5, Subsection B(7); and
- iii. Accessory Structures less than 150 square feet meeting requirements of Section 7.5.5, Subsection B(8).

(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 Section 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.
- (3) Notify adjacent communities and the North Carolina Department of Crime Control and 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 7.5.5, Subsection 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 7.5.4, Subsection B(3).
- (7) Obtain actual elevation (in relation to mean sea level) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Section 7.5.4, Subsection B(3).
- (8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 7.5.4, Subsection 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 7.5.4, Subsection B(3) and Section 7.5.5, Subsection 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 7.5.3, Subsection 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 7.5.5, Subsection D(2)(b), in order to administer the provisions of this Section.
- (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 7.5.3, Subsection 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 Section.
- (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 Section 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 Section 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 Section, 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 7.5.4, Subsection 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 7.5.3, Subsection B, 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 regulations, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within 90 days of issuance. 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 misdemeanor and shall be punished at the discretion of the court.

(E) Variance Procedures

(1) The Board of Adjustment as established by the Town of Marshall, hereinafter referred to as the “appeal board”, shall hear and decide requests for variances from the requirements of this Section.

(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 appendix a, provided provisions of section 7.5.4, subsection 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 subsection.

(4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other subsections, 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 Appendix A 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 Section, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this Section.
- (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 as required in Section 15.3.3(B) (a,b,c,d);
 - ii. 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.

7.5.8 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.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent

water from entering or accumulating within the components during conditions of flooding to the Regulatory Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.

- (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 flood waters.
- (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 Section, shall meet the requirements of “new construction” as contained in this Section.
- (9) Nothing in this Section shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this Section 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 Section.
- (10) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted. 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 7.5.4, Subsection 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) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest Base Flood Elevation (BFE) shall apply.

(B) Specific Standards

In all Special Flood Hazard Areas where Base Flood Elevation (BFE) data has been provided, as set forth in Section 7.5.3, Subsection B, or Section 7.5.5, Subsection D, the following provisions, in addition to the provisions of Section 7.5.5, Subsection 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 Appendix A.

(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 Appendix A. Structures located in A, AE, AO, and A1-30 Zones 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 7.5.5, Subsection 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 7.5.4, Subsection 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 Appendix A.
- (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 7.5.5, Subsection 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 be constructed entirely of flood resistant materials.
- (c) 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 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, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
- (b) Additions to post-FIRM structures with no modifications 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.
 - ii. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for

new construction.

(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.

For the purposes of this ordinance, a recreational vehicle shall not be deemed a dwelling unit and the usage of a recreational vehicle for living, sleeping, or housekeeping purposes and the connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a camping and recreational vehicle park so designed to accommodate recreational vehicles, as outlined in Section 4.6.3 of this ordinance.

(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 7.5.5, Subsection A(1);
- (f) All service facilities such as electrical shall be installed in accordance with the provisions of Section 7.5.5, Subsection 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 7.5.5, Subsection B(4)(c).

An accessory structure with a footprint less than 150 square feet that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 7.5.4, Subsection B(3).

(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 7.5.3, Subsection B, where no Base Flood Elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of Section 7.5.5, Subsection 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,
- TOWN OF MARSHALL UNIFIED DEVELOPMENT ORDINANCE*

all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this Section and shall be elevated or floodproofed in accordance with standards in Section 7.5.5, Subsections 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 Section 7.5.5, Subsections 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 7.5.3, Subsection B and utilized in implementing this Section.
- (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 Appendix A. All other applicable provisions of Section 7.5.5, Subsection 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 Section 7.5.5, Subsections 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 7.5.3, Subsection 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 Section

7.5.5, Subsections 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 7.5.5, Subsection F(1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this Section.
- (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 7.5.5, Subsection B(3); and
 - (b) The no encroachment standard of Section 7.5.5, Subsection F(1).

7.5.9 Legal Status Provisions

(A) Effect on Rights and Liabilities under the Existing Flood Damage Prevention Section

This Section in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted March 1, 1988 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 Section shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of the Town of Marshall enacted on March 1, 1988, as amended, which are not reenacted herein are repealed.

The date of the initial Flood Damage Prevention Ordinance for Madison County is February 1, 1988.

(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

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or his or her authorized agents before the time of passage of this Section; 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 Section.

(C) Severability

If any subsection, clause, sentence, or phrase of the Section 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 Section.

(D) Effective Date

This Section shall become effective on June 2, 2009.

(E) Adoption Certification

A certified copy of these adopted Flood Damage Prevention Regulations shall be kept on file in the office of the Town Clerk.

Section 7.5 as amended by: 2014-UDO-01, 2021-UDO-01, 2021-UDO-02

7.6 Open Space Requirements

7.6.1 Applicability

The requirements of this Section apply to new developments with greater than five (5) residential dwelling units in which the construction of new streets is proposed. Developments in which all lots are (5) acres or more are exempt from this provision.

7.6.2 General Provisions for Open Space

(A) Land designated as open space on the approved development plan shall be maintained as open space and may not be separately sold, subdivided, or developed.

(B) Access from a public or private street shall be provided to all designated open space with a minimum 15 foot wide access to the open space area. Lakes or ponds within the development used as open space shall provide adequate community access beyond this 15 foot minimum as determined by the Administrator.

(C) Open space shall be contiguous wherever possible.

7.6.3 Minimum Open Space Dedication

Open space shall be dedicated in accordance with the table below. Percentages are based on total development area.

Density (DUA)	Percent Open Space*
0.2 DUA or less	0%
0.21 DUA-1.0 DUA	5%
1.1 DUA-2.0 DUA	10%
2.1 DUA-3.0 DUA	15%
3.1 DUA-4.0 DUA	20%
More than 4.0 DUA	25%

*Conservation Development minimum open space dedication shall meet the requirements of the Section 4.2.4.

How to Calculate DUA (Dwelling Units Per Acre):

$$\frac{\text{Total Number of Dwelling Units}}{\text{Total Development Area in Acres}} = \text{DUA}$$

7.6.4 Types of Open Space

All required open space shall be classified in accordance with this Section. Dedicated open space shall fit into one or more of the following categories and be classified as private common area open space or public open space. The Existing Features Plan should be used as a guide for the Town and the developer to determine the most appropriate open space type and location. Also Town and County plans, particularly park and open space plans, shall be considered when evaluating the most appropriate open space type.

(A) Playground

Playgrounds are for active recreational use and provide sunny and shaded play equipment and play areas for children as well as open shelter with benches. Playgrounds may be part of other types of open space, such as parks, or may stand alone.

Minimum Size: 10,000 square feet
 Maximum Size: 20,000 square feet

EXAMPLES OF PLAYGROUNDS



(B) Square

Squares are areas for passive recreational use. Squares shall be bounded by streets on a minimum of 50 percent of their perimeter. Squares are encouraged to be entirely bounded by streets and/or lanes. Squares shall be planted parallel to all streets and shall contain canopy trees along street frontages.

Minimum size: 2,000 square feet

Maximum size: 1 acre

EXAMPLES OF SQUARES



(C) Park

Parks may be designed for passive and/or active recreational use. Parks shall be bounded by streets on a minimum of 10 percent of their perimeter. Large parks should create a central open space which services an entire neighborhood or group of neighborhoods; or incorporates physical features which are an asset to the community (i.e. lake or river frontage, high ground, significant stands of trees). Undergrowth should be limited and landscaping shall be installed in a manner that promotes attractiveness and safety. Parks may be combined with greenways and greenbelts and may include golf courses and community gardens.

Minimum size: 1 acre

EXAMPLES OF PARKS



(D) Green

The green is an open space which is more natural. Like the square, it is small and surrounded by buildings. Unlike the square, it is informally planted and may have irregular topography. Greens are usually landscaped with trees at the edges and open lawns at the center. Greens should contain no structures other than benches, pavilions, and memorials; paths are optional.

Minimum size: 20,000 square feet

EXAMPLES OF GREENS



(E) Greenway

Greenways are large, irregular open spaces designed to incorporate natural settings such as creeks and significant stands of trees within and between neighborhoods. Greenways are typically more natural and may contain irregular topography. Greenways shall be used for certain active recreational uses including, at a minimum, trails for walking, jogging, and biking. Greenways shall connect points of interest in the community such as schools, parks, and other civic uses.

EXAMPLES OF GREENWAYS



(F) Greenbelt

Greenbelts run along the perimeter of a neighborhood, and serve to buffer a neighborhood from surrounding non-compatible uses such as a highway corridor or industrial district, or a developed area from agricultural areas or adjacent towns. Greenbelts differ from the other types of open spaces in that they are left natural, and are not intended for recreational use.

EXAMPLES OF GREENBELTS



(G) Agricultural Preserve

Open spaces designated as Agricultural Preserves shall be used for active farming in the form of crop cultivation, the keeping of livestock, or equestrian facilities. Agricultural Preserves are encouraged to protect areas of agricultural and rural heritage and promote compatible active agricultural operations.

Minimum size: 5 acres

EXAMPLES OF AGRICULTURAL PRESERVES



(H) Nature Preserve

Open spaces designated as Nature Preserves shall be left largely undisturbed except for the optional clearing of underbrush for the provision of a walking trail (mulch or other natural material only). Nature Preserve areas are encouraged to protect large stands of trees, wildlife, and natural water features. Nature Preserves are the preferred form of open space for steep slopes in excess of 25 percent grade.

Minimum size: 3 acres

EXAMPLES OF NATURE PRESERVES



7.6.5 Open Space Ownership & Maintenance

- (A)** Open space may be owned or administered by one or a combination of the following methods:
- (1)** Fee simple ownership by a unit of government or private non-profit land conservancy;
 - (2)** Common ownership by Homeowners Association;
 - (3)** Split deeded ownership by individual property owners within the subdivision;
 - (4)** By individual private ownership such as a farmer, developer or other private entity that maintains the open space in accordance with the purposes of this Chapter. (i.e. farming, equestrian facility).
 - (5)** Deed restricted open space easements on individual private properties.
- (B)** The Town Board of Aldermen shall have the authority to accept or reject land dedications made as a requirement of this Section.
- (C)** The owner of dedicated open space shall be responsible for the continuing upkeep and proper maintenance of the same.

- (D) In the case of common ownership by a Homeowners Association, the restrictive covenants shall provide that, in the event the Homeowners Association fails to maintain the open space according to the standards of this Ordinance, the Town may, following reasonable notice, demand that deficiency of maintenance be corrected, or enter the open space to maintain it. The cost of such maintenance shall be charged to the Homeowners Association.
- (E) The developer shall place in a conspicuous manner upon the Final Plat of the subdivision a notation concerning control of open space.
- (F) The developer will provide proof of registration of the Articles of Incorporation with the appropriate state agency for the formation of the Homeowners Association to the Administrator.
- (G) Homeowners' Associations or similar legal entities that are responsible for the maintenance and control of open space areas and common areas shall be established by the developer who shall record in the Register of Deeds a declaration of covenants and restrictions that will govern the association or similar legal entity. A copy of the recorded document shall be provided to the Administrator and such document shall include, but not be limited to, the following:
 - (1) Provision for the establishment of the association or similar entity is required before any lot in the development is sold or any building occupied and membership shall be mandatory for each homeowner and any successive buyer.
 - (2) The association or similar legal entity has clear legal authority to maintain and exercise control over such common open space areas.
 - (3) The association or similar legal entity has the power to compel contributions from residents of the development to cover their proportionate shares of the costs associated with the maintenance and upkeep of such common areas. Further, assessments levied can become a lien on the property if allowed in the master deed establishing the homeowners association or similar legal entity.
 - (4) The open space restrictions must be permanent, not just for a period of years.
 - (5) The association or similar legal entity must be responsible for liability insurance, applicable taxes and the maintenance open space and other facilities under their control.
 - (6) The association or similar legal entity must be able to adjust the assessment to meet changing needs.
 - (7) The association shall be responsible for maintaining all public storm water drainage systems and easements within the subdivision not being

maintained by the Town, County, State or other approved entity.

- (8) It shall be expressly stated within the restrictive covenants/homeowners association documents that it will be the responsibility of the developer or successors or assigns to enforce such covenants or restrictions until such time as control has been transferred to the Homeowners Association Board of Directors. It shall be the sole responsibility of the developer, successor or assigns to correct any deficiencies prior to transfer of control over to the Homeowners Association Board of Directors.

7.6.6 Payment-in-Lieu of Dedication

- (A) If open space within a development is physically impractical due to unusual conditions then the Town may accept a fee paid in lieu of dedication.
- (B) Fees collected in lieu of dedications and any proceeds from such transactions or sales shall be accounted for by the Town, and the funds shall be used by the Town for the purposes of acquiring and developing recreation, greenway and open space areas as shown on the land development plan or in the parks and recreation and greenway/bikeway master plans and for no other purposes. The depository for such funds may be the same as permitted other funds of the Town, pending their expenditure in accordance with the terms of this code; such funds may be invested as other funds of the Town. The Town may, at its discretion, add additional monies to the fund for the purposes of purchasing open space and recreational land to be used for recreational purposes.
- (C) Refunds shall not be granted to the developer should the project not be constructed after recording of Final Plat or if a reduction in density occurs.
- (D) Such payment in lieu of dedication shall be the product of the current assessed market value of the land to be subdivided (as established in Subsection E below) multiplied by the number of acres to be dedicated.
- (E) The current assessed market value of the gross land area of the development or subdivision at the time of submission of the required plan and/or plat shall be used to determine the land value. The current assessed market value shall be the appropriate value as determined by and maintained on file in the Madison County Tax Office. The average value per gross acres shall be calculated from this total tax value and applied to the required recreational land area in order to determine the land value.

$$\frac{\text{TOTAL MARKET VALUE OF UNDEVELOPED PROPERTY} \times \text{ACRES OF REQUIRED OPEN SPACE}}{\text{TOTAL ACRES OF UNDEVELOPED PROPERTY}} = \text{PAYMENT}$$

CHAPTER 8

LANDSCAPING

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8.1 Purpose and Applicability

8.1.1 Purpose

The purpose of this Chapter is to regulate the protection, installation, and long-term management of trees and shrubs and to minimize potential nuisances, such as visual impacts, noise, dust, odor, litter, and glare of lights, from adjacent properties. The appropriate use of existing and supplemental landscaping enhances the appearance of built environment and blends new development with the natural landscape. Existing vegetation should be retained where possible to ensure a natural established landscape.

8.1.2 Applicability

- (A) All new developments (except for infill single-family detached residential uses on existing lots) shall be designed in accordance with the requirements of this Chapter. Any expansion of an existing building or parking area or a significant change of use also requires compliance with the requirements of this Chapter, to the greatest extent possible as determined by the Administrator.
- (B) Generally, the responsibility for screening is that of the more intense land use. However, new developments with a less intense use being constructed next to an existing more intense use shall provide the required landscaping on the new development's property.
- (C) In cases where an existing, landscaped or vegetated area is located on the same property as the proposed development, further plantings and or improvements shall not be required so long as said screened area is of sufficient width and contains adequate and sufficient materials to meet the requirements of this Ordinance. If the landscaped or vegetated area is deficient, the developer shall make needed improvements and/or additions to satisfy the landscaping requirements and intent of this Ordinance.

8.1.3 Relief from Landscaping Requirements

- (A) In the event that the unusual topography, location of existing buildings, or location or size of the parcel to be developed would make strict adherence to the requirements of this Section serve no meaningful purpose or would make it physically impossible to install and maintain the required landscaping, the Administrator may alter the requirements of this Section provided the spirit and intent of the section are maintained. Such an alteration may occur only at the request of the developer, who shall submit a plan to the Administrator showing existing site features that would screen the proposed use and any additional screen materials the developer may propose to have installed.

- (B) The vacancy or non-use of an adjoining parcel shall not constitute grounds for providing relief to the landscaping requirements contained in this Ordinance. Neither shall the desire of an owner to make a more intensive use or greater economic use of the property be grounds for reducing the landscaping requirements.

8.2 General Provisions

- 8.2.1 To the extent that existing natural vegetation located on the same parcel of land as the proposed development can meet the required landscaping levels of this Section, the use of such materials is encouraged. In such case, these areas shall be designated on the development plan as undisturbed vegetation areas.
- 8.2.2 No structure other than a wall, fence, sidewalk, mailbox, sign or driveway shall be permitted within a required landscaping area. No off-street parking may take place in any required landscaping area. Where plant materials are required, the required amount of plant materials shall be installed on the side of any wall or fence opposite the new development.

8.3 Landscaping Types and Requirements

The provisions of this Section are designed to specifically address the application of landscape resources to varying styles of development and the impact of such applications on the appearance, health, and financial well-being of the community. The provisions are broken into four (4) landscaping categories:

- Buffer Yards
- Parking Lot Yards
- Building Yards
- Residential Yards

8.3.1 Buffer Yards

- (A) Buffer yards area intended to screen non-residential development from residentially used or zoned property. Buffers shall be measured from the subject property line into to the site to be developed. Buffer yard width shall not affect the required building setback for each zoning district as set forth in Section 3.4. The following table establishes the minimum buffer width for a new or expanding non-residential development adjacent to residentially-zoned property(R-1, R-2, R-3) or property with an existing residential use:

Zoning District of New or Expanding Non-Residential Development	Minimum Buffer Yard Width
OSR	0 feet
R-1	5 feet
R-2	5 feet
R-3	5 feet
MU	8 feet
CB	0 feet
HB	15 feet
I	50 feet

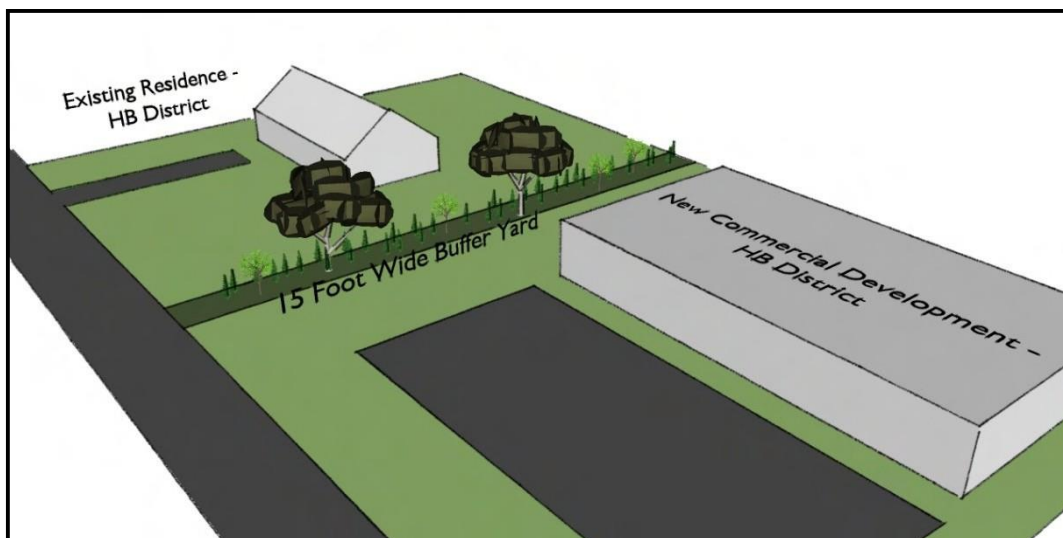
- (B)** Buffer yards shall function as visual screens with a minimum height of six (6) feet. Composition of a required buffer yard may include a wall, solid fence, landscaped berm, planted vegetation, existing vegetation, or any appropriate combination of these elements to achieve adequate screening. At a minimum buffer yards shall include the following vegetation:

Vegetation Type	Number Required
Large Trees*	1 per 100 linear feet of property line
Medium or Small Trees	2 per 100 linear feet of property line
Shrubs	1 per 5 linear feet of property line

* Under overhead utility lines, two (2) small trees shall be used in lieu of each large tree required.

- (C)** Vegetation shall be selected from the approved plant list in Section 8.4.1. At least 25 percent of the required trees, and at least 75 percent of the required shrubs, shall be evergreen species locally adapted to the area. The use of existing vegetation to satisfy this requirement is encouraged. Supplemental planting may be required in addition to native materials.

FIG. 8.1 EXAMPLE BUFFER YARD



8.3.2 Parking Lot Landscaping

- (A) Parking lot landscaping is required within all parking lots of greater than 10 spaces except motor vehicle or boat sales display areas. Instead, perimeter landscaping around motor vehicle or boat sales display areas shall be utilized at the same rate as required in Subsection B below.
- (B) A minimum of one (1) large tree shall be located within 60 feet of every parking space. The measurement shall be taken from the base of the tree. Additionally, no more than four (4) parking rows shall be located back-to-back without the separation of a landscaping area and walkway a minimum of 10 feet wide.
- (C) Large trees shall be planted in a manner that provides shade for parking area at maturity. Two (2) small trees shall be used in lieu of large trees under overhead utility lines. Each planting area shall be a minimum of 49 square feet, with a minimum dimension of seven (7) feet. Planting areas shall be protected with concrete curbing.
- (D) For all parking areas of greater than four (4) acres, developers shall employ low impact development design as set forth in the latest edition of the Low Impact Development Guidebook for North Carolina from NC State University, published by the North Carolina Cooperative Extension.

FIG. 8.3 EXAMPLE PARKING LOT YARD



8.3.1 Building Yards

- (A) The intent of Building Yards is to create a buffer between buildings and parking areas for pedestrians entering and exiting buildings and to improve the appearance of building entrances. Building yard width shall be based on the total

area of the building. Widths shall be measured from the applicable building wall. Building yards shall be required on any side of the building where parking area is adjacent to a building façade with a general access entrance to the building. This shall not apply to the CB district or to single-family dwellings. The table below establishes the minimum building yard width and required composition of the building yard:

Total Building Area	Minimum Building Yard Width	Minimum Small Trees Required	Minimum Shrubs Required
Less than 2,500 square feet	3 feet	N/A	1 per 5 linear feet of building yard
2,500-5,000 square feet	5 feet	1 per 50 linear feet of building yard	1 per 5 linear feet of building yard
5,000-30,000 square feet	8 feet	1 per 50 linear feet of building yard	1 per 5 linear feet of building yard
30,000-60,000 square feet	10 feet	1 per 30 linear feet of building yard	1 per 2 linear feet of building yard
Greater than 60,000 square feet	12 feet	1 per 30 linear feet of building yard	1 per 2 linear feet of building yard

- (B) Building yards may be crossed by entrance walkways of no greater than 10 feet in width. Vegetation shall be selected from the approved plant list in Section 8.4.1. At least 25 percent of the required trees, and at least 75 percent of the required shrubs, shall be evergreen species locally adapted to the area.

FIG. 8.2 EXAMPLE BUILDING YARD



8.3.2 Residential Yards (single-family residential lots)

- (A) Residential Yard trees are required for every residential subdivision of five (5) or more lots. The intent is to replace some of the trees removed during the grading process and establish a residential tree canopy. Residential Yard trees may be placed anywhere on the property except that at least one (1) tree is placed in the front yard. Each lot shall provide canopy trees in accordance with the following schedule:

Lot Size	Yard Trees
Less than 10,000 square feet	1
10,000-20,000 square feet	2
More than 20,000 square feet	3

- (B) Trees shall be planted outside of the public right-of-way. Maintenance of the trees shall be the responsibility of the individual property owner. Vegetation shall be selected from the large tree portion of the approved plant list in Section 8.4.1. The use of existing vegetation to satisfy this requirement is encouraged.

8.4 Landscaping Installation and Maintenance

8.4.1 Approved Plant List

LARGE TREES: Mature height greater than 50 feet tall						
Common Name	Scientific Name	Growth Rate	Fall Leaf	Flower	Environmental Tolerance	Problems
Hardy rubber tree	Eucommia ulmoides	Slow			Drought	
Overcup oak	Quercus lyrata	Medium			Wet soils	
Green Ash	Fraxinus pennsylvanica	Medium	Pink		high pH / Salt / Drought / Compaction	Numerous seeds can be problematic on females
Thornless honeylocust	Gleditsia triacanthos var. inermis	Medium	Yellow		Wet soils / Drought / Salt / High pH / Compaction	Plant bugs, mites, webworm
Kentucky coffeetree	Glymnocladus dioicus	Medium			Drought / Salt / High pH	Pods may be problematic; Needs adequate growing space
London planetree	Platanus x acerifolia	Fast			Compaction / Drought / Salt	Adequate space; Anthracnose can be a problem

LARGE TREES: Mature height greater than 50 feet tall (continued)						
Common Name	Scientific Name	Growth Rate	Fall Leaf	Flower	Environmental Tolerance	Problems
Dawn redwood	Metasequoia glyptostroboides	Medium			Wet soils / High pH	
Shingle oak	Quercus imbricaria	Medium			Dry soils	
Sweetgum	Liquidambar styraciflua	Medium	Yellow		Wet soils	Needs adequate growing space; Fruit litter may be a problem, 'Rotundiloba' may be alternative
Black gum	Nyssa sylvatica	Medium	Red & Yellow		Acid soils	
Swamp white oak	Quercus bicolor	Slow			Wet soils / Drought / Salt / Compaction	Acorn litter. Requires ample space and acid soil
Pin oak	Quercus palustris	Medium	Red		Wide range of soils	Adequate space
Willow oak	Quercus phellos	Fast			Wet or Dry sites / Compaction	
Northern red oak	Quercus rubra	Fast	Red		Drought / Compaction / Salt	Acorn litter
Shumard oak	Quercus shumardii	Medium	Red		Drought / Compaction / Salt	Acorn litter
Live Oak	Quercus virginiana	Slow			Wet soils / Compaction / Salt	
Japanese pagodatree	Sophora japonica	Medium			Drought / Compaction / Salt	Litter problems; Canker can be a problem
Baldcypress	Taxodium distichum	Medium			Wet soils / Compaction	
Silver linden	Tilia tomentosa	Medium			Drought / Salt / pH adaptable / Compaction	Aphids
Lacebark elm	Ulmus parvifolia	Medium	Pink		Drought / Salt / pH adaptable / Compaction	
Japanese zelkova	Zelkova serrata	Medium	Red		Drought / pH adaptable / Compaction	Narrow crotch angle susceptible to splitting

MEDIUM TREES: Mature height between 35 feet and 50 feet tall						
Common Name	Scientific Name	Growth Rate	Fall Leaf	Flower	Environmental Tolerance	Problems
Red maple	Acer rubrum	Medium	Red		Wet soils / Compaction	Tends to have cankers under heavy stress; Over pinated
Horsechestnut	Aesculus hippocastanum	Slow	Yellow	White	pH adaptable / Salt / Tolerant / Compaction	Susceptible to leaf blotch and scorch
Red horsechestnut	Aesculus x carnea	Slow		Red	Compaction / Acidix soil	
European hornbeam	Carpinus betulus	Medium	Yellow		Dry soils / pH adaptable	
American hornbeam	Carpinus caroliniana	Slow	Yellow		Acidic soils	Sensitvie to drought and compacted soils
Sugar hackberry	Celtis laevigata	Medium	Yellow		Wet soils / Compaction / Salt	Intolerant of high pH
Turkish filbert	Corylus corlurna	Medium	Yellow		Drought / pH adaptable	
Easter redcedar	Juniperus virginiana	Medium			Drought / High pH / Compaction / Salt	
Goldenraintree	Koelreuteria paniculata	Medium		Yellow	Drought / Salt / High pH	
Amur corktree	Phellodendron amuresis	Medium	Yellow		Drought / Wet soils / pH adaptable	Fruit may be a problem on females
Prunus sargentii	Sargent cherry	Slow	Red	Pink	Drought / Salt / Acid soils	Avoids poorly drained sites Japanese beetles

SMALL TREES: Mature height suitable for planting under utility wires						
Common Name	Scientific Name	Growth Rate	Fall Leaf	Flower	Environmental Tolerance	Problems
Hedge maple	Acer campestre	Slow	Yellow		High pH / Drought / Compaction	
Serviceberry	Amelanchier arborea	Medium	Red and Yellow	White		Specify tree form. Good alternative to crepe myrtle.
Eastern redbud	Cercis Canadensis	Fast	Yellow	Pink	pH adaptable	
Chinese fringetree	Chionanthus retusus	Slow		White		
Kousa dogwood	Cornus kousa	Slow	Red	White	Acidic soils	
Green hawthorn	Crataegus viridis	Medium	Red and Yellow	White	pH adaptable / Drought / wet soils	
Carolina silverbell	Halesia tetraptera	Medium	Yellow	White	Acid soils	Specify tree form. Good alternative to crepe myrtle
Crepe myrtle	Lagerstromia spp.	Slow	Red and Yellow	Red, White and Pink	Wet soils	Over planted and often unnecessarily topped
Amur maackia	Maackia amurensis	Slow		White	Drought / pH adaptable	
Flowering crabapple	Malus spp.	Medium	Red and Yellow	Red, White and Pink	Wide range of soils / Salt / Compaction	Specify tree form; fruit litter problem; scab is a problem for many species
Chinese pistache	Pistacia chinensis	Medium	Red		High pH	
Carolina cherry laurel	Prunus caroliniana	Fast		White	Drought / pH adaptable	Avoid poorly drained sites
Chokecherry	Prunus virginiana	Fast	Pink	White	Drought / Salt	Avoid poorly drained sites
Japanese tree lilac	Syringa reticulata	Medium		White	Drought / pH adaptable	

Source: North Carolina Division of Forest Resources

CHAPTER 8 - LANDSCAPING

SHRUBS: Mature Height 1 to 4 Feet						
Common Name	Scientific Name	Growth Rate	Exposure	Height	Spread	Remarks
Abelia, Prostrate & Sherwood	Abelia x grandiflora cvs.	Slow	Sun to partial shade	3 to 4'	3 to 5'	Dwarf forms of Abelia x grandiflora
Aucuba, Dwarf	Aucuba japonica 'Nana'	Slow	Shade	2 to 3'	3 to 4'	Excellent, shade-loving dwarf plant
Azalea, Dwarf Indica (Gumpo)	Rhododendron eriocarpum	Slow to moderate	Partial shade	1 to 2'	1 to 2'	Late flowering; can be used as ground cover
Azalea, Kurume	Rhododendron, obtusum	Moderate	Partial shade	2 to 4'	2 to 5'	Early blooming; dependable
Azalea, Satsuki	Rhododendron hybrida	Moderate	Partial shade	2 to 4'	2 to 4'	Late blooming; large flowers; can be used as a ground cover
Barberry, Red Japanese	berberis thunbergii var. 'atropurpurea'	Moderate	Sun	3 to 6'	4 to 6'	Crimson Pygmy'; dependable
Barberry, Warty	Berberis verruculosa	Slow	Sun to partial shade	3 to 4'	3 to 4'	Spreading branches; bronze winter color
Beautyberry	Callicarpa dichotoma	Rapid	Sun to partial shade	3 to 4'	4 to 6'	Violet-pink berries; C. albifrutus has white berries
Boxwood, English	Buxus sempervirens 'Suffruticosa'	Very slow	Partial shade	2 to 4'	2 to 4'	True dwarf English boxwood; requires excellent drainage
Boxwood, Korean	Buxus microphylla var. 'koreana'	Slow	Sun to shade	3 to 4'	4 to 6'	Most hardy of boxwoods; bronze colored foliage in winter
Boxwood, Littleleaf	Buxus microphylla	Slow	Partial shade	3 to 4'	3 to 4'	Compacta' useful for low hedge
Cotoneaster, Bearberry	Cotoneaster dammeri	Moderate	Sun	1 to 2'	3 to 5'	White flowers; red fruit; good for groundcover
Cotoneaster, Rockspray	Cotoneaster horizontalis	Slow	Sun	2 to 3'	4 to 8'	Good rock garden plant
Daphne, Winter	Daphne odora	Slow to moderate	Sun to shade	3 to 4'	2 to 3'	Flowers in late winter; very aromatic; needs good drainage

SHRUBS: Mature Height 1 to 4 Feet (continued)

Common Name	Scientific Name	Growth Rate	Exposure	Height	Spread	Remarks
Deutzia, Slender	Deutzia gracilis	Slow	Sun to partial shade	3 to 4'	3 to 4'	Very adaptable to adverse conditions
English laurel, Dwarf	Prunus laurocerasus cvs	Moderate	Sun to shade	3 to 4'	5 to 6'	Otto Luyken' and 'Zabeliana' are dwarf forms of English laurel
Euonymus, Dwarf Japanese	Euonymus japonicus 'Microphyllus'	Moderate	Sun to shade	2 to 3'	1 to 3'	Used for edging, border; very susceptible to scale insects
Fothergilla, Dwarf	Fothergilla gardenii	Slow	Sun to partial shade	2 to 3'	3 to 4'	Requires good drainage; white, spring flowers; excellent fall color
Gardenia, Creeping	Gardenia jasminoides 'Radicans'	Slow	Partial shade	1 to 2'	2 to 3'	White, fragrant flowers; can be used as a ground cover
Hawthorn, Indian	Rhaphirolepis x Delacourii	Slow	Sun to shade	3 to 4'	3 to 5'	Excellent coastal landscape plant; several cultivars available; white pink spring flowers
Holly, Carissa	Ilex cornuta 'Carissa'	Slow	Sun to partial shade	3 to 4'	4 to 6'	Excellent formal shrub for grouping accent
Holly, Dwarf Chinese	Ilex cornuta 'Rotunda'	Slow	Sun to partial shade	3 to 4'	3 to 4'	Requires little care; very spiny foliage
Holly, Dwarf yaupon	Ilex vomitoria 'Nana'	Slow to moderate	Sun to shade	3 to 4'	3 to 5'	Excellent for eastern N.C.
Holly, Japanese cultivars	Ilex crenata cvs	Slow	Sun to shade	3 to 4'	3 to 4'	Cultivars: Stokes, Helleri, Tiny Tim, Repandens, Carefree
Hydrangea, Annabelle	Hydrangea arborescens 'Annabelle'	Slow	Sun to partial shade	3 to 6'	3 to 5'	Large, white summer flowers; very hardy

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SHRUBS: Mature Height 1 to 4 Feet (continued)						
Common Name	Scientific Name	Growth Rate	Exposure	Height	Spread	Remarks
Hydrangea, Pia	Hydrangea macrophylla 'Pia'	Moderate	Partial shade to shade	2 to 3'		Deep pink 4 to 5" flowers most of the summer; dried bloom heads are attractive; a JC Raulston Arboretum Selection
Jasmine, Showy	Jasminum floridum	Slow to moderate	Sun	3 to 4'	3 to 4'	Yellow flowers in winter
Jasmine, Winter	Jasminum nudiflorum	Moderate	Sun to shade	2 to 4'	3 to 5'	Yellow flowers in winter
Juniper, Creeping	Juniperus horizontalis cvs	Moderate to rapid	Sun	1 to 2'	3 to 4'	Cultivars: Plumosa, Compacta, P.C. Youngstown
Juniper, Parsons	Juniperus davurica 'Expansa'	Moderate	Sun to partial shade	2 to 3'	4 to 7'	Long slender branches; good for coastal areas
Juniper, Prostrate	Juniperus communis 'Depressa'	Moderate to rapid	Sun to partial shade	2 to 4'	3 to 5'	Withstands drought and poor soil
Juniper, Shore	Juniperus conferta	Moderate	Sun	1 to 2'	4 to 5'	Emerald Sea, Blue Pacific are improved cultivars
Laurel, Alexandrian	Danae racemosa	Slow to moderate	Shade	3'	2 to 3'	Elegant evergreen shrub with showy, orange-red berries
Leucothoe, Coastal	Leucothoe axillaris	Slow	Shade	3 to 4'	4 to 5'	Needs high moisture
Leucothoe, Drooping	Leucothoe fontanesiana	Slow	Shade	3 to 4'	4 to 6'	Cultivars: Nana, dwarf form; Girard's Rainbow, new growth is pink and white
Ligustrum, Curlyleaf	Ligustrum japonicum 'Rotundifolium'	Slow	Sun to partial shade	3 to 4'	3'	Lustrous dark green foliage
Mahonia, Oregon holly-grape	Mahonia aquifolium	Slow	Partial shade to shade	3 to 4'	3 to 5'	Upright stems; broadly clumped; yellow flowers in early spring
Mugo pine, Dwarf	Pinus mugo 'Compacta'	Slow	Sun	3 to 4'	2 to 4'	Use grafted plants for true dwarf form

SHRUBS: Mature Height 1 to 4 Feet (continued)						
Common Name	Scientific Name	Growth Rate	Exposure	Height	Spread	Remarks
Nandina, Dwarf	Nandina domestica cvs	Slow to moderate	Sun to partial shade	1 to 2'	1 to 2'	Cultivars: Atropurpea, Nana, Harbour Dwarf, Harbor Dward Fire Power
Skimmia, Japanese	Skimmis japonica	Slow	Partial shade to shade	4'	3'	Excellent foliage; showy red fruit on female plants
Spirea, Snowmound	Spiraea nipponica 'Snowmound'	Rapid	Sun to partial shade	3 to 5'	4 to 5'	White flowers in early spring; buish-green foliage
Spirea, Thunberg	Spirea thunbergii	Moderate	Sun to partial shade	3 to 4'	3 to 5'	Very early blooming spirea; requires pruning to maintain neat appearance
Quince, Japanese Flowering	Chaenomeles japonica	Rapid	Sun to partial shade	3 to 4'	3 to 4'	Flowers in early spring
Viburnum, David	Viburnum davidii	Moderate	Sun to partial shade	3 to 5'	3 to 5'	Good dwarf vibernum; blue fruit on female plants.

Source: NC State University Horticultural Department

8.4.2 Plant Installation Standards

The following standards shall apply to all new plant material installed as part of a screen required under these regulations:

- (A) Trees to be planted shall be selected from the approved species listed in this Chapter. The Administrator may approve alternative large or small maturing trees excluding Bradford pears, sweet gum, catalpa, wild cherry, wild elm, princess, hackberry, and tree-of-heaven.
- (B) Minimum tree caliper at installation measured six (6) inches above ground on all large maturing trees shall be two (2) inches and the minimum height shall be eight (8) feet.
- (C) No trees identified as large trees shall be planted under overhead utility lines or within five (5) feet of a utility easement. This does not include low-voltage insulated or covered lines of 240 volts or less or telephone or cablevision lines.
- (D) All plant material installed shall be free from disease.

- (E) Plant materials shall be planted in accordance with generally accepted and recommended planting and growing practices.
- (F) All plant material shall be installed in a fashion that ensures the availability of sufficient soil and water to sustain healthy growth.
- (G) All plant material shall be planted in a manner which is not intrusive to utilities or pavement.

8.4.3 Landscaping Maintenance

Plantings, fences, walls, or berms that are required landscaping shall be properly maintained. The owner of the property where landscaping is required shall be responsible for the maintenance of all landscaping materials. Such maintenance shall include all actions necessary to keep the landscaped area free of litter and debris; to keep plantings healthy; to keep plant growth from interfering with safe vehicular and pedestrian travel, or use of parking areas, or from creating nuisances to adjoining properties; and to keep walls, fences, and berms in good repair and neat appearance. Any vegetation that is part of a required landscaping area shall be replaced within 60 days in the event that it dies. All landscaping materials shall be protected from damage by erosion, motor vehicles, or pedestrians which could reduce the effectiveness of the required landscaping.

8.4.4 Existing Trees & Root Protection Standards

During the development and construction of a subdivision, commercial development or any lot therein, adequate protective measures shall be provided to minimize damage to existing trees and other vegetation. The developer shall make every effort to protect and retain all existing trees, shrubbery, vines and grasses not actually lying in public streets, drainage-ways, building foundation sites and a construction activity area equal to 20 feet around the building foundation, private driveways, soil absorption waste disposal areas, paths, and trails. A tree and root preservation plan shall consist of the following type of preventative measures:

- (A) The developer shall identify any and all healthy significant trees with a caliper of 18 inches or greater located on the lot on the Existing Features Plan. Every effort shall be made by the developer to save such trees. No trees with a caliper of 18 inches or greater on designated lots (public or private) shall be cut down without the written permission of the Administrator. Any tree of 18 inches in diameter at breast height (DBH) or greater that is removed shall be replaced with three (3) trees of similar species elsewhere on the site. Such replacement trees shall be a minimum of two (2) inches in caliper. This requirement is addition to any other required landscaping in this Chapter.

Size of Removed Tree (DBH)	Replacement Trees Required
More than 36 inches	Five 3-inch caliper trees
24-36 inches	Four 3-inch caliper trees
18-24 inches	Two 3-inch caliper trees

DBH=Diameter at Breast Height (4'-6" from grade)

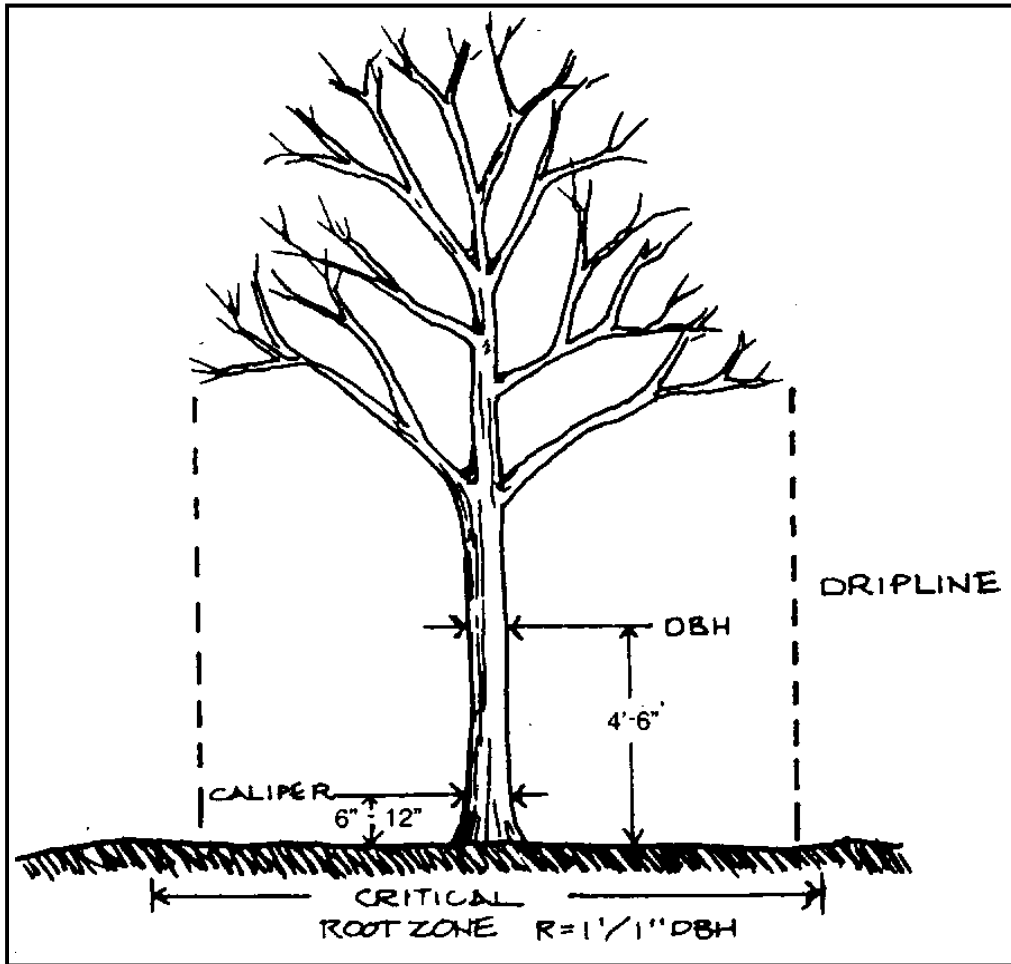
- (B) Prior to construction, tree protective barriers (such as silt fencing or orange safety fencing) shall be placed around all landscaping to be saved or around root protection area(s), to prevent damage to existing landscaping. These barricades shall be installed prior to grading, construction, or other land disturbing activity, and cannot be constructed from any material not substantial enough to protect the roots, trunks, and crown of the tree,. The barricade standards or rails shall be placed a minimum distance of six (6) feet from the edge of the trunk and no less than the dripline of the tree.
- (C) No soil disturbance or compaction, stock piling of soil or other construction materials, vehicular traffic, storage of heavy equipment are allowed in the tree and root protection, or within the dripline of trees to be retained.
- (D) Paving of area within an existing tree’s dripline is strongly discouraged.
- (E) Dead trees and scrub growth shall be cut flush with adjacent grade.
- (F) Root pruning should be kept to an absolute minimum.
- (G) Pruning of existing trees shall be done according to the National Arborists Association Standards in a manner that preserves the character of the crown.
- (H) Existing trees that die within one (1) year of the issuance of a Certificate of Occupancy shall be removed and replaced by the developer with a new tree(s) selected from the approved tree species list. The number of trees required to replace a dead or dying tree shall be determined by the following table.

Size of Dead or Dying Tree (DBH)	New Replacement(s)
More than 36 inches	Five 3-inch caliper trees
24-36 inches	Four 3-inch caliper trees
18-24 inches	Two 3-inch caliper trees
Less than 18 inches	One 3-inch caliper tree

DBH=Diameter at Breast Height (4'-6" from grade)

- (I) No ropes, signs, wires, unprotected electrical installation or other device or material, shall be secured or fastened around or through a tree or shrub.
- (J) Unprotected electrical service wires should not be allowed to come into contact with any significant tree or large mature shrubs in the tree and root protection area.

FIG. 8.5 TREE MEASUREMENT TERMS



8.4.5 Visibility at Intersections

Except as herein provided, on a corner lot in any district, no hedge, shrubbery, tree, natural growth, sign, fence, wall, or other obstruction shall be placed or maintained within a sight triangle as defined by this ordinance.

Section 8.4 as amended by: 2021-UDO-01

8.5 Fences and Walls

- (A) Entrance gateways to residential subdivisions and all agricultural uses are exempt from the following fence and wall standards. Except as otherwise noted in this Ordinance, fences or walls are permitted in the various districts subject to the following regulations:

	Residential		Commercial & Industrial		Civic & Institutional	
	Front Yards	Side & Rear Yards	Front Yards	Rear & Side Yards	Front Yards	Rear & Side Yards
Min. Height	2 feet	n/a	n/a	n/a	2 feet	2 feet
Max. Height	4 feet	6 feet	6 feet	10 feet	10 feet	10 feet
Materials ¹	wood brick stone wrought iron stucco vinyl	chain link privacy screening wrought iron wood stucco brick stone vinyl	brick Stone wrought iron stucco wood vinyl	chain link ² wrought iron stucco brick stone vinyl	brick stone wrought iron vinyl	brick stone wrought iron chain link vinyl

1: Materials may include a combination of the listed permitted materials for each fence type. Residential front yard fences shall not be opaque.

2: Barbed wire permitted for rear yard fences not visible from a street.

- (B) A Zoning Permit shall be obtained from the Administrator prior to the installation of a fence or wall.
- (C) Fences may be located up to the property line, but shall not be located in any right-of-way or sight-triangle. For streets without a right-of-way, fences shall be located a minimum of 10 feet from the edge of pavement. Fences may be located closer than 10 feet to the edge of pavement if there is an existing retaining structure, as long as the fence is no closer to the pavement than the existing retaining structure.

8.6 Screening Requirements

The screening requirements of this Section shall apply to the garbage containers, mechanical equipment, and outdoor storage for all new and expanding non-residential and multi-family development:

- (A) Any permitted outdoor storage or utility structures shall be screened in the form of a berm, wall or fence and natural plantings as to provide an opaque screen for outdoor storage, waste containers, and utility structures. The screen shall exceed the height of the storage or equipment by a minimum of one (1) foot and

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shall not exceed the height limitations set forth in Section 8.5 for fences and walls and shall not interfere with the operation of utility equipment.

- (B) Dumpsters and other waste collection containers shall not be located in the front yard of any structure.
- (C) Ground-mounted mechanical equipment shall be located in the rear or side yard and screened from view of the street. Roof-mounted mechanical equipment shall be screened from view by a parapet wall or screen wall matching the primary building materials.
- (D) Any fencing used to fulfill the requirements of this Section shall be supplemented with landscaping. Chain link fence with slats shall not be used to meet the requirement of this Section.
- (E) All screens shall utilize building materials and design which are compatible with those used for the exterior of the principal building.

Acceptable



Unacceptable



Acceptable



Unacceptable



CHAPTER 9

PARKING AND DRIVEWAYS

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9.1 Purpose and Applicability

- 9.1.1 The purpose of this Section is to ensure that adequate and well-designed parking is provided for developments in the Town of Marshall.
- 9.1.2 Unless otherwise specified, the requirements of this Chapter apply to all developments except single-family detached residential and two-family attached residential (duplexes). The expansion of existing development shall follow these requirements to the greatest extent possible.

9.2 Off-Street Parking Requirements

9.2.1 General Provisions

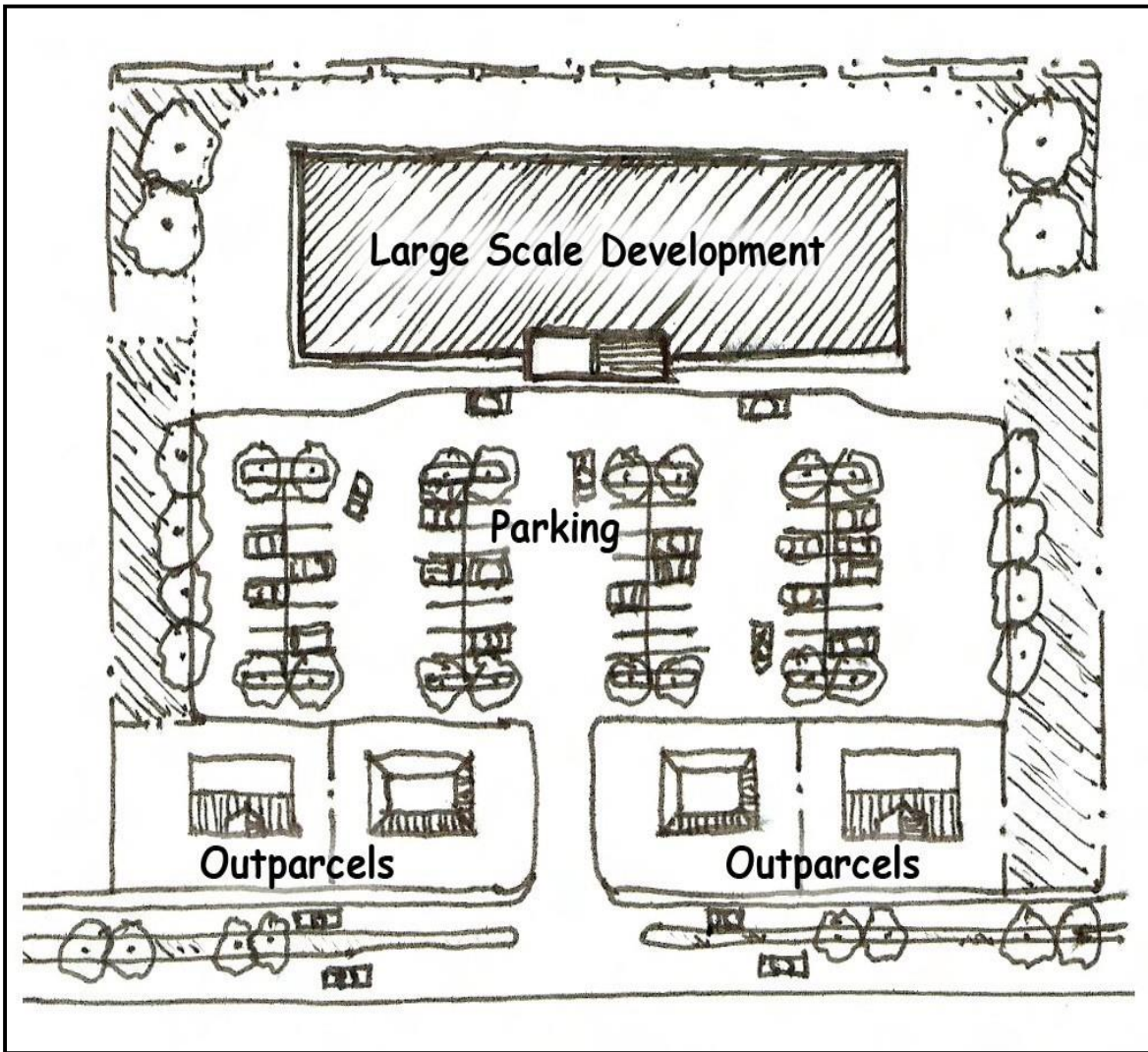
- (A) All off-street parking areas shall be landscaped in accordance with the regulations in Chapter 8.
- (B) No off-street parking area shall be located over a septic tank field.
- (C) Off-street parking areas shall be properly maintained in all respects. In particular, off-street parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
- (D) All parking, including for single-family and two-family residential, shall be in designated areas with a durable wearing surface and shall not take place on lawn or landscaped areas.

9.2.2 Parking Lot Design

- (A) Off-street parking areas shall be designed so that parked vehicles do not encroach upon, extend onto, or cause vehicles to back into public rights-of-way, sidewalks or strike against or damage any wall, vegetation, utility, or other structure. Curbs or bumpers are required and shall be a minimum of six (6) inches high.
- (B) Off-street parking areas shall be designed to facilitate adequate movement and access by sanitation, emergency, and other public service vehicles.
- (C) All off-street parking areas shall provide curb and gutter. Landscaped islands shall be required at the ends of parking aisles for traffic and drainage control.
- (D) No surface parking or circulation driveway is permitted within any required or established buffer area, except that driveways providing access to the parking area may be installed across these areas.

- (E) A secure bicycle rack is required for all parking lots greater than 15 spaces. Bicycle parking may be placed in the front yard.
- (F) For non-residential uses (except for civic uses and developments in the Industrial zoning district), a maximum of two (2) rows of parking spaces may be located in the front yard of the principal building. All other parking shall be located in either the rear or side yards of the principal building. For large-scale developments with large parking areas that have more than two (2) rows of parking in front, parking may be shared and screened with outparcel buildings as shown in the figure below:

FIG. 9.1: EXAMPLE OF PARKING AREA FOR LARGE SCALE DEVELOPMENT



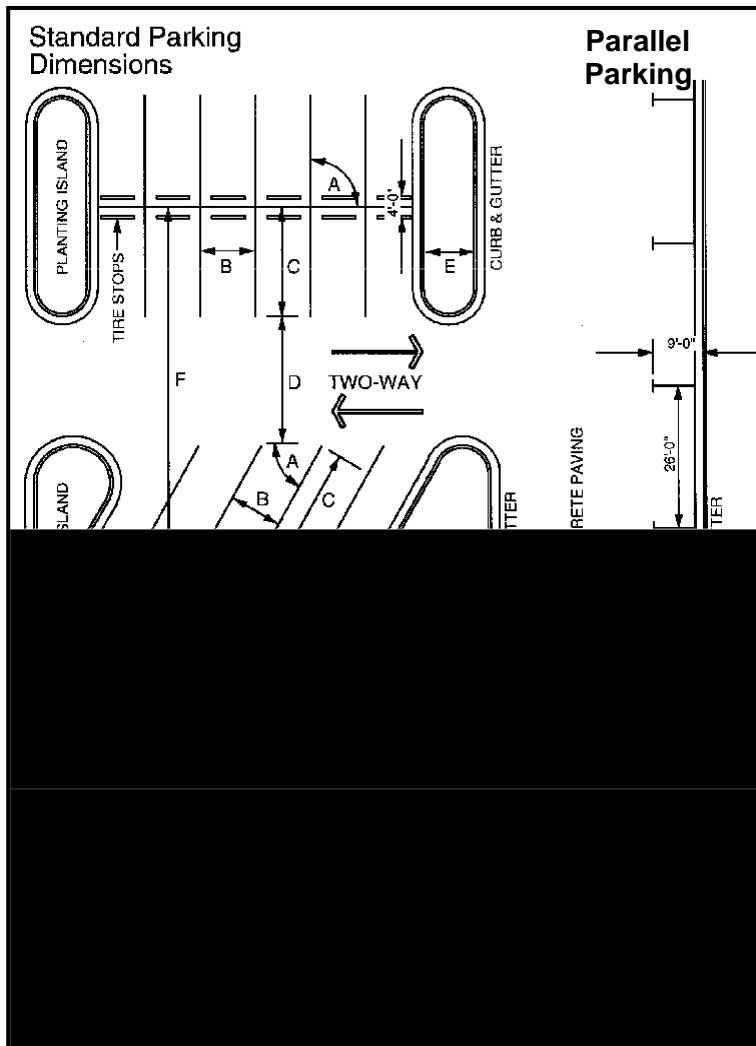
9.2.3 Parking Dimensions

Parking shall meet the following dimensional requirements:

Angle (A)	Stall Width (B)	Stall Depth (C)	Aisle Width (D)		Planting Island Width (E)	Parking Bay Width (F)		Bumper Overhang (front/rear) (G)
			One-way aisle	Two-way aisle		One-way aisle	Two-way aisle	
0°	9.0 ft.	26.0 ft.	12.0 ft.	20.0 ft.	7 ft.	30 ft.	38 ft.	N/A
45°	9.0 ft.	18.0 ft.	12.0 ft.	24.0 ft.	7 ft.	44 ft.	56 ft.	2.0' / 4.0'
60°	9.0 ft.	18.0 ft.	18.0 ft.	24.0 ft.	7 ft.	46 ft.	58 ft.	2.0' / 4.0'
90°	9.0 ft.	18.0 ft.	N/A	24.0 ft.	7 ft.	N/A	60.0 ft.	2.0' / 4.0'

N/A=Not applicable

FIG. 9.2 PARKING DIMENSIONS



9.2.4 Parking Surface

- (A) All minimum required parking spaces (as required by Section 9.3) shall be paved with asphalt, concrete, or similar paving material. Paving is encouraged, but not required for all parking above the minimum spaces required. All parking within a front yard must be paved. Non-required parking in the side or rear yard may be gravel.
- (B) All paved parking areas a minimum of six (6) inches of concrete or two (2) inches of asphalt shall be used. Spaces in paved parking areas shall be appropriately demarcated with painted lines or other markings. Paved parking areas for greater than 10 parking spaces shall have curb and gutter.
- (C) All unpaved parking areas shall be crushed stone, gravel, or other similar stabilization material. The perimeter of such parking areas shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever such a parking lot abuts a paved street, the driveway leading from such street to such area shall be paved for a distance of 15 feet back from the edge of the paved street.

9.3 Number of Parking Spaces Required

- 9.3.1 All developments in all zoning districts other than the CB District shall provide a sufficient number of on-site parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question.
- 9.3.2 When determination of the number of parking spaces required by the Parking Requirements Table results in a requirement of a fractional space, any fraction of $\frac{1}{2}$ or less may be disregarded, while a fraction in excess of $\frac{1}{2}$ shall be counted as one parking space.
- 9.3.3 The Town recognizes that the Parking Requirements Table set forth in this Section cannot and does not cover every possible situation that may arise. Therefore, in cases not specifically covered, the permit-issuing authority is authorized to determine the parking requirements using the Table as a guide.
- 9.3.4 See the Parking Requirements Table below for minimum and maximum parking space requirements. The Administrator may reduce the minimum number of parking spaces required or increase the maximum number allowed by up to 10 percent if the applicant can demonstrate that the number of required parking spaces is excessive or inadequate due to use or property constraints.

TABLE OF PARKING REQUIREMENTS

Residential	Minimum Number of Spaces	Maximum Number of Spaces
Accessory dwellings	1 per dwelling	N/A
Boarding or rooming houses	1 per bedroom	N/A
Family care homes for the handicapped	1 + 0.5 per bed	N/A
Home occupations	1 space in addition to residential use requirement	N/A
Manufactured homes	2 per unit	N/A
Multi-family dwellings	1.5 per unit	2.5 per unit
Single-family dwellings, detached (1 dwelling per lot)	2 per unit	N/A
Two-family dwellings (duplexes)	2 per unit	N/A
Civic, Government, & Institutional	Minimum Number of Spaces	Maximum Number of Spaces
Cemeteries	N/A	N/A
Colleges, Universities, & associated facilities	1 per 4 students	1 per 2 students
Correctional facility	1 per 2 employees on peak shift	N/A
Daycare Center	1 per 375 square feet of gross floor area	1.5 per 375 feet of gross floor area
Emergency Services (fire, police, rescue squad, ambulance, EMT, & similar uses)	1 per employee + 1 per 3 volunteer personnel on peak shift + 1 per 200 square feet of office space	N/A
Government office buildings	1 per 300 square feet of gross floor area	1 per 150 square feet of gross floor area
Hospitals & medical treatment facilities (greater than 10,000 sq. ft.)	1 per 400 square feet of gross floor area	1 per 100 square feet of gross floor area
Instructional Schools (karate, dance gymnastics, music, art, & similar instruction)	1 per 375 square feet of gross floor area	1.5 per 375 feet of gross floor area
Libraries, museums, art galleries, art centers, & similar uses	1 per 300 square feet of gross floor area	N/A
Post Office	1 per 300 square feet of gross floor area	1 per 150 feet of gross floor area
Religious institutions & related uses (excluding elementary or secondary schools)	1 per 8 seats	1 per 1.5 seats
Research Facilities	1 per 2 employees on peak shift	N/A
Residential care facilities (including halfway houses)	3 per 5 beds or 1 per residential unit	N/A
Residential care homes (excluding halfway houses)	2 spaces per employee on peak shift	N/A
Schools, elementary	1.5 per classroom	3 per classroom
Schools, high	10 per classroom	20 per classroom
Schools (trade & vocational)	1 per 4 students	1 per 2 students
Social, fraternal clubs & lodges, union halls, & similar uses operated on a non-profit basis	1 per 250 square feet of gross floor area	1 per 200 square feet of gross floor area

TABLE OF PARKING REQUIREMENTS

Office & Service	Minimum Number of Spaces	Maximum Number of Spaces
Animal services (no outdoor kennels)	1 per 80 square feet of gross floor area	1 per 150 square feet of gross floor area
Animal services (with outdoor kennels)	1 per 800 square feet of gross floor area	1 per 150 square feet of gross floor area
Bed and breakfast inns	1 per guest room + 2 for owner	N/A
Crematoriums	1 per 2 employees on peak shift	N/A
Dry cleaning and laundry establishments	1 per 500 square feet of gross floor area	1 per 200 square feet of gross floor area
Funeral homes and mortuaries	1 per 4 seats	N/A
Hospitals & medical treatment facilities (under 10,000 square feet)	1 per 300 square feet of gross floor area	1 per 150 square feet of gross floor area
Hotels, motels, & inns	1 per room + 1 per 800 square feet of public meeting space & restaurant space	1 per room + 1 per 400 square feet of public meeting space & restaurant space
Motor vehicle services	1 per 500 square feet of gross floor area + 1 per employee at peak shift	1 per 375 square feet of gross floor area + 1 per employee at peak shift
Professional Offices	1 per 300 square feet of gross floor area	1 per 150 square feet of gross floor area
Services, other (inside fully enclosed building)	1 per 300 square feet of gross floor area	1 per 150 square feet of gross floor area
Retail & Wholesale	Minimum Number of Spaces	Maximum Number of Spaces
Convenience stores (no automotive services)	1 per 200 square feet of gross floor area	1 per 100 square feet of gross floor area
Motor vehicle sales or rental	1 per 375 square feet of gross floor area + 1 per employee at peak shift + 1 per vehicle stored on site	1.5 per 375 square feet of gross floor area + 1 per employee at peak shift + 1 per vehicle stored on Site
Open air markets (including farmers markets)	1 per 1,000 square feet of gross floor area	N/A
Restaurants	1 per every 3 seats	1 per 50 square feet of gross floor area
Retail uses	1 per 400 square feet of gross floor area	1 per 100 square feet of gross floor area
Wholesale	1 per 400 square feet of gross office & sales floor area + 2 per each 3 employees at peak shift	N/A
Recreation & Entertainment	Minimum Number of Spaces	Maximum Number of Spaces
Adult Establishments	1 per 150 square feet of gross floor area	N/A
Bars & Nightclubs	1 per 150 square feet of gross floor area	N/A
Family Campgrounds	1.5 per campsite at campground (1 at each campsite)	N/A
Golf, tennis, swimming clubs & related uses	1 per every 4 persons of max. capacity	1 per every 2 persons of max. capacity
Parks (public)	1 per every 4 persons of max. capacity	1 per every 2 persons of max. capacity
Recreation facility	1 per every 4 persons of max. capacity	1 per every 2 persons of max. capacity
Theater (indoor)	1 per 6 seats	1 per 4 seats
Theater (outdoor)	1 per every 4 persons of max. capacity	1 per every 2 persons of max. capacity

TABLE OF PARKING REQUIREMENTS

Industrial, Warehousing, & Transportation	Minimum Number of Spaces	Maximum Number of Spaces
Airports & heliports	1 per employee + spaces required to satisfy projected peak parking demands	N/A
Asphalt plants	1 per employee + spaces required to satisfy projected peak parking demands	N/A
Bus & train stations	1 per employee + spaces required to satisfy projected peak parking demands	N/A
Distribution centers	1 per employee at peak shift + 1 per each company vehicle at peak shift	N/A
Junk yards, salvage yards, recycling operations, and similar uses	1 per 2 employees on peak shift + 1 per 5,000 square feet devoted to material storage + 1 per company vehicle	N/A
Landfill	1 per 2 employees on peak shift	N/A
Manufacturing, processing, & assembly	2 per 3 employees at peak shift + 1 per each company vehicle at peak shift	N/A
Quarrying operations	1 per employee at peak shift + 1 per each company vehicle at peak shift	N/A
Taxicab stand or office	1 per employee at peak shift + 1 per each company vehicle at peak shift	N/A
Trucking terminals	1 per employee at peak shift + 1 per each company vehicle at peak shift	N/A
Warehouse uses	1 per employee at peak shift + 1 per each company vehicle at peak shift	N/A
Warehouse, mini	1 per 4,000 square feet of gross floor area	N/A
Agricultural	Minimum Number of Spaces	Maximum Number of Spaces
Agricultural operations, farming (excluding equestrian uses & swine production)	1 per 2 employees on peak shift	N/A
Equestrian uses (horseback riding, stables)	1 per horse stall	N/A
Greenhouse or horticultural nursery (no on-premises sales)	1 per employee at peak shift + 1 per each company vehicle at peak shift	N/A
Greenhouse or horticultural nursery (with on-premises sales)	1 per 800 square feet of gross sales floor area	1.5 per 375 square feet of gross sales floor area
Silvicultural operations	1 per 2 employees on peak shift	
Other	Minimum Number of Spaces	Maximum Number of Spaces
Drive-throughs/Drive-ins	Adequate stacking space	N/A
Temporary Uses	Adequate for use	N/A
Utility facilities	N/A	N/A

9.4 Shared Parking and Connectivity

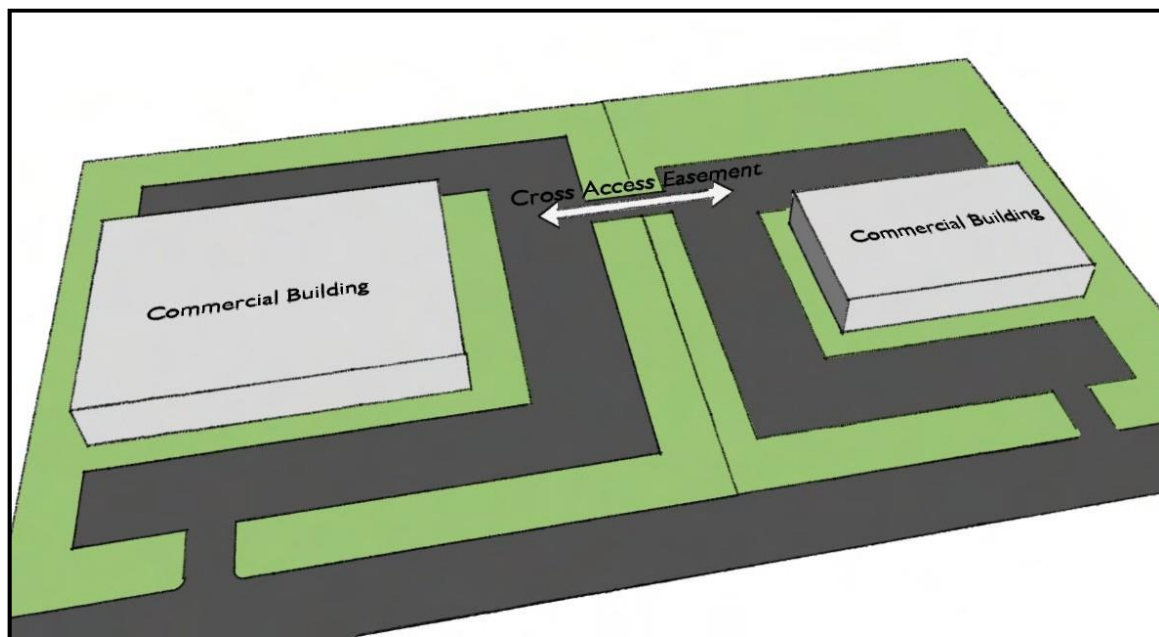
9.4.1 Shared Parking

The joint use of shared off-street parking between two uses may be made by contract by two or more adjacent property owners. Developments that operate at different times may jointly use or share the same parking spaces with a maximum of one-half (1/2) of the parking spaces credited to both uses.

9.4.2 Parking Connectivity

- (A) Adjacent parking lots shall be interconnected between the sites unless natural features prevent connection.
- (B) Driveway stubs shall be provided to adjacent properties on major thoroughfares in the same zoning district as the property that is being developed.

FIG. 9.3 PARKING CONNECTIVITY



9.5 Loading Area Requirements

- (A) Subject to Subsection (E), whenever the normal operation of any development requires that goods, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this Section to accommodate the delivery or shipment operations in a safe and convenient manner.
- (B) The loading and unloading area must be of sufficient size to accommodate the

numbers and types of vehicles that are likely to use this area, given the nature of the development in question. The following Table indicates the number and size of spaces that, presumptively, satisfy the standard set forth in this Section. However, the permit issuing authority may require more or less loading and unloading area if reasonably necessary to satisfy the foregoing standard.

Gross Floor Area of Building	Number of Spaces ¹
1,000 – 19,999	1
20,000 – 79,999	2
80,000 – 127,999	3
128,000 – 191,999	4
192,000 – 255,999	5
256,000 – 319,999	6
320,000 – 391,999	7
Plus one space for each additional 72,000 square feet or fraction thereof.	

¹Minimum dimensions of 12 feet X 55 feet and overhead clearance of 14 feet from street grade required.

- (C) Loading and unloading areas shall be so located and designed so that the vehicles intended to use them can:
 - (1) maneuver safely and conveniently to and from a public right-of-way; and
 - (2) complete the loading and unloading operations without obstructing or interfering with any public right-of-way or any parking space or parking lot aisle.

- (D) No area allocated to loading and unloading facilities may be used to satisfy the area requirements for off-street parking, nor shall any portion of any off-street parking area be used to satisfy the area requirements for loading and unloading facilities.

- (E) Compliance with the provisions of this section is required only to the extent reasonably possible whenever the following conditions exist:
 - (1) a lot contains one or more structures constructed before the effective date of this Ordinance;
 - (2) a change in use that does not involve any enlargement of a structure is proposed for such lot; and
 - (3) the loading area requirements of this Section cannot be satisfied because there is not sufficient area available on the lot that can practicably be used for loading and unloading

9.6 Parking of Commercial & Recreational Vehicles

- 9.6.1** On any lot of less than one acre in size, commercial vehicles which may be parked on an overnight basis shall be limited to vans and trucks of no greater than three axles. This requirement shall not be interpreted to prohibit vehicles from loading and unloading household goods in any residential district for a period of up to 24 hours.
- 9.6.2** No residentially-developed lot may be used as the base of operation for any freight hauling truck.
- 9.6.3** For purposes of this Ordinance, a recreational vehicle shall not be deemed a dwelling unit and the usage of a recreational vehicle for living, sleeping or housekeeping purposes and the connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in a camping and recreational vehicle park so designed to accommodate recreation vehicles.

9.7 Residential Driveways

These driveway requirements apply to single-family and two-family residential uses:

9.7.1 Driveway Construction Permit

- (A)** No person or entity shall establish, construct, improve, modify, or rework a residential driveway that materially changes the existing topography of the land without first obtaining a Driveway Construction Permit from the Town. The Administrator may inspect the site and waive the requirements of this Section if there is no significant change in topography proposed.
- (B)** A completed Driveway Construction Permit application form must be submitted with the appropriate fee along with the following required attachments:
- (1)** A drawing showing slope percentage, contour lines with an interval no greater than five feet and include all the specifications in Subsection 9.7.3.
 - (2)** Soil/slope analysis if initial slope exceeds 40 percent.
 - (3)** Driveway Construction Plan.
 - (4)** Such other documents that the Town may require to protect the health, safety and welfare of the citizens of the Town.
- (C)** The Driveway Construction Permit will be reviewed by the Administrator for completeness. The Administrator may have up to 30 days to review the Driveway Construction Permit application. The Administrator may seek such consultation deemed necessary to determine all the conditions of such Permit have been met. If the Administrator determines that all such conditions have

not met he shall deny the Application Permit as provided below.

- (D) The Driveway Construction Permit is effective for 12 months from the date of issuance. If the driveway is not constructed by the end of this period, a new application must be submitted for approval.
- (E) The applicant shall notify the Administrator within 30 days of completion of the construction. Within 30 days of notification the Town will conduct an inspection of the driveway to ensure full compliance with all the provisions of this Ordinance.
- (F) No building permit for new residential construction will be issued until the driveway is constructed according to the specifications of this Ordinance.
- (G) One Driveway Construction Permit may be permitted where shared access is available and would better promote public safety and better serve the public interest.
- (H) Access for more than one (1) parcel of land or lot to a street, road or highway via a shared private driveway may be approved when the Administrator determines that a shared private Driveway is desirable to promote public safety and conforms to the intent and purpose of this Ordinance.

9.7.2 Driveway Construction Requirements

- (A) No land with a slope of more than 40 percent shall be disturbed for the establishment, construction, improvements, modification, or reworking of a driveway. The maximum final slope of the driveway or any portion of the driveway shall not be greater than 15 percent.
- (B) The driveway shall be constructed with a minimum driveway surface of 10 feet in width.
- (C) Each driveway shall have a culvert to provide adequate drainage. The culvert length and diameter will be determined by the Town's consulting engineer as deemed necessary to provide adequate drainage. Culverts must be in place before constructions starts.
- (D) A minimum of 20 feet of the driveway shall have a maximum of five (5) percent slope at the point where the driveway intersects a road maintained by the State of North Carolina or the Town of Marshall and must otherwise meet the minimum requirements of the North Carolina Department of Transportation. A slight dip across the drive shall be placed just before the culvert at the entrance to a public road to prevent debris from washing onto the public road.
- (E) Ditches along the right of way, roadway crowning, and culverts shall be provided by the property owner for acceptable drainage. The driveway shall be planned, constructed, and maintained in a manner that prevents diversion of surface water onto the public road and/or the lands of other persons.

- (F) The side banks shall be graded to a slope of no more than one (1) foot of vertical rise in each two (2) feet of horizontal distance. Excluded from this grading requirement are driveways for which retaining walls are installed as specified in a Driveway Construction Plan approved by the Administrator.
- (G) If gated, the gates must be at least 14 feet wide, except where existing stone walls between which the gates must be placed, and must not open towards the public right-of-way.
- (H) The termination of a driveway which, when the gate is open, will allow a vehicle to turn around with the use of one (1) backing movement. In any event the applicant must demonstrate that emergency vehicles can safely enter, turn around or back out of any driveway.
- (I) Upon commencement of the driveway, the specified erosion controls shall be begun immediately. Such controls may include retaining walls, ditching, culverts, crowning, mulching, matting and bank seeding.
- (J) The driveway must have at least two (2) inches of 3/4-inch rock on the roadbed.
- (K) All costs of construction of said driveway, including the cost of the culverts and Driveway Construction Plan shall be paid by the property owner requesting the permit.
- (L) All driveways shall allow reasonable access by emergency vehicles as determined by the Administrator.
- (M) Residential driveways shall be located a minimum of 10 feet from the point of tangency of curb radii of street intersections.

9.7.3 Driveway Construction Plan Specifications

The Driveway Construction Plan shall include the following:

- (A) A scale of no smaller than 1 inch = 100 feet.
- (B) The precise location of the driveway or the segment of the driveway including the Access Point, property lines, utilities and other driveways.
- (C) The slope of the driveway.
- (D) Physical features include buildings, streets, (including names, whether public or private, right-of-ways, pavement type and width), railroads, power lines drainage ways, culverts and drainpipes, sewer and water mains and any public utility easements on and adjacent to the driveway.
- (E) The location and size of any culverts.
- (F) A cross-section of the driveway.

- (G) A plan which include the phases (both prior to and during construction) including mulching, matting, or other erosion control methods.

9.8 Non-residential Driveways

The following standards apply to driveways for land uses other than single-family detached and two-family residences:

- (A) Driveways shall be not less than 10 feet in width for one-way traffic and 18 feet in width for two-way traffic.
- (B) Ten (10)-foot wide driveways are permissible for two-way traffic when:
 - (1) The driveway is not longer than 50 feet; and
 - (2) The driveway provides access to not more than five (5) parking spaces; and
 - (3) Sufficient turning space and stacking area is provided so that vehicles need not back into a public street.
- (C) In no case shall a driveway width exceed 24 feet, except as required by NCDOT.
- (D) Only one (1) combined entrance and exit connection will be permitted where the frontage is less than 300 feet.
- (E) Driveways shall be as nearly perpendicular to the street right-of-way as possible and shall not exceed 10 percent grade.
- (F) Driveways shall line up with other driveways across the street and be shared between adjacent uses wherever possible.
- (G) Driveways connected to state-maintained streets shall comply with NCDOT standards.
- (H) The arrangement of driveways should be related to adjacent driveways and nearby street intersections and meet the following criteria:
 - (1) Driveways serving streets with traffic volumes in excess of 300 ADT or accessing thoroughfares shall be located a minimum of 250 feet from the point of tangency of the radius of curvature of the intersecting street.
 - (2) The minimum distance between the centerlines of driveways into shopping centers or facilities generating in excess of 300 ADT shall be a minimum of 400 feet.
 - (3) Full access driveways open to signalization should be 1,000 feet apart. Driveways which access thoroughfares and serve more than 1,500 ADT shall provide deceleration lanes in approach to the driveway.

CHAPTER 10

INFRASTRUCTURE

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10.1 Street Standards

10.1.1 Conformance with Comprehensive Transportation Plan (CTP)

The location and design of streets shall be in conformance with Rural Planning Organization's Madison County Comprehensive Transportation Plan.

10.1.2 Traffic Impact Study

(A) Purpose

A Traffic Impact Study (TIS) will enable the Town to assess the impact of a proposed development on the roadway network, ensure that it will not be adversely affected, and identify solutions to potential traffic or safety problems to be installed for the development. A TIS submitted in conformance with this section shall satisfy the Town's requirements for identifying needed traffic improvements associated with a development. However, NCDOT reserves the right to request additional information and/or subsequent analyses.

(B) Applicability

- (1) The need for a TIS shall be determined during the Sketch Plan phase of development review as set forth in Chapter 11.
- (2) A TIS may be required to evaluate the effect a proposed development will have on the Town's existing traffic system and may require specific improvements to mitigate the impact on public roads with the approval of NCDOT or the Town.
- (3) A TIS is required for any proposed development that meets any of the following requirement thresholds:
 - (a) Any residential subdivision proposing 50 or more lots/units.
 - (b) Any residential or nonresidential development proposed to generate an average daily traffic count of 1,000 plus vehicles per day or 100 plus trips during peak traffic hour. This traffic count must be based on the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.

- (c) Any expansion or change to an existing or proposed residential or nonresidential development that would generate an additional 1,000 plus vehicles per day or 100 plus trips during peak traffic hour. This traffic count must be based on the latest version of the Institute of Transportation Engineers (ITE) Trip Generation Manual.
- (d) Notwithstanding the above, a TIS shall not be required if the property to be developed has been the subject of a TIS within the previous three (3) years and the projected trip generation of the newly proposed development is equal to or less than the previous TIS performed and the trip distribution has not significantly changed.

(C) Traffic Impact Study (TIS) Guidelines

- (1) Any TIS, whether required or voluntarily, must be prepared by a licensed engineer and submitted as part, or as a condition, of the master plan approval or site plan approval. Prior to conducting the TIS, the developer must meet with the Subdivision Administrator and NCDOT to identify certain assumptions that shall be addressed in the TIS.
- (2) An executive summary shall be provided with the TIS outlining the following:
 - (a) Detailed description of the proposed development
 - (b) Number of access points proposed and studied
 - (c) Existing and future Level of Service (LOS) for studied intersections and road segments including the LOS at the time of build-out
 - (d) Existing traffic counts for road(s) and intersection(s) studied and dates/times counts were conducted
 - (e) AM and PM Peak Hour Trips
 - (f) Average Daily Trips created by the development at build-out
 - (g) Existing Traffic Accident Counts, and
 - (h) Any recommended improvements.
- (3) The TIS shall address the:
 - (a) Proposed land use
 - (b) Site access and site distances at all proposed access points
 - (c) Impacts on the transportation system from the proposed development
 - (d) Physical improvements or enforceable management strategies to mitigate negative impacts.

- (4) The TIS shall take into consideration proposed/planned NCDOT roadway improvement projects as identified by the Rural Planning Organization (RPO) Comprehensive Transportation Plan.
- (5) The TIS shall identify the improvements necessary to maintain LOS-D for roads and intersections as defined in the Highway Capacity Manual.
- (6) Recommended improvements within the TIS shall take into account the Traffic Impact Study Improvement Requirements listed in Section 10.1.2(D).

(D) Traffic Impact Study (TIS) Improvement Requirements

- (1) The Administrator may require additional mitigation standards or offsite improvements provided that improvements are acceptable by NCDOT or applicable municipality. However, a TIS shall not be utilized as a means for the Town to require the party developing the property to make needed transportation improvements remote from and not affected by the property for which the TIS is submitted, nor shall identified deficiencies in LOS automatically preclude approval of the proposed development.
- (2) Required improvements may include the following:
 - (a) Left Turn Lane, Right Turn Lane, and/or Right Turn Taper: Based on requirements of the NCDOT Policy on Street and Driveway Access to North Carolina Highways or other NCDOT standards.
 - (b) Additional Right-of-Way: If a subject development falls along a road projected to be widened by NCDOT or the Town, additional right-of-way along the development's road frontage shall be dedicated as deemed acceptable by NCDOT or the Town.
 - (c) Offsite Improvements: If a road segment or intersection is currently performing at LOS-D or better and is projected to perform at LOS-E or F at the time of buildout, improvements must be made to maintain the road segment or intersection at LOS-D. If a road segment or intersection is currently performing at LOS-E or F and is projected to continue to perform at LOS-E or F at the time of build-out, the TIS shall demonstrate how an LOS-D could be achieved and also specify what improvements must be made to ensure that the road segment or intersection is not degraded any further than the current levels. The Town may require improvements be made to preserve the existing LOS.
 - (d) Other Necessary Improvements: Additional improvements may be required based on the TIS recommendations related to topographic/environmental conditions, sight distance, street offsets, conflicting movements, existing traffic accident counts, circulation, and other potential traffic issues resulting from the proposed development. Additionally, the approving authority may determine that additional

improvements are necessary to ensure the safety and welfare of the Town’s citizens and travelers.

(E) Installation of Improvements

Any improvements needed directly related to the proposed subdivision improvements identified by the TIS shall be installed or guaranteed in accordance with Section 11.5 (Step 9) prior to the approval of any applicable Final Plat or Certificate of Occupancy.

10.1.3 Street Design

(A) All roads shall be public and shall be constructed in accordance with the latest edition of the Subdivision Roads Minimum Construction Standards, established for the particular type of street in question by the NC DOT Division of Highway, unless otherwise specified in this Ordinance or a higher or more restrictive standard is established by this Ordinance. If a higher or more restrictive standard is required, the street shall meet that higher or more restrictive standard. The term “constructed” as used in this Chapter in reference to NCDOT standards refers to all standards of design and construction, including right-of- way widths.

(B) Additionally, the latest edition of the NCDOT Division of Highways Traditional Neighborhood Development Guidelines may be followed for developments that utilize a more traditional design. In the absence of TND specific design guidelines, the criteria of the Subdivision Roads Minimum Construction Standards shall be followed.

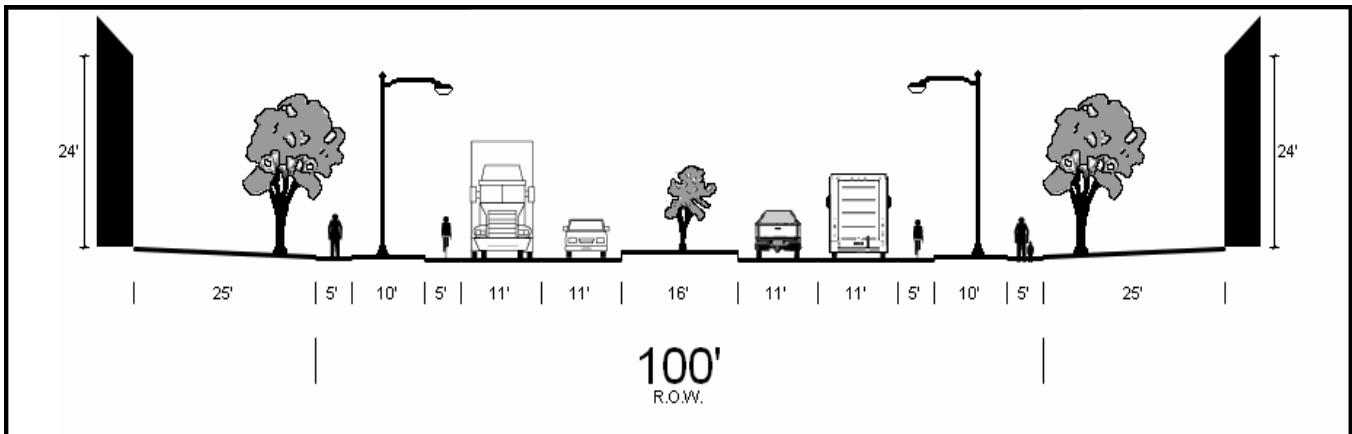
(C) Minimum street right-of-way widths shall be not less than the following:

Street Type	Minimum Right-of-way Width
Highways	60 feet
Major Streets	50 feet
Collector Streets	40 feet
Minor Streets	30 feet
Cul-de-sac	80 feet (diameter)
Alley (private only)	15 feet

(D) All streets shall be graded to their full pavement width back to back of curb, and for an additional five (5) feet on each side of the pavement width. Finished grade, cross-section and profile shall be approved by the Planning Board during the subdivision review process as outlined in Chapter 11.

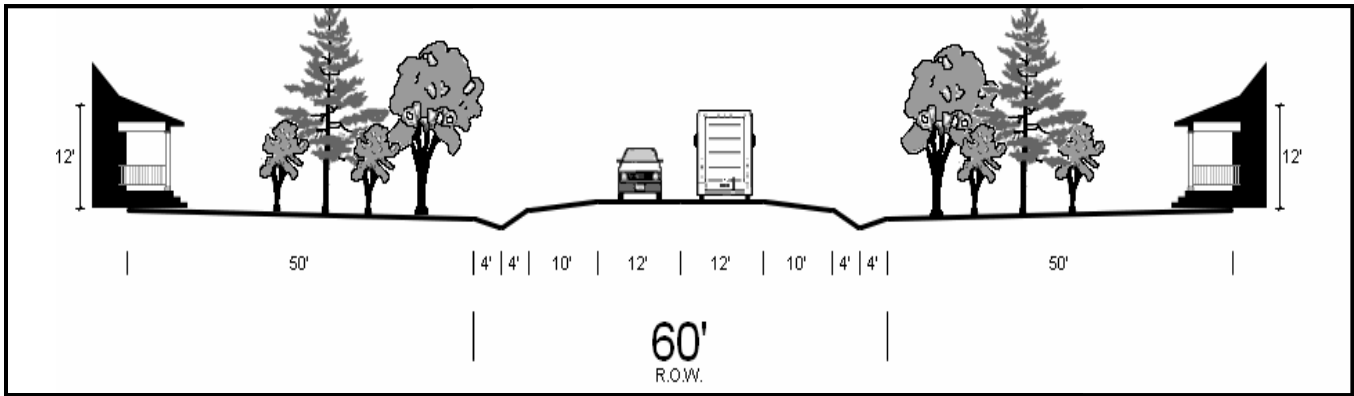
(E) The following diagrams and tables depict recommended and preferred street sections for each street type. These recommendations exceed the minimum standards of Subsection (C) above and are preferred in order to help achieve a modern multi-modal transportation system as recommended in the Comprehensive Land Use Plan. Widths shown are approximate.

FIG. 10.1: RECOMMENDED URBAN HIGHWAY CROSS SECTION



Element	Urban Highway
Land Uses	Non-Residential
Right-of-Way Width	60-100 feet
Number of Lanes	4-6
Lane Width	10-12 feet
Landscaped Median	Yes-14 ft. min.
Bike Lane	Yes-5 ft. min.
Design Speed	45-55 mph
On-street Parking Allowed	No
Sidewalks	Yes
Sidewalk Width (min.)	5 feet
Planting Strip Width	6-15 feet
Utility Area (min.)	10 feet (within planting strip & sidewalk width)
Curb & Gutter	Recommended

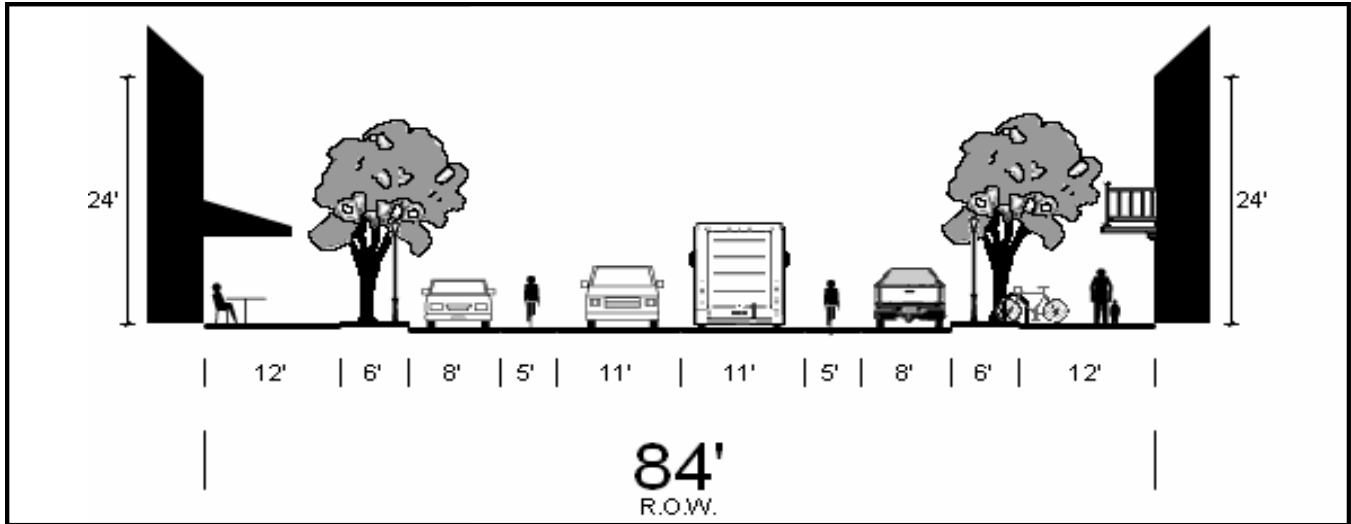
FIG. 10.2: RECOMMENDED RURAL HIGHWAY CROSS SECTION



Element	Rural Highway
Land Uses	Non-residential & residential
Right-of-Way Width	60-80 feet
Number of Lanes	2-5
Lane Width	11-12 feet
Landscaped Median	No
Bike Lane	No (wide shoulder)
Design Speed	45-55 mph
On-street Parking Allowed	No
Sidewalks	No
Sidewalk Width (min.)	N/A
Planting Strip Width	N/A
Utility Area (min.)	15 feet
Curb & Gutter	No

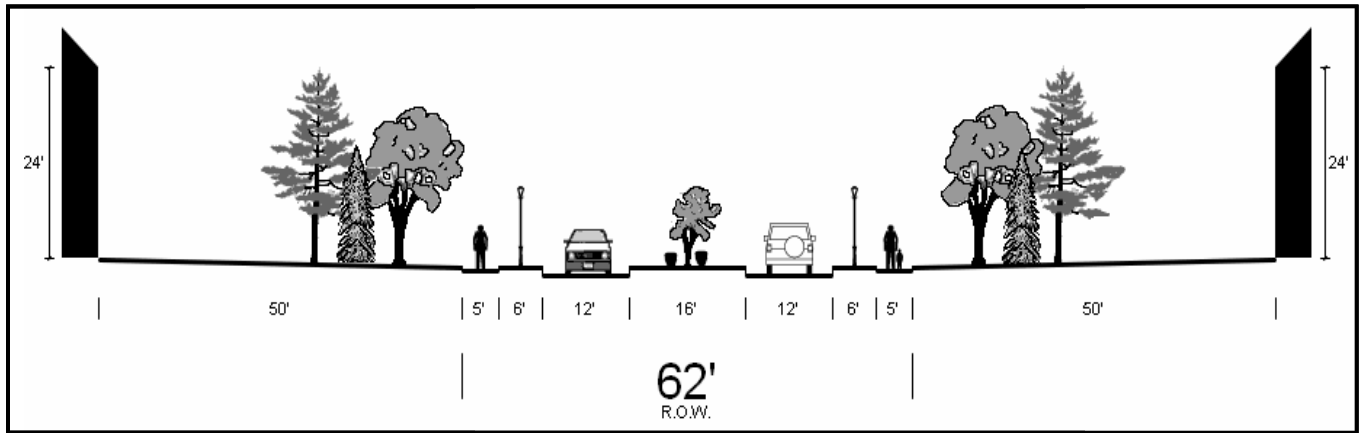
N/A=Not applicable

FIG. 10.3: RECOMMENDED MAJOR STREET CROSS SECTION



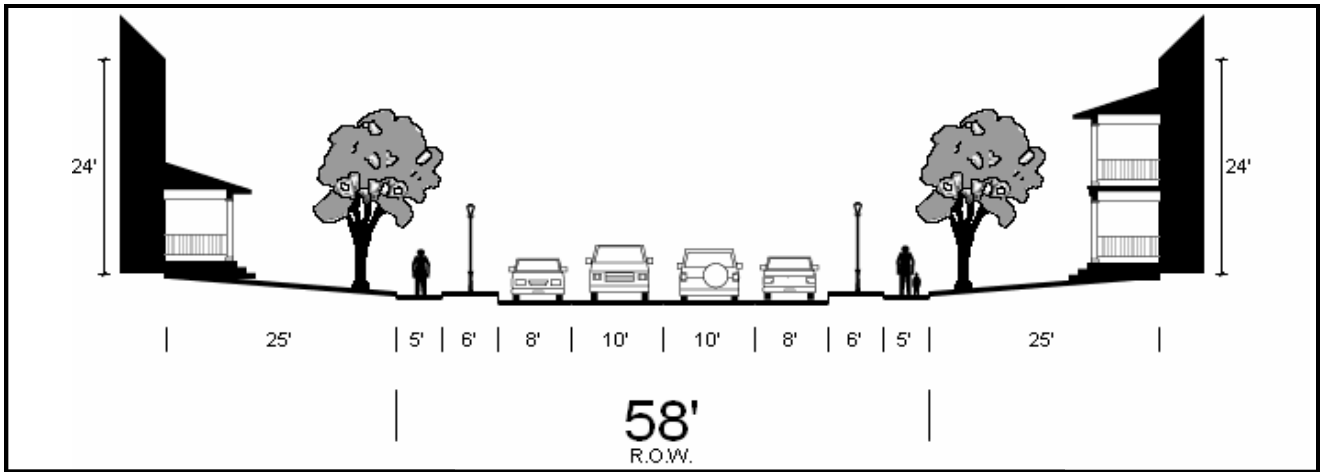
Element	Major Street
Land Uses	Non-Residential & Residential
Right-of-Way Width	50-85 feet
Number of Lanes	2-5
Lane Width	11-12 feet
Landscaped Median	No
Bike Lane	Recommended
Design Speed	20-35 mph
On-street Parking Allowed	Yes
Sidewalks	Yes
Sidewalk Width (min.)	5 feet
Planting Strip Width	6 feet-8 feet
Utility Area (min.)	10 feet (within sidewalk width)
Curb & Gutter	Yes

FIG. 10.4: RECOMMENDED COLLECTOR STREET SECTION



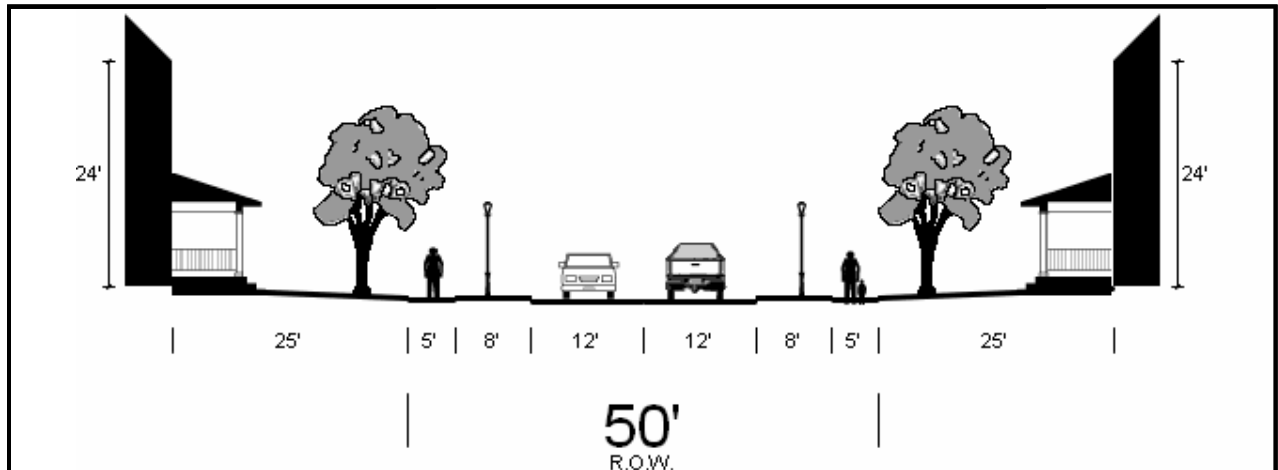
Element	Collector Street
Land Uses	Non-Residential & Residential
Right-of-Way Width	40-80 feet
Number of Lanes	3-4
Lane Width	11-12 feet
Landscaped Median	Recommended
Bike Lane	No
Design Speed	30-45 mph
On-street Parking Allowed	No
Sidewalks	Yes
Sidewalk Width (min.)	5 feet
Planting Strip Width	6-12 feet
Utility Area (min.)	10 feet (within planting strip & sidewalk width)
Curb & Gutter	Recommended

FIG. 10.5: RECOMMENDED MINOR STREET SECTION
(with on-street parking)



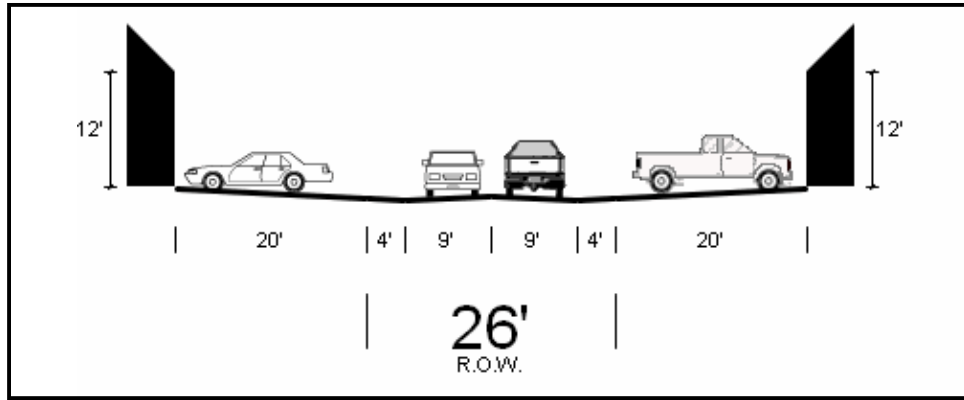
(no on-street parking)

This cross section should only be used for lots with a minimum of three (3) on-site parking spaces

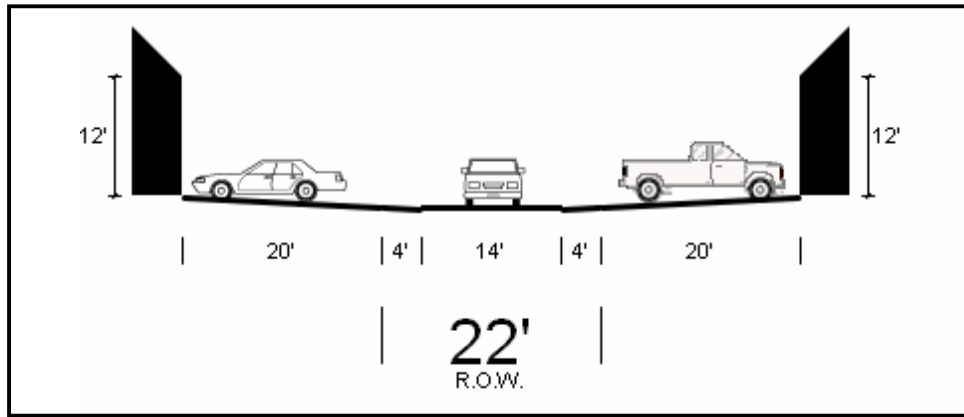


Element	Minor Street
Land Uses	Primarily Residential
Right-of-Way Width	30-65 feet
Number of Lanes	2
Lane Width	10-12 feet
Landscaped Median	No
Bike Lane	No
Design Speed	15-25 mph
On-street Parking Allowed	Yes
Sidewalks	One side
Sidewalk Width (min.)	5 feet
Planting Strip Width	6-8 feet
Utility Area (min.)	10 feet
Curb & Gutter	Recommended

FIG. 10.6: RECOMMENDED ALLEY SECTION
(Two-way)



(One-way)



Element	Alley (Two-way)	Alley (One-way)
Land Uses	Residential & Non-residential	Residential
Right-of-Way Width	25-30 feet	15-25 feet
Number of Lanes	2	1
Lane Width	9-11 feet	14-16 feet
Landscaped Median	No	No
Bike Lane	No	No
Design Speed	5-10 mph	5-10 mph
On-street Parking Allowed	No	No
Sidewalks	No	No
Sidewalk Width (min.)	N/A	N/A
Planting Strip Width	N/A	N/A
Utility Area (min.)	N/A	N/A
Curb and Gutter	N/A	N/A

N/A=Not applicable

10.1.4 Acceptance of Streets By Town

For the maintenance of an existing street to be taken over by the Town, the street shall meet the following minimum requirements:

Standard	Minimum
Pavement width	20 feet
Sidewalk	5 feet on side of street with 2 feet planting strip
Curb & Gutter	18 inch curb & gutter on sidewalk side (both sides if road grade exceeds 10%)

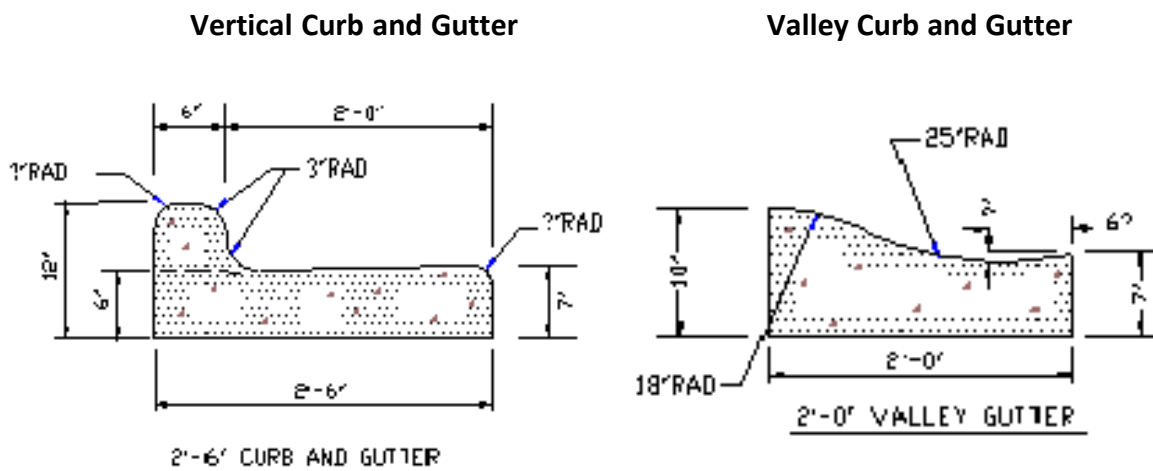
10.1.5 On-Street Parking

On-street parking shall be at least 8 feet wide (to back of curb) and 26 feet long and be marked on the pavement.

10.1.6 Curb and Gutter (if used)

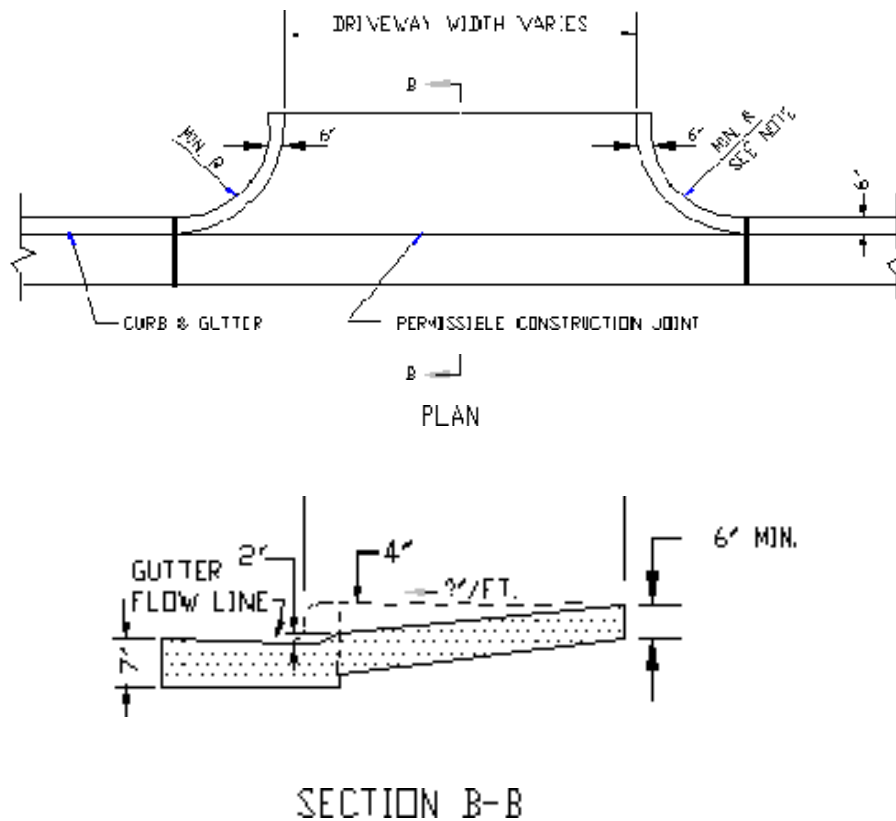
(A) The minimum width for vertical curb and gutter is two feet six inches (2'-6") and for valley curb and gutter is two feet (2'-0"). Below are details for vertical curb and gutter and valley curb and gutter. Valley curb and gutter is recommended for areas where driveway location is variable.

FIG. 10.7: CURB & GUTTER



(B) Minimum turning radius for residential curb cuts is two feet (2'-0") and for commercial curb cuts is five feet (5'-0").

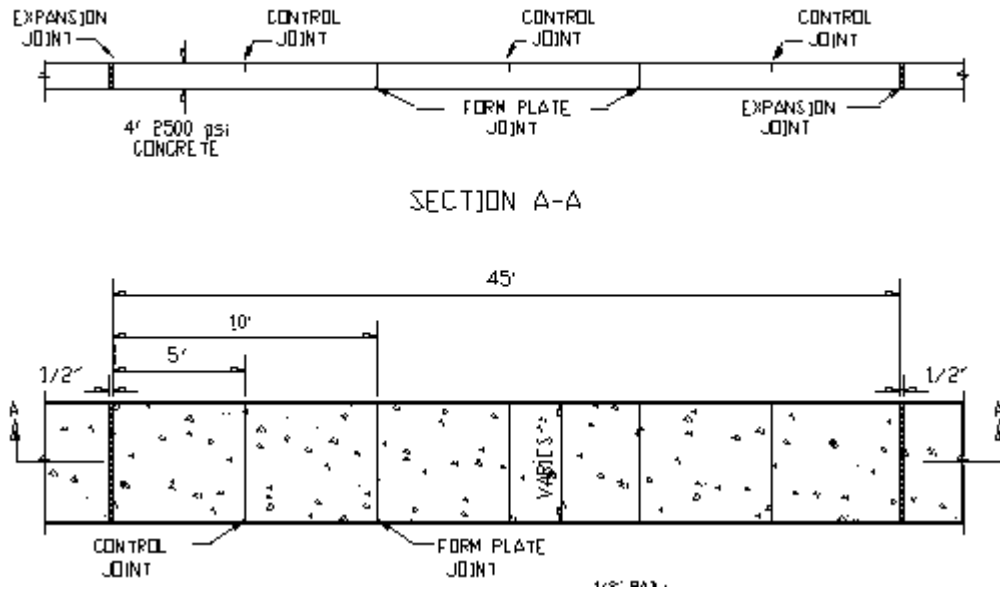
FIG. 10.8: CURB CUTS



10.1.7 Sidewalks

- (A) Sidewalks shall be required along all major streets and along roads that extend the sidewalks of an existing sidewalk network.
- (B) Sidewalks are required along one (1) side of new streets within new subdivisions.
- (C) Sidewalks shall be at least five (5) feet wide and consist of a minimum thickness of four inches of concrete. At vehicular traffic areas such as driveways the minimum thickness shall be six (6) inches. Also, poured-in-place dummy joints shall be installed to match the width and expansion joints every twenty (20) feet. Sidewalks shall be constructed of not less than 3,000 psi concrete. Sidewalks shall slope toward the road a cross-slope of one-fourth ($\frac{1}{4}$) inch per foot, and shall have a broom finish.

FIGURE 10.9: SIDEWALKS



10.1.8 Cul-de-sacs

- (A) A cul-de-sac with a minimum 40-foot radius right-of-way and 30-foot radius pavement surface is required for all dead end streets.
- (B) Permanent dead end streets should not exceed 800 feet in length unless necessitated by topography or property accessibility.
- (C) If the road length does not exceed 300 feet and if construction difficulties will not permit a turnaround, the use of “Y” or a “T” or other turning space of a design which will allow a vehicle with a wheel base of at least 20 feet to complete a turning movement with a maximum of one (1) backing movement, may be permitted if approved by the Town Board.

10.1.9 Access Management, Driveways, and Connectivity

(A) Development Access

- (1) At least two (2) entry points will be provided in developments that contain 100 or more dwelling units and to all lots within the development. The Town Board may allow other alternatives if the curb cuts for the two (2) accesses cannot meet the minimum distance allowed according to NCDOT regulations at any location.
- (2) For developments of greater than 30 lots, a minimum 30 foot secondary

access easement is required for Fire Department access. The easement shall be cleared so that a fire truck may pass, but does not have to be improved to public road standards. It shall be a minimum 20 feet width, provide an all-weather surface approved by the Fire Marshal, and not exceed 10 percent grade.

(B) Restriction of Access

Where a development abuts or contains an existing or proposed thoroughfare, the Town Board may require marginal access streets, reverse frontage or such other treatment as may be necessary for adequate separation of through and local traffic.

(C) Reserve Strips and Half Streets

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 Board to prevent access to thoroughfares) and half-streets shall not be permitted.

(D) Driveways

New driveways shall meet the requirements of Sections 9.7 and 9.8.

(E) Through Traffic

Residential collector streets and minor streets shall be laid out in such a way that their use by through traffic will be discouraged. The intent of the street design is to provide multiple connections to existing and future developments, disperse traffic, and maintain reduced speeds. Roads shall be designed or walkways dedicated to assure convenient access to parks, playgrounds, schools, or other places of public assembly.

(F) Intersections

- (1)** Where public and private streets intersect, the design standards of the NCDOT Division of Highways, Subdivision Roads Minimum Construction Standards shall apply.
- (2)** Streets shall be designed so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at an angle of less than 60 degrees. Streets crossing natural areas or streams shall cross at or near to right angles as possible within limits of topographic conditions.
- (3)** Offset intersections are to be avoided unless exception is granted by the Town Board. Intersections which cannot be aligned should be separated by a minimum length of 200 feet between survey centerlines.

- (4) Intersections with arterial, collectors, and thoroughfares (major intersections) shall be at least 1,000 feet from centerline to centerline, or more if required by the Town Board.
- (5) Median breaks shall be provided to allow safe and efficient movement of traffic. The desirable spacing of median breaks shall be at 1,000 foot intervals, with the minimum allowable spacing to be at 500 foot intervals.
- (6) An approved permit is required for connection to any existing State System road. This permit is required prior to any construction on the road. The application is available at the office of the nearest district engineer of the Division of Highways.

(G) Traffic Control Signs, Signals, and Markings

Traffic control signs, signals, and markings shall be in accordance with the latest edition of the North Carolina Manual on Uniform Traffic Control (NCMUTC).

(H) Connectivity

- (1) All proposed streets shall be continuous and connect to existing or platted streets without offset with the exception of cul-de-sacs as permitted and except as provided below. Whenever practicable, provisions shall be made for the continuation of planned streets into adjoining areas.
- (2) Where it is deemed necessary and beneficial to the interconnectivity of local land development by the Planning Board, proposed roads shall be extended by dedication to the boundary of the developing property and a temporary turn around provided within the existing right of way (stub out). The temporary turnaround shall meet the same standards for cul-de-sac construction as set forth by the NCDOT Subdivision Roads Minimum Construction Standards. A sign shall be erected at the temporary turn around that informs the public of the intended future connection of the road to future development. The road shall be designated and constructed as a public road and shall be required except when the Development Administrator determined that:
 - (a) Physical barriers or environmentally sensitive area be crossed (for example, railroad, watercourses, steep topography, or flood area)
 - (b) There is a large discrepancy in the size of the adjacent parcel (A smaller parcel being subdivided may not have to provide a stub to a much larger parcel, if other, more desirable, interconnections are available to the large parcel).
 - (c) The stub road would connect to property for which development rights have been sold for a public purpose and access to the property is not desirable for orderly development of the road network.

- (d) The stub road would cause the existing roads to go over the capacity for which the roads were initially designed.

10.1.10 Street Names and Signs

- (A) Street names shall be submitted to and approved by Madison County E-911 Addressing.
- (B) Proposed streets which are obviously in alignment with others that already exist shall bear the names of existing streets.
- (C) In no case shall the name of a proposed development or street duplicate or be phonetically similar to existing development names or street names, irrespective of the use of suffix street, avenue, boulevard, driveway, place, or court.
- (D) Street name signs shall be installed by the developer at all intersections inside the Town limits in accordance with Town Standards.

10.1.11 Right-of-Way Dedication

Proposed developments that adjoin existing streets maintained by either the Town or NCDOT shall dedicate the additional street right-of-way necessary to meet the minimum width requirements for the type of classification of the adjoining street. When any part of the development is on both sides of an existing street, the entire minimum right-of-way shall be provided. When the development is located on only one side of an existing street, one-half of the minimum right-of-way, measured from the centerline of the existing street, shall be provided. The dedication requirements of this Section shall not apply to infill single-family residential and two-family residential lots fronting on existing streets that have already been accepted for maintenance by the Town or NCDOT.

Section 10.1 as amended by: 2021-UDO-01

10.2 Utility Standards

10.2.1 Water & Sanitary Sewer Systems

- (a) All water and sewer systems shall comply with “An Ordinance of the Town of Marshall to Regulate its Water and Sewer System,” as amended.
- (b) The Town may, in order to serve future development, require the developer to install certain oversized water and sewer improvements and/or to increase such improvements to a size and/or extend beyond that necessary for the needs created by a non-residential development. 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.

- (c) All waterline extensions must be constructed according to the latest edition of Title 15A.18C “Rules Governing Public Water Systems.” All sewer extensions must be constructed according to the latest edition of Title 15A.2T “Minimum Design Criteria for the Permitting of Gravity Sewers”. All pump stations and force mains must be constructed in accordance with Title 15A.2T “Minimum Design Criteria for Permitting of Pump Stations and Force Mains”.
- (d) All proposed water and sewer facilities are subject to the review and approval of the Town’s consulting engineer prior to the application for a permit from the correct permitting authority.
- (e) If substandard water and sewer services are within the immediate vicinity of the project and would require extending or accessing these facilities for the purpose of the development, then the developer is responsible for upgrading the facilities at no additional expense to the Town to meet the minimum design standards of NCDENR.

10.2.2 Utility Location

- (A) Utilities shall be located within the planting strip and sidewalk areas. All electrical and telephone lines in new developments shall be buried. Water and sewer lines shall be located and installed in accordance with Town standards.
- (B) All utilities located outside of the public right-of-way shall require a 20 foot easement centered on the utility line. No structures or retaining wall shall be allowed within this easement. The Town may require a developer to reserve a 20 foot utility easement for the purpose of extending sewer to upstream properties at a location specified by the Town’s consulting engineer.
- (C) Utility pedestals shall be located minimum of two (2) feet behind the sidewalk and near property lines between buildings and shall be screened with a wall, fence, or evergreen landscaping.

10.2.3 Lighting

(A) Applicability

The provisions of this Section shall apply to the installation of all outdoor lighting within the jurisdiction of this Ordinance except that the following shall be exempt from this Section:

- (1) Outdoor lighting installed for governmental purposes by local, state or federal governmental units and their agents.
- (2) Outdoor lighting required to be installed by laws or regulations of a local, state or federal governmental units.

(B) Prohibited Outdoor Lighting

The following types of outdoor lighting are prohibited unless exempt by Section 10.2.3(A) above:

- (1) Light fixtures that imitate an official highway or traffic control light or sign.
- (2) Light fixtures in the direct line of vision with any traffic control light or sign.
- (3) Light fixtures that have a flashing or intermittent pattern of illumination.
- (4) Privately-owned light fixtures located in the public right-of-way.
- (5) Light fixtures that are a source of glare by their design, orientation or intensity.
- (6) Searchlights.
- (7) Unshielded open vertical light fixtures.
- (8) Light fixtures that violate any law of the State of North Carolina relative to outdoor lighting.

(C) Plan Approval Required

Outdoor lighting for non-residential developments is subject to approval by the Administrator. The lighting plan shall show sufficient information to determine compliance with the standards of this Section and may require a photometric plan upon determination of the Administrator. In approving lighting plans the Administrator may modify the standards of this Section where the applicant agrees and where equal or better performance would result. In granting modifications, the Administrator may require such conditions as will secure, insofar as practicable, the objectives of the requirements modified.

(D) Outdoor Lighting Requirements

- (1) Outdoor lighting fixtures shall be installed in a manner to protect the street and neighboring properties from direct glare or hazardous interference of any kind. Glare or hazardous interference are situations where the sensation produced by luminance within the visual field is sufficiently greater than the luminance to which the eyes are adapted, such as to cause annoyance, discomfort, or loss in visual performance and visibility.
- (2) Outdoor lighting shall be constructed and operated to minimize the spillover of obtrusive light onto property outside the boundaries of the property on which the lighting is sited which could result in annoyance, discomfort or distraction to persons on the other property.\

- (3) Gas station canopy lights should be recessed into the canopy to minimize light spillover.

Acceptable



Recessed Lights

Unacceptable



Projecting Lights

- (4) All outdoor lighting fixtures, subject to this section, except for temporary and emergency lighting, that would otherwise cause glare or obtrusive spillover shall be shielded, recessed or otherwise oriented or treated in such a way to prevent glare or obtrusive spill over.
- (5) As a general principle, all outdoor lighting shall be directed downward and away from adjoining property and streets.
- (6) All floodlights shall be installed such that the fixture shall be aimed down at least 45 degrees from vertical, or the front of the fixture is shielded such that no portion of the light bulb extends below the bottom edge of an external shield. Floodlights and display lights shall be positioned such that any such fixture located within 50 feet of a public street right-of-way is mounted and aimed perpendicular to and away from the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed 15 degrees from perpendicular to the right-of-way.
- (7) The mounting height of all outdoor lighting shall not exceed 40 feet above finished grade, except that the mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed 80 feet from finished grade.
- (8) All light fixtures shall meet the IESNA definition of cutoff fixtures. Forward throw fixtures (type IV light distribution, as defined by the IESNA) are required within 25 feet of any public street right-of-way. Alternatively, directional fixtures (such as floodlights) may be used provided they shall be aimed and shielded in accordance with this Section.
- (9) Sign lighting shall be regulated in accordance with Chapter 6.

(E) Street Lighting

All street lighting shall be installed to NCDOT standards.

10.3 Stormwater Management

10.3.1 Stormwater System Requirements

- (A) Storm drainage plans shall be considered on an individual basis depending upon the situation within a given development and shall be submitted in accordance with the plan requirements of Chapter 12.
- (B) The developer shall provide a surface water drainage system constructed to the standards of the NCDOT, as reflected in the Guidelines for Drainage Studies and Hydraulic Design, subject to review by the Town of Marshall consulting engineer.
- (C) Post-development run-off rate shall be the same as pre-development run-off rate. This may be achieved with on-site storm water detention, LID design (as referenced in Section B.3) or other methods approved the Town's consulting engineer. Detention facilities shall be designed to maintain the pre-development rate from the one-year, 10-year, and 24 hour design storm events.
- (D) Emergency spillway facilities shall be designed to accommodate the 50-year, 24-hour frequency storms.
- (E) Cross drainage storm sewer shall be designed for a 25-year, 24 hour frequency storm, unless located within a FEMA flood hazard area, in which case the storm sewer shall be designed for the 100-year, 24-hour storm event. All other storm sewers shall be designed for a 10-year, 24-hour frequency storm.
- (F) No surface water shall be channeled or directed into a sanitary sewer.
- (G) Where feasible, the developer shall connect to an existing surface water drainage system.
- (H) Where an existing surface water drainage system cannot feasibly be extended to the development, a surface drainage system shall be designed to protect the proposed development from water damage.
- (I) The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one (1) foot in each 200 feet of horizontal distance.
- (J) Stream banks and channels downstream from any land disturbing activity shall be protected from increased degradation by accelerated erosion caused by increased velocity of runoff from the land disturbing activity in accordance with the North Carolina Sedimentation Pollution Control Act.
- (K) Anyone constructing a dam or impoundment within the development must

comply with the North Carolina Dam Safety Law of 1967 and the North Carolina Administrative Code Title 15, Subchapter 2 K.

- (L) In all areas of special flood hazards, all development proposals shall have adequate drainage provided to reduce exposure to flood damage.

10.3.2 Easements

- (A) Where a development is traversed by a water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course, and such further width or construction, or both as may be adequate for the purpose of drainage.
- (B) No fences or structures shall be constructed across an open drainage channel that will reduce or restrict the flow of water. The Administrator may require any water course or stormwater management facility to be located within dedicated a drainage easement officially recorded at the Madison County Register of Deeds as a “public storm drainage easement” that provides sufficient width for maintenance.
- (C) Where easements are required, they shall be noted on the Final Plat.

10.3.3 Grading Standards

The following standards shall be followed in establishing the grading plan for a development:

- (A) No grading shall take place in an undisturbed stream buffer as required by Section 7.4.
- (B) Developments shall be designed and constructed with a positive drainage flow away from buildings and towards approved storm water management facilities. Plans for drainage facilities shall be approved and sealed by a Professional Engineer and submitted in accordance with the requirements of Section 12.4.2 (N).
- (C) In the design of site grading plans, all impervious surfaces in the proposed development (including off street parking) shall be considered.
- (D) Site grading and drainage facilities shall protect sinkholes, wetlands, ponds and lakes from increased sediment loading.
- (E) All disturbed areas within the dedicated right-of-way and easements of any development street shall be restored with vegetation and the landscaping standards of Chapter 8 shall be met.
- (F) All grading shall meet North Carolina’s Sedimentation and Erosion Control standards.

- (G) No grading in the future right-of-way of the Town of Marshall shall exceed one (1) vertical foot for two (2) horizontal feet.

Section 10.3 as amended by: 2021-UDO-01

10.4 Fire Protection Standards

- 10.4.1** Residential areas and subdivisions (single family and/or duplex) shall require fire hydrants located such that each structure or portion thereof will be within 500 feet of a hydrant.
- 10.4.2** Multi-family developments (apartments, townhouses, condominiums, etc.) shall require fire hydrants located such that each structure or portion thereof will be within 500 feet of a hydrant.
- 10.4.3** Non-residential areas and subdivisions shall require fire hydrants to be located such that each structure or portion thereof will be within 500 feet of a hydrant. This determination shall be made via vehicle access routes, (roadways, fire lanes, etc.) and by hose placement from the firefighting equipment in lieu of linear measurements. Fire hydrants shall be located at the right-of-way and the hydrant shall be located as not to exceed 500 feet between hydrants, subject to review by the Town's consulting engineer. When practical hydrants shall be located at street intersections, with intermediate hydrants between intersections, and at entrance drives to the property.
- 10.4.4** For any structures that has a sprinkler system or a standpipe system a fire hydrant shall be located no more than 100 feet from the fire department connection. This hydrant shall be dedicated to the fire department connection and shall be in addition to the hydrants required above.
- 10.4.5** When possible, fire hydrants shall be located a minimum of 50 feet from any structure.
- 10.4.6** In proposed subdivisions, where all structures have not been constructed, hydrant spacing shall be measured along the street right-of-way with spacing provided as shown above.
- 10.4.7** Dead end water mains shall be provided with a fire hydrant or a blow-off. Water mains serving fire hydrants shall be a minimum of six inch (6") in diameter. Each phase of a project shall be designed and constructed to provide the minimum number of hydrants necessary to conform to the above requirements upon completion of the phase.
- 10.4.8** The determination of distance shall be made via vehicle access routes (roadways, fire lanes, etc.) and by hose placement from the firefighting equipment located adjacent to the fire hydrant in lieu of direct measurements. The distances specified above are meant to reflect the actual length of fire hose which would be laid by the fire department to reach the structure in the event of a fire at or in that structure. Distances shall be measured beginning at the point of the structure farthest from the hydrant, thence along an Unobstructed Pathway to a point in the centerline of the

street, thence along the centerline of the street to a point opposite the hydrant. Unobstructed Pathway means a route which may be taken by firemen in laying fire hose. The Unobstructed Pathway shall be, and remain, free of trees and shrubs, walls, fences, wells, structures, or other obstacles to the passage of firefighters, hose and equipment for a width of 10 feet) and a minimum vertical distance of thirteen feet six inches (13'-6") and shall not be through, under, or over any portion of any structure, ditch or waterway.

- 10.4.9** For any subdivision without a fire suppression rated water system, that either has or has access to an adequate permanent surface water supply (100,000 gallon storage in a 50-year drought), the applicant shall be required to install a dry fire hydrant system. An all-weather access road for fire-fighting equipment shall be provided by the applicant to this permanent surface water supply. Where the subdivision is neither served by a public water system nor has or is adjacent to an adequate permanent surface water supply, such subdivision shall be thoroughly reviewed by the Administrator and the applicant to determine if there are alternative measures to ensure adequacy of fire protection. Where deemed necessary and without creating an undue hardship on the applicant, the Planning Board may require the applicant to install alternative fire protection measures.
- 10.4.10** The developer of any new subdivision, subdivision or project, or development, whether it be single or multiple, or whether residential or commercial, is responsible for funding and installing the required fire hydrant(s) and water main to comply with the above requirements.

10.5 Garbage & Refuse Collection

- 10.5.1** All nonresidential development shall be required to provide one (1) or more dumpsters for solid waste collection that are:
- (A) Located so as to facilitate collection and minimize any negative impact on persons occupying the development site, neighboring properties, or public rights-of-way;
 - (B) Located in the side or rear yard; and
 - (C) Screened with an opaque fence or wall and gate.
- 10.5.2** The method of garbage disposal shall be indicated on each Site Plan or Preliminary Plat that is submitted.

10.6 Installation of Markers and Monuments

Prior to the approval of the Final Plat, permanent reference points shall have been placed in accordance with the following requirements:

- 10.6.1** In accordance with the “Manual of Practice for Land Surveying” Vol. I, at least one corner of the Subdivision shall be designated by course and distance (tie) from a readily discernible reference marker. If a corner is within 2,000 feet of a U.S. Coast and Geodetic Section or N.C. Grid System coordinated monument, then this corner shall be marked with a monument so designated by computed X & Y coordinates which shall appear on the map with a statement identifying this section or monument to an accuracy of 1:15000. When such a monument or station is not available, the tie shall be made to some pertinent and readily recognizable land mark or identifiable point, physical object or structure.
- 10.6.2** Within each block of a subdivision at least two (2) monuments designed and designated as control corners shall be installed. The surveyor shall employ additional monuments if and when required.
- 10.6.3** A steel or wrought iron pipe or the equivalent not less than three-fourths (3/4) inches in diameter and at least 30 inches in length shall be set at all corners, except those located by monuments.
- 10.6.4** Land surveys within the Town limits shall have a maximum error of closure of 1:10000, and beyond the Town limits the maximum error of closure shall be 1:7500.

CHAPTER 11

DEVELOPMENT REVIEW PROCESS

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11.1 Purpose and Applicability

11.1.1 Purpose

The purpose of this Chapter is to establish an orderly process to develop land within the Town of Marshall. It is also the intent of this Chapter to provide a clear and comprehensive development process that is fair and equitable to all interests including the applicants, affected neighbors, Town staff, related agencies, the Planning & Zoning Board, and the Town Board of Aldermen. Approved plans shall be the guiding documents for final approval and permitting.

11.1.2 Applicability

- (A) The development review process applies to all new development and alterations of existing development within the Town of Marshall.
- (B) The Administrator or designee may waive the required development review for a change in principal use, where such change would not result in a change in lot coverage, parking, or other site characteristics. The development review may also be waived if the Administrator determines that the submission of a development plan in accordance with this Chapter would serve no useful purpose.
- (C) The following chart indicates the appropriate approval process for each development type:

Development Type	Administrative Approval	Planning Board	Board of Adjustment Approval	Town Board of Aldermen Approval
Zoning Permit (single-family residential)	X (plot plan, no site plan)			
Zoning Permit (with Site Plan)	X			
Driveway Construction Permit	X (See Section 9.7)			
Exempt Subdivision	X			
Subdivision Sketch Plan		X		
Subdivision Preliminary Plat		Review and Recommend		X
Subdivision Final Plat		X		
Special Use Permit			X	

11.1.3 No Grading without Approval

No grading or tree removal shall commence for any development site without the issuance of a Zoning Permit or approval of a Subdivision Preliminary Plat, whichever is applicable. Any such activity may be subject to penalties as set forth in Section 15.6.

Section 11.1 as amended by: 2021-UDO-01

11.2 Zoning Permits

11.2.1 Zoning Permit Required

- (A) The use made of property may not be substantially changed, and buildings or other substantial structures may not be constructed, erected, moved, or substantially altered except in accordance with and pursuant to the issuance of a Zoning Permit.
- (B) Clearing, grading, or excavation may not be commenced without the issuance of a Zoning Permit, except in accordance with an approved Preliminary Plat for Subdivisions.
- (C) Zoning Permits are issued under this Ordinance only when a review of the application submitted, including the plans contained therein, indicates that the development will comply with the provisions of this Ordinance if completed as proposed. Such plans and applications as are finally approved are incorporated into any permit issued, and all development shall occur strictly in accordance with such approved plans and applications.
- (D) A Zoning Permit shall be issued in the name of the applicant (except that applications submitted by an agent shall be issued in the name of the principal), shall identify the property involved and the proposed use, shall incorporate by reference the plans submitted, and shall contain any special conditions or requirements lawfully imposed by the permit-issuing authority.

11.2.2 Zoning Permit Not Required

Notwithstanding any other provisions of this Ordinance, no zoning permit is necessary for the following uses:

- (A) Street construction or repair
- (B) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within a public right-of-way
- (C) Specific signs exempted in Chapter 6 of this Ordinance
- (D) Mailboxes, newspaper boxes, walls, birdhouses, flag poles, pump covers, and doghouses.

- (E) Interior alterations and renovations which do not alter the footprint, elevation, height, or use of an otherwise conforming use and/or structure.

11.2.3 Application Procedures

- (A) Applications for a Zoning Permit will be accepted only from persons having the legal authority to take action in accordance with the permit. By way of illustration, in general this means that applications should be made by the owners of property, or their agents, or persons who have contracted to purchase property contingent upon their ability to acquire the necessary permits under this ordinance, or the agents of such persons (who may make application in the name of such owners, lessees, or contract vendees). The Administrator may require an applicant to submit evidence of his/her authority to submit the application whenever there appears to be a reasonable basis for questioning this authority.
- (B) All applications for Zoning Permits must be complete before the Administrator is required to consider the application. An application is complete when it contains all the information necessary for the permit-issuing authority to decide whether or not the development, if completed as proposed, will comply with all of the requirements of this Ordinance.
- (C) A completed application form for a Zoning Permit shall be submitted by filing a copy of the application with the Administrator. A fee, set by the Town Board of Aldermen, shall be charged for the processing of such application. The adopted fee schedule shall be available at Town Hall.
- (D) For single-family residential structures, a plot plan and the following information shall be submitted to the Administrator with the Zoning Permit application and fee:
 - (1) The shape and dimensions of the lot on which the proposed building or use is to be erected or conducted;
 - (2) The location of said lot with respect to adjacent rights-of-way;
 - (3) The shape, dimensions, and location of all buildings, existing and proposed, on said lot;
 - (4) The nature of the proposed use of the building or land, including the extent and location of the use, on said lot;
 - (5) The location and dimensions off-street parking and driveways;
 - (6) The proposed impervious area including all buildings, driveways, sidewalks, and patios;
 - (7) Building elevations of the front facade; and

- (8) Any other information which the Administrator may deem necessary for consideration in enforcing the provisions of this Ordinance.
- (E) For all other developments requiring a Zoning Permit, a Site Plan shall be submitted in accordance with the development plan requirements of Chapter 12 and follow the approval process outlined in Section 11.3 prior to Zoning Permit issuance by the Administrator. Any development project requiring a Conditional Use Permit, shall follow the Board of Adjustment approval process outlined in Section 11.4 prior to Zoning Permit issuance by the Administrator.

11.2.4 Zoning Permit Approval, Effect of Approval, & Compliance

- (A) The Administrator shall issue the Zoning Permit unless he/she finds, after reviewing the application and consulting with the applicant that:
 - (1) The requested permit is not within his/her jurisdiction according to the Permitted Uses Table, or
 - (2) The application is incomplete, or
 - (3) If completed as proposed in the application, the development will not comply with one or more requirements of this Ordinance, not including those requirements concerning which a Variance has been granted or those requirements that the applicant is not required to comply with under the circumstances specified in Chapter 13 Nonconformities.
- (B) No Zoning Permit shall be issued to any person who has failed, after notice, to remedy defective work or otherwise comply with the Code of the Town of Marshall, this Ordinance, or the laws of the State of North Carolina.
- (C) Issuance of a Zoning Permit, authorizes the recipient to commence the activity resulting in a change in use of the land or (subject to obtaining a building permit) to commence work designed to construct, erect, move, or substantially alter buildings or other substantial structures. However, the intended use may not be commenced, no building may be occupied until all of the requirements of this Ordinance, and all additional requirements imposed pursuant to the issuance of a Zoning Permit, have been complied with. In cases when, because of weather conditions or other factors beyond the control of the Zoning Permit recipient (exclusive of financial hardship), it would be unreasonable to require the Zoning Permit recipient to comply with all of the requirements of this Ordinance prior to commencing the intended use of the property or occupying any buildings, the Administrator may authorize the commencement of the intended use or the occupancy of buildings (insofar as the requirements of this Ordinance are concerned) if the permit recipient provides a performance bond or other security satisfactory to the Administrator to ensure that all of the requirements of this Ordinance will be fulfilled within a reasonable period (not to exceed 12 months) determined by the Administrator.

- (D) In conjunction with the final building inspection, the Administrator shall certify that all requirements of this ordinance have been met. The applicant shall call for such certification coincident with the final building inspection or within 10 days following completion. A Certificate of Compliance shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance. If the Certificate of Compliance is denied, the Administrator shall state in writing the reasons for refusal and the applicant shall be notified of the refusal. A record of all certificates shall be kept on file in the office of the Administrator, and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.

11.2.5 Right of Appeal

If a Zoning Permit is denied, then the applicant may appeal the action of the Administrator to the Board of Adjustment in accordance with Section 15.4; and that from the decision of the Board of Adjustment, recourse shall be had to courts as provided by law. Such appeal shall be made within 30 days of such permit denial.

11.2.6 Expiration of Permits

- (A) Zoning approval shall expire automatically if, within six (6) months after the issuance of such permits:
- (1) The use authorized by such permits has not commenced, in circumstances where no substantial construction, erection, alteration, excavation, demolition, or similar work is necessary before commencement of such use, or
 - (2) Less than 10 percent of the total cost of all construction, erection, alteration, excavation, demolition, or similar work on any development authorized by such permits has been completed on the site. With respect to phased development, this requirement shall apply only to the first phase.
- (B) If, after some physical alteration to land or structures begins, and such work is discontinued for a period of six (6) months, then the permit authorizing such work shall immediately expire.
- (C) The permit-issuing authority may extend for a period up to six (6) months the date when a permit would otherwise expire pursuant to Subsections (A) or (B) if it concludes that (i) the permit has not yet expired, (ii) the permit recipient has proceeded with due diligence and in good faith, and (iii) conditions have not changed so substantially as to warrant a new application. Successive extensions may be granted for periods up to six (6) months upon the same findings. All such extensions may be granted without resort to the formal processes and fees required for a new permit.

- (D) For purposes of this Section, a Zoning Permit is issued when the earlier of the following takes place:
 - (1) A copy of the fully executed permit is delivered to the permit recipient, and delivery is accomplished when the permit is hand delivered or mailed to the permit applicant; or
 - (2) The Administrator notifies the permit applicant that the application has been approved and that all that remains before a fully executed permit can be delivered is for the applicant to take certain specified actions.
- (E) Notwithstanding any of the provisions of Chapter 13 Nonconformities, this Section shall be applicable to permits issued prior to the date this Section becomes effective.

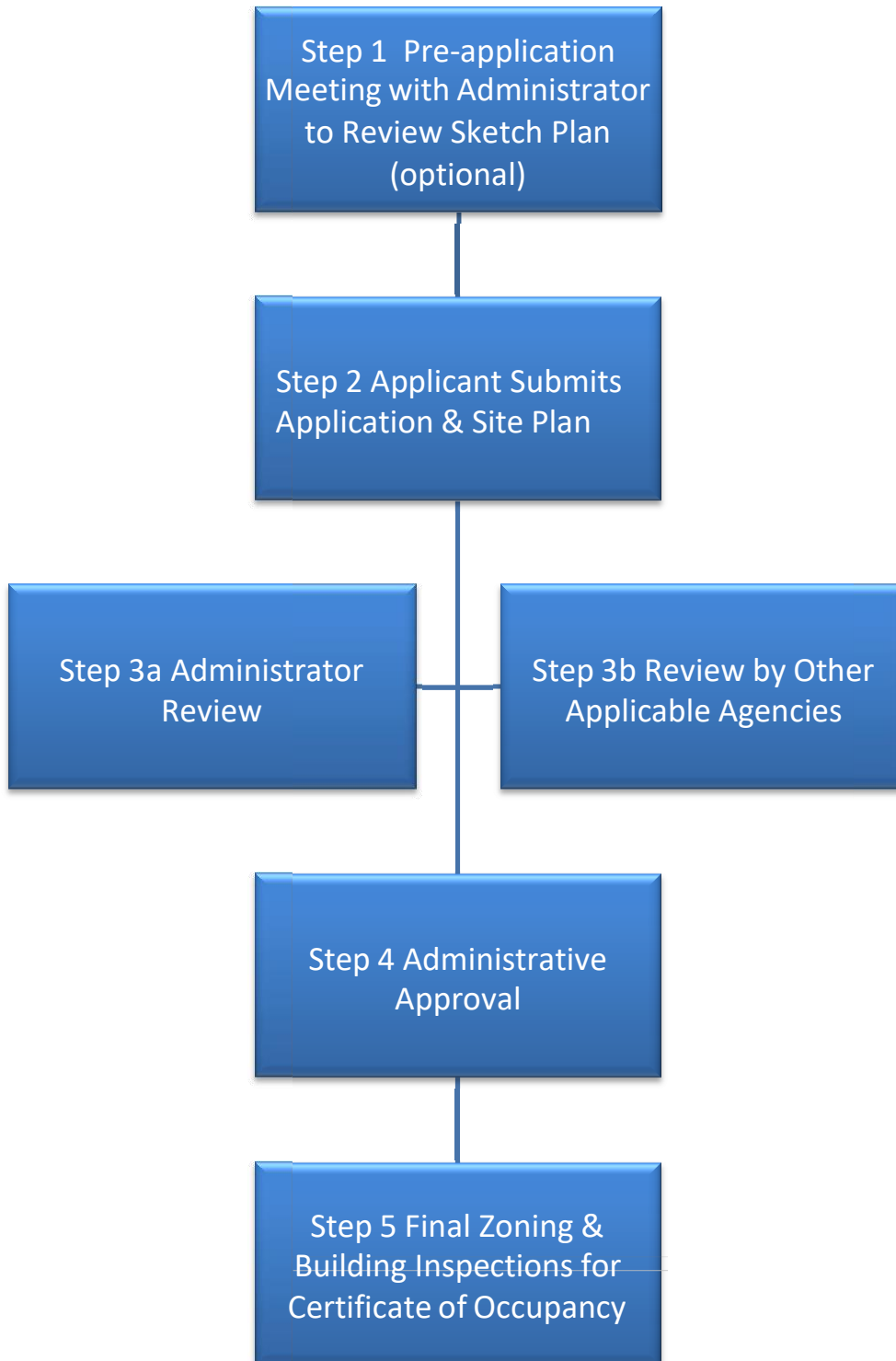
11.2.7 Effect of Permit on Successors and Assigns

Zoning Permits authorize the permittee to make use of land and structures in a particular way. Such permits are transferable. However, so long as the land or structures or any portion covered under a permit continues to be used for the purposes for which the permit was granted, then:

- (A) No person (including successors or assigns of the person who obtained the permit) may make use of the land or structures covered under such permit for the purposes authorized in the permit except in accordance with all the terms and requirements of that permit, and
- (B) The terms and requirements of the permit apply to and restrict the use of land or structures covered under the permit, not only with respect to all persons having an interest in the property at the time the permit was obtained, but also with respect to persons who subsequently obtain any interest in all or part of the covered property and wish to use it for or in connection with purposes other than those for which the permit was originally issued, so long as the persons who subsequently obtain an interest in the property had actual or record notice.

11.3 Site Plan Provisions

Zoning Permits requiring Site Plans shall be approved administratively. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



CHAPTER 11 – DEVELOPMENT REVIEW PROCESS

Step 1. Pre-Application Meeting with Sketch Plan (optional)

- (A) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is recommended.
- (B) Before submitting a Zoning Permit application and Site Plan, the developer may submit to the Administrator a Sketch Plan in accordance with requirements of Section 12.3. The Administrator shall meet with the developer as soon as conveniently possible to review the Sketch Plan.
- (C) The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.
- (D) One (1) copy of the Sketch Plan shall be retained as a part of the record of the Administrator with one (1) copy being returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

Step 2. Applicant Submits Application & Site Plan

The applicant shall submit the applicable application, fee, and the Site Plan that meets the development plan requirements of Section 12.6 and other required materials.

Step 3A & B. Administrator and Other Applicable Agency Review

- (A) The Administrator and other applicable agencies shall review the Site Plan in accordance with the requirements of this Ordinance and any other applicable requirements.
- (B) Other applicable agencies may provide comments to the Administrator regarding the design of the development. It shall be the responsibility of the Administrator to address those comments, wherever possible. The reviewing government agencies and officials may include, but need not be limited to the following: Town Maintenance Department, Fire Marshal, Police Department, Building Inspector, Town Attorney, NCDOT, NCDENR, Utilities Providers, Health Department, Board of Education, Rural Planning Organization, US Army Corps of Engineers, contracted expertise, and other agencies as needed.

Step 4. Administrative Approval

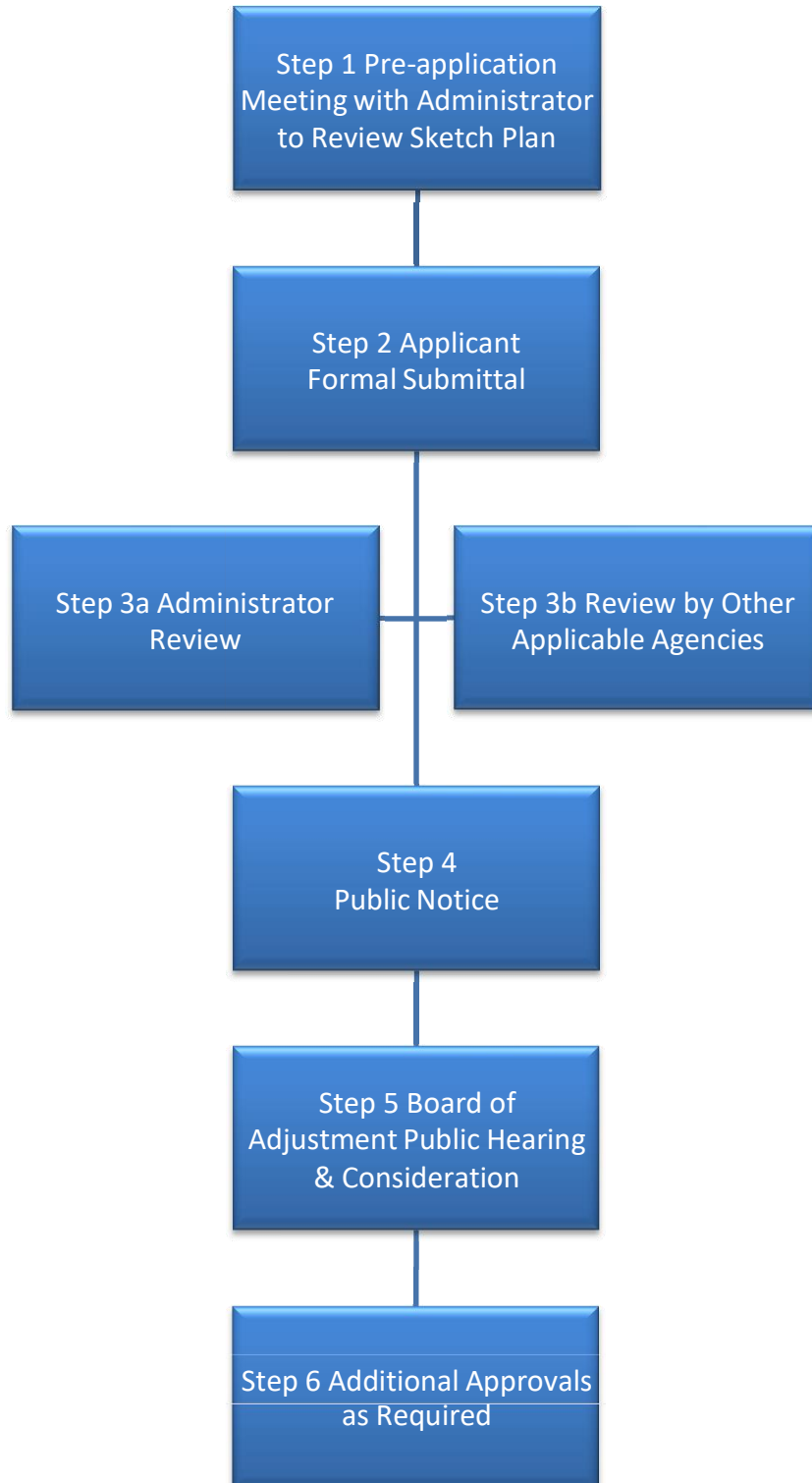
If a Site Plan is found to meet all of the applicable regulations of this Ordinance, then the Administrator shall issue a Zoning Permit. The developer may then obtain a building permit from the Building Inspections Department.

Step 5. Final Building & Zoning Inspections for Certificate of Occupancy

Prior the issuance of a Certificate of Occupancy by the building inspector, the Administrator or his designee shall conduct a final zoning inspection to ensure that the approved plan has been followed and all required improvements have been installed to Town standards.

11.4 Special Use Permit Provisions

Special Use Permits shall be reviewed and approved by the Board of Adjustment. The steps in the boxes below correspond with a detailed description of each step of the process on the following pages.



Step 1. Pre-Application Meeting with Administrator to Review Sketch Plan

- (A) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is required.
- (B) Before submitting an application authorizing a Special Use Permit, the developer shall submit to the Administrator a Sketch Plan in accordance with requirements of Section 12.3. The Administrator shall meet with the developer as soon as conveniently possible to review the Sketch Plan.
- (C) The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.
- (D) One (1) copy of the Sketch Plan shall be retained as a part of the record of the Administrator with one (1) copy being returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

Step 2. Formal Application Submittal

The applicant shall submit the applicable application, fee, and the Special Use Permit Site Plan that meets the requirements of Section 12.6 and other required materials.

Step 3A & B. Administrator and Other Applicable Agency Review

- (A) The Administrator and other applicable agencies shall review the Special Use Permit Site Plan in accordance with the requirements of this Ordinance and any other applicable requirements.
- (B) Other applicable agencies may provide comments to the Administrator regarding the design of the development. It shall be the responsibility of the Administrator to address those comments, wherever possible. The reviewing government agencies and officials may include, but need not be limited to the following: Town Maintenance Department, Fire Marshal, Police Department, Building Inspector, Town Attorney, NCDOT, NCDEQ, Utilities Providers, Health Department, Board of Education, Rural Planning Organization, US Army Corps of Engineers, contracted expertise, and other agencies as needed.

Step 4. Public Notice

- (A) For Special Use Permits, the following notice shall be given as provided in Section 15.3.4.
- (B) The notices required by this Section shall state the date, time and place of the hearing, reasonably identify the lot that is the subject of the application or appeal, and give a brief description of action requested or proposed.
- (C) The Board of Adjustment may continue the hearing until a subsequent meeting and may keep the hearing open to take additional information up to the point a final decision is made. No further

notice of a continued hearing need be published unless a period of six weeks or more elapses between hearing dates.

Step 5. Board of Adjustment Public Hearing & Consideration

- (A) Before making a decision on an application, the Board of Adjustment shall hold a public hearing. A quasi-judicial public hearing shall be held for issuance or revocation of Special Use Permits that follows the procedures outlined in Section 15.3.4 of this Ordinance.

Step 6. Additional Approvals as Required

Approval of a Conditional Use Permit by the Board of Adjustment does not constitute final approval of the development plan. Development plans that have received a Conditional Use Permit may still be subject to additional approval processes depending on the size and type of development that is proposed.

Section 11.4 as amended by: 2014-UDO-01, 2021-UDO-01

11.5 Amendments to and Modifications of Permits

- 11.5.1** Insignificant deviations from the permit (including approved plans) issued by the Board of Adjustment or the Administrator are permissible and the Administrator may authorize such insignificant deviations. A deviation is insignificant if it has no discernible impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- 11.5.2** Minor design modifications or changes in permits (including approved plans) are permissible with the approval of the permit-issuing authority. Such permission may be obtained without a formal application, public hearing, or payment of any additional fee. For purposes of this Section, minor design modifications or changes are those that have no substantial impact on neighboring properties, the general public, or those intended to occupy or use the proposed development.
- 11.5.3** All other requests for changes in approved plans will be processed as new applications. If such requests are required to be acted upon by the Board of Adjustment, new conditions may be imposed, but the applicant retains the right to reject such additional conditions by withdrawing his/her request for an amendment and may then proceed in accordance with the previously issued permit.
- 11.5.4** A developer requesting approval of changes shall submit a written request for such approval to the Administrator, and that request shall identify the changes. Approval of all changes must be given in writing.

11.6 Subdivision Provisions

11.6.1 Subdivisions Defined

- (A) All plats and proposed subdivisions shall be reviewed by the Administrator for initial determination as to whether the proposed subdivision is to be classified as a subdivision or is exempt from subdivision requirements.

- (B) If the Administrator determines that a division of land does not meet the definition of a subdivision as set forth by NCGS 160D-802 (see Appendix A Definitions), then the division shall be considered a subdivision exemption and shall not be subject to the entire development review process. The Administrator shall ensure that resultant lots comply with the dimensional, frontage, and access requirements of the zoning district in which the property is located. Where a public street is to be created, dedicated, and platted as part of the division, the division shall not be exempt from the provisions of this Ordinance regardless of any other factors. If the Administrator determines that the proposed division is exempt from the subdivision provisions of this Ordinance, the plat shall be endorsed with the following certificate, signed and dated by all record property owner(s) with direct interest in the property, and the Administrator:

Certificate of "No Approval Required"

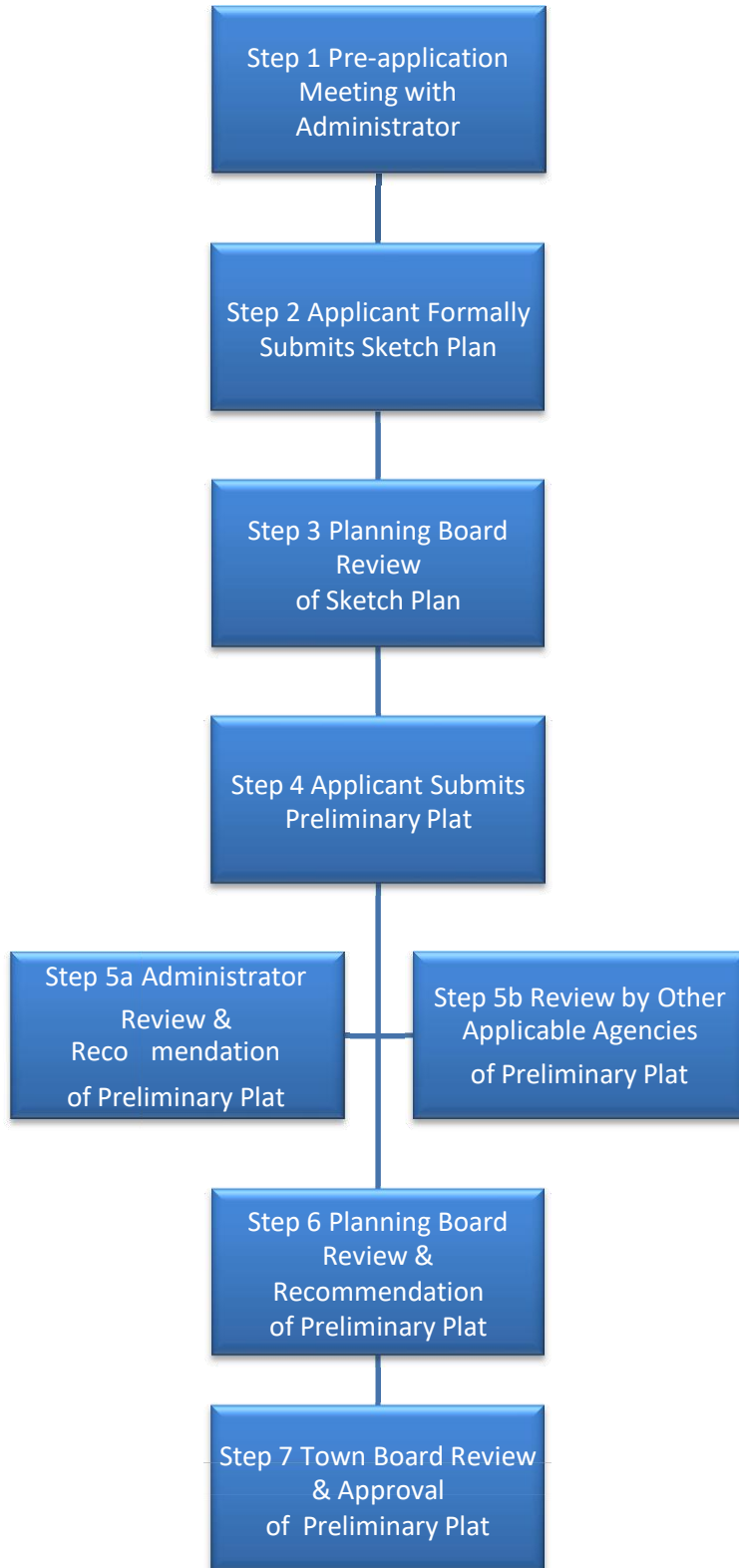
This division of land does not meet the definition of a subdivision as set forth by North Carolina General Statute 160A-376 and is not subject to the subdivision standards or development review process of the Town of Marshall. The minimum lot requirements for the subject zoning district have been met.

Subdivision Administrator

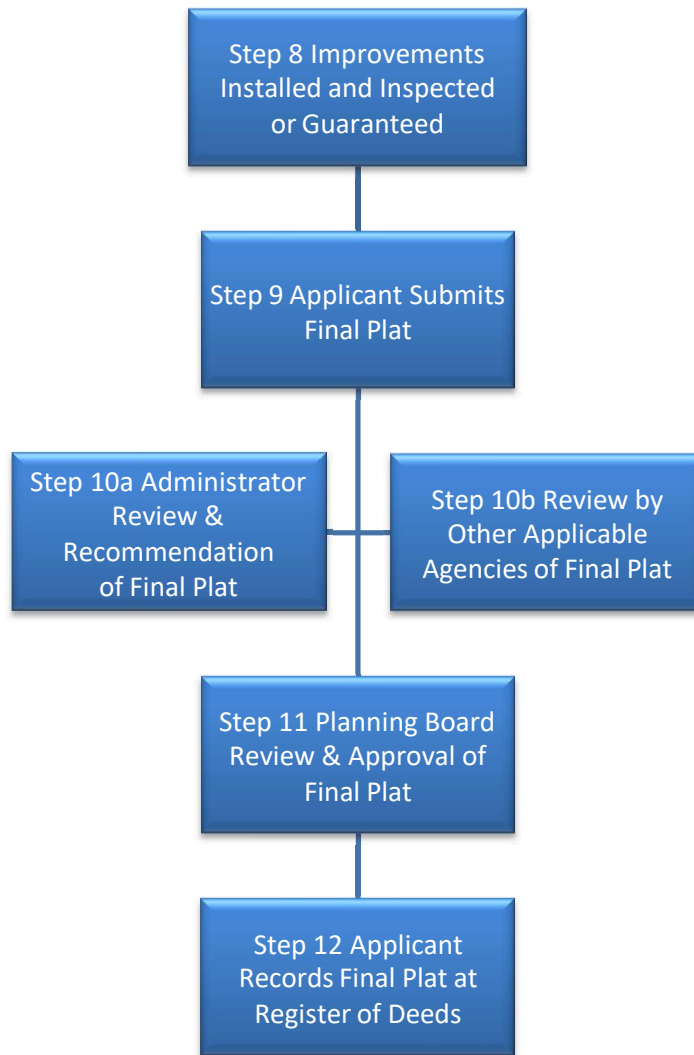
Date

11.6.2 Subdivision Approval Process (includes Conservation Developments)

The steps shown in the following diagram correspond with a detailed description of each step of the process on the following pages.



CONTINUED ON FOLLOWING PAGE



Step 1. Pre-Application Meeting with Administrator

- (A) To minimize development planning costs, avoid misunderstanding or misinterpretation, and ensure compliance with the requirements of this Ordinance, pre-application consultation between the developer and the Administrator concerning the application of this Ordinance to the proposed development is required.
- (B) Before submitting an application authorizing a development that consists of or contains a Subdivision, the developer shall submit to the Administrator a Sketch Plan in accordance with requirements of Section 12.3. The Administrator shall meet with the developer as soon as conveniently possible to review the Sketch Plan.
- (C) The Administrator shall review the Sketch Plan for general compliance with the requirements of this Ordinance and any other applicable requirements. The Administrator shall advise the developer or his authorized agent of the regulations pertaining to the proposed development and the procedures to be followed.

- (D) One (1) copy of the Sketch Plan shall be retained as a part of the record of the Administrator with one (1) copy being returned to the developer or his authorized agent along with any comments made by the Administrator concerning the proposed development.

Step 2. Applicant Formally Submits Sketch Plan

- (A) The applicant shall submit the Sketch Plan that meets the requirements of Chapter 12 and other applicable materials. The Sketch Plan shall be submitted a minimum of seven (7) working days prior to a regularly scheduled Planning Board meeting.
- (B) The Sketch Plan may be submitted as the Preliminary Plat, so long as all required information is provided. The deadline for a Sketch Plan submitted as a Preliminary Plat remains the same as required in Step 5.
- (C) The Administrator shall evaluate the completeness of the Sketch Plan prior to forwarding it to the Planning Board for review.

Step 3. Planning Board Review of Sketch Plan

- (A) Upon receipt of the comments and recommendations from other applicable agencies, the Administrator shall submit to the Planning Board an analysis of the Sketch Plan and his/her recommendations.
- (B) The Planning Board shall review the Sketch Plan for general compliance with the requirements of this ordinance any other applicable ordinance or officially adopted plan. The Planning Board may visit the proposed development site in order to assess compliance with this Ordinance.

Step 4. Applicant Submits Preliminary Plat

The applicant shall submit to the Administrator a completed application form, a complete Preliminary Plat (see Chapter 12), and a filing fee as established by the Town Board of Aldermen. These three items are due the first Monday immediately preceding a regularly scheduled Planning Board meeting; the application will be considered at the following meeting, 33 calendar days later.

Step 5A & B. Administrator and Other Applicable Agency Review of Preliminary Plat

- (A) Before acting on the Preliminary Plat the Planning Board may request a report from any person or agency directly concerned with the proposed development, such as the District Highway Engineer, County Health Department and the Superintendent of Schools and such other officials or agencies thought necessary. Such report shall certify compliance with or note deviations from the requirements of this Ordinance and include comments on other factors which bear upon the public interest. If the proposed development will create 10 or more dwelling units, based upon the underlying zoning, the Planning Board shall consult the Superintendent of Schools to obtain information regarding the possible impact.
- (B) Other applicable agencies may provide comments to the Administrator regarding the design of the development. It shall be the responsibility of the Administrator to address those comments, wherever possible. The reviewing government agencies and officials may include, but need not be limited to the following: Town Maintenance Department, Fire Marshal, Police

CHAPTER 11 – DEVELOPMENT REVIEW PROCESS

Department, Building Inspector, Town Attorney, NCDOT, NCDENR, Utilities Providers, Health Department, Board of Education, Rural Planning Organization, US Army Corps of Engineers, contracted expertise, and other agencies as needed.

Step 6. Planning Board Review & Recommendation

- (A) Upon receipt of the comments and recommendations from other applicable agencies, the Administrator shall submit to the Planning Board an analysis of the application and his/her recommendation.
- (B) The Planning Board shall recommend approval, conditional approval, or disapproval of the Preliminary Plat within a period of 45 days from the time of its regularly scheduled meeting. If conditional approval or if disapproval is recommended, the reasons for such action shall be stated in writing and reference shall be made to the specific section or sections of this Ordinance with which the Preliminary Plat does not comply. If the Planning Board fails to act within the 45-day time period, the applicant may request approval by the Town Board of Aldermen at its next scheduled meeting provided the Preliminary Plat is filed with the Town Clerk at least 10 working days prior to the next scheduled meeting.
- (C) The Chairman of the Planning Board shall notify the Town Clerk and applicant of the Board's decision and the Clerk shall transmit the Plat with the Planning Board's recommendations including any conditions or modifications to the Town Board of Aldermen. If conditionally approved, the Planning Board may require that the developer submit a revised preliminary plat.

Step 7. Town Board of Aldermen Review & Approval of Preliminary Plat

- (A) Upon receipt of the Preliminary Plat and the Planning Board's recommendation, the Board of Aldermen shall review it for compliance with the requirements of this ordinance and consider the recommendations of the Planning Board and other reviewers, if any. The Board shall approve, approve conditionally, or disapprove the preliminary plat within 60 days of submittal by the Planning Board.
- (B) If the Board of Aldermen approves the Preliminary Plat, approval shall be noted on all copies submitted; at least two (2) copies shall be retained by the Town Clerk.
- (C) If the plat is approved with conditions, the conditions and the reasons for the conditional approval shall be recorded in the minutes of the meeting and a copy of any conditions shall be attached to the plats.
- (D) If the Board of Aldermen disapproves the Preliminary Plat, the reasons for disapproval shall be stated in the minutes of the meeting and reference shall be made to the specific section(s) of this ordinance with which the plat does not comply. The applicant shall receive written notification of the reasons for disapproval. The applicant may make the recommended revisions and submit a revised Preliminary Plat.
- (E) Approval of the Preliminary Plat shall be effective for a period not to exceed two (2) years, and shall thereafter expire and be considered null and void, unless a petition for an extension of time is submitted to and subsequently approved by the Planning Board.

Step 8. Improvements Installed and Inspected or Guaranteed

- (A) The applicant shall proceed with the installation of improvements as shown on the Preliminary Plat and in accordance with Chapter 10 infrastructure requirements.
- (B) Approval of the Final Plat shall be subject to the developer having installed the required improvements or having guaranteed, to the satisfaction of the Town, the installation of said improvements. The Town's consulting engineer shall inspect the improvements to ensure compliance with Town standards prior to approval of the Final Plat. Underground utilities shall be inspected by the Town's consulting engineer before they are covered.
- (C) Where the required improvements have not been completed prior to the submission of the Final Plat, the approval of said plat shall be subject to the developer guaranteeing the installation of the improvements within a period of time specified by the Board of Aldermen in one of the following manners:
 - (1) Filing a performance or surety bond in the amount of two (2) times the estimate of the cost of installation to be determined by the Board of Aldermen in consultation with the Town's engineer.
 - (2) Depositing or placing in escrow a certified check or cash in the amount of two (2) times the estimate of the cost of installation as determined by the Board of Aldermen in consultation with the Town's engineer. Portions of the security deposit may be released as work progresses.
 - (3) Entering into an agreement with the Board of Aldermen guaranteeing the completion of the required work, said agreement to be binding on subsequent purchasers of the property and to be recorded at the option of the town. The agreement shall provide that satisfactory security be furnished guaranteeing the completion of the necessary improvements before each section is developed.

Step 9. Applicant Submits Final Plat

- (A) The applicant shall submit the applicable application, fee, and the Final Plat that meets the requirements of Chapter 12 and other required materials.
- (B) The Final Plat shall constitute only that portion of the approved Preliminary Plat which the developer proposed to develop and record at the time of submission.
- (C) The Final Plat shall be submitted to the Ordinance Administrator at least 15 working days before the Planning Board meeting at which the plat is to be reviewed.

Step 10a & b Administrator and Other Applicable Agency Review

- (A) The Administrator and other applicable agencies shall review the Final Plat Site Plan in accordance with the requirements of this Ordinance and any other applicable requirements.
- (B) Other applicable agencies may provide comments to the Administrator regarding the proper installation of required improvements as shown on the Preliminary Plat. It shall be the responsibility of the Administrator to address those comments, wherever possible. The

reviewing government agencies and officials may include, but need not be limited to the following: Town Maintenance Department, Fire Marshal, Police Department, Building Inspector, Town Attorney, NCDOT, NCDENR, Utilities Providers, Health Department, Board of Education, Rural Planning Organization, US Army Corps of Engineers, contracted expertise, and other agencies as needed.

- (C) The Administrator shall check the Final Plat for conformance with the approved Preliminary Plat, and with the requirements of these regulations. The Ordinance Administrator shall notify the developer in writing of any non-compliance with these regulations or any deviation from the approved Preliminary Plat.

Step 11. Planning Board Review & Approval of Final Plat

- (A) The Planning Board shall approve or disapprove the Final Plat within the period of 31 calendar days from the time of its submission at its regularly scheduled meeting. If the Planning Board disapproves the Final Plat, the reasons for such action shall be recorded in the minutes of the meeting, transmitted by letter to the developer or his agent, and reference shall be made to the specific section or sections of this Ordinance with which the Final Plat does not comply. If the Planning Board fails to act on the Final Plat within the time period, the developer or his agent may seek approval of the Final Plat at the next regularly scheduled meeting of the Board of Aldermen provided the Final Plat is filed with the Town Clerk at least seven (7) days prior to the next scheduled meeting.
- (B) Action of the Planning Board shall be noted in writing on the reproducible print and on copies of the Final Plat. Prints shall be distributed to the Madison County Sheriff’s Department, the office of Emergency Services, Inspections Department, and the U.S. Post Office; the developer shall receive one or more signed prints; and one (1) print shall become a permanent record of the Planning Board.
- (C) The Final Plat shall be properly signed and executed as required for recording by the Register of Deeds of Madison County. The approved final plat must be recorded with the Register of Deeds of Madison County within 30 days after approval by the Planning Board.

Step 12. Applicant Records Final Plat at Register of Deeds

Within 30 days after the Final Plat has been approved by the Planning Board, it shall have been recorded with the Register of Deeds of Madison County. Should this time limit expire before the plat is recorded, it must be re-submitted to the Administrator for reprocessing.

11.6.3 No Subdivision or Improvements Without Plat Approval

- (A) The Madison County Register of Deeds shall not thereafter file or record a plat of a subdivision located within the territorial jurisdiction of the Town of Marshall until said plat has been approved by the Planning Board. Without the approval of the Planning Board, the filing or recording of a subdivision plat shall be null and void. The Clerk of Superior Court of Madison County shall not order or direct the recording of a plat where such recording would be in conflict with this

Ordinance.

- (B)** No person may subdivide his/her land except in accordance with all of the provisions of this Ordinance. In particular, no person may subdivide his/her land unless and until a Final Plat of the subdivision has been approved and recorded in the Madison County Register of Deeds.
- (C)** No grading or physical improvements to land to be subdivided may be commenced except in accordance with and pursuant to the approved Preliminary Plat.
- (D)** No Zoning Permit shall be issued by the Town of Marshall and no building permit shall be issued by Madison County for the construction of any building on any lot within a proposed subdivision until a Final Plat of said subdivision has been approved in a manner as prescribed by this Ordinance and recorded at the Madison County Register of Deeds Office.
- (E)** A Final Plat must be recorded before final sale or lease of lots can occur. However, the developer, upon approval of a Preliminary Plat, may enter into contracts to sell or lease the lots shown on the approved Preliminary Plat, provided that the contract does all of the following:

 - (1)** Incorporates as an attachment a copy of the approved Preliminary Plat referenced in the contract and obligates the owner to deliver to the buyer a copy of the approved and recorded Final Plat prior to closing and conveyance.
 - (2)** Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has not been approved or recorded at the time of the contract, that no governmental body will incur any obligation to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes between the Preliminary and Final Plats are possible, and that the contract or lease may be terminated without breach by the buyer or lessee if the final approved and recorded plat differs in any material respect from the approved Preliminary Plat.
 - (3)** Provides that if the approved and approved and recorded Final Plat does not differ in any material respect from the plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 5 days after the delivery of a copy of the final approved and recorded plat.
 - (4)** Provides that if the approved and recorded Final Plat differs in any material respect from the approved Preliminary Plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier than 15 days after the delivery of the final approved and recorded plat, during which fifteen (15) day period the buyer or lessee may terminate the contract without breach or any further obligation and may receive a

refund of all earnest money or prepaid purchase price.

11.6.4 Exceptions from Subdivision Requirements

Where strict adherence to any of the provisions of Chapter 10 infrastructure requirements would cause unnecessary hardship, due to topographical or other conditions peculiar to the site in regards to the installation of the improvements, the Board of Adjustment may approve a variance at the Preliminary Plat stage of the subdivision approval process.

11.6.5 Completing Developments in Phases

- (A) Following review of a Sketch Plan by the Planning Board, a Master Plan showing the entire proposed subdivision and the phases of development, proposed density, proposed type and location of utilities, and proposed development timetable shall be submitted to the Administrator at least 15 working days prior to the presentation of the Master Plan at a regular meeting of the Planning Board for their review. The Planning Board shall approve, conditionally approve or disapprove the master plan.
- (B) Each phase of development shall be preceded by submission and approval of a Preliminary Plat. The Master Plan may be submitted prior to or simultaneously with submission of the Preliminary Plat for the first phase of development.
- (C) As each phase is completed, a Final Plat must be submitted to and approved by the Planning Board for that phase.
- (D) Approval of the Master Plan need not be renewed as long as the first Final Plat is recorded within two (2) years following approval of the Master Plan and at least one (1) Final Plat is recorded within one (1) year each year thereafter. If this timeframe is not met, then the Master Plan is subject to annual review and approval by the Planning Board.
- (E) If a development that is to be built in phases includes common area improvements that are designed to relate to, benefit, or be used by the entire development (such as a swimming pool or tennis courts in a residential development) then, as part of his/her application for development approval, the developer shall submit a proposed schedule for completion of such common area improvements. The schedule shall relate completion of such common area improvements to completion of one or more phases of the entire development. Once a schedule of improvements has been approved, no land may be used or no buildings may be occupied, and no subdivision lots may be sold except in accordance with the schedule approved as part of the permit.

11.6.6 Preliminary Plat Validity

- (A) The applicant shall submit an amended application for review as an original application if he/she proposes to substantially amend or modify his/her application after the Town Board of Aldermen has approved the Preliminary Plat. This shall not apply to minor changes. A change may be considered a minor change if it does not involve any of the following:
- (1) any substantive change in a condition of approval;
 - (2) an increase in the number of building lots proposed;
 - (3) any substantial change in the location of, or any decrease in, the amount of open space, buffers, or areas reserved for recreational use;
 - (4) any substantial change in pedestrian and/or vehicular access or circulation including road classification;
 - (5) any change in the provision of services such as water supply and wastewater disposal;
 - (6) any substantial change in the location of utilities or other easements.
- (B) The approval of a Preliminary Plat shall be effective for two (2) years from the date of approval by the Town Board of Aldermen. By the end of that time period, approval of the Final Plat must have been obtained from the Planning Board, although the plat need not have been recorded in the Office of the Register of Deeds. Any plat or portion thereof not receiving final approval within the time period set forth herein shall be null and void except under the following conditions:
- (1) The subdivision is built in sections or phases, and a phased Master Plan was approved as part of the Preliminary Plat; and
 - (2) The period between the approval date of the Preliminary Plat and the approval date of the Final Plat for the first phase does not exceed two (2) years; and
 - (3) The period between the approval date of the Final Plat of the first phase and the approval date(s) of the Final Plat(s) of any subsequent phase(s) does not exceed the time limits specified in the phased Master Plan of the Preliminary Plat. If no phased Master Plan is indicated, then the period between Final Plat approvals shall not exceed 6 months.
- (C) Where a phased Master Plan for construction of the subdivision is approved, and construction may not begin until required utilities and/or other facilities are available to serve the development (e.g., adequate public facilities), the expiration date of the Preliminary Plat shall be governed by the time period(s) approved as part of the phased Master Plan.

- (D) The Planning Board may upon expiration of a Preliminary Plat re-approve the expired Preliminary Plat or portions thereof, as long as the subdivision design and conditions of approval are in compliance with this Ordinance, and any other applicable Town ordinances and/or plans in effect at the time of application for re-approval, and changes to the original design or conditions of approval are considered minor.

11.6.7 Plat Approval Not Acceptance of Dedication Offers

Approval of a plat does not constitute acceptance by the Town of the offer of dedication of any streets, sidewalks, parks, or other public facilities shown on a plat. However, the Town may accept any such offer of dedication by resolution of the Town Board of Aldermen or by actually exercising control over and maintaining such facilities.

11.6.8 Protection Against Defects

- (A) Whenever occupancy, use or sale is allowed before the completion of all facilities or improvements intended for dedication, then the performance bond or the surety that is posted shall guarantee that any defects in such improvements or facilities that appear within one (1) year after the dedication of such facilities or improvements is accepted shall be corrected by the developer.
- (B) Whenever all public facilities or improvements intended for dedication are installed before occupancy, use, or sale is authorized, then the developer shall post a performance bond or other sufficient surety to guarantee that he/she will correct all defects in such facilities or improvements that occur within one year after the offer of dedication of such facilities or improvements is accepted.
- (C) The Town’s consulting engineer shall certify to the Town that all facilities and improvements to be dedicated to the Town have been constructed in accordance with the requirements of this Ordinance. This certification shall be a condition precedent to acceptance by the Town of the offer of dedication of such facilities or improvements.
- (D) For purposes of this Section, the term “defects” refers to any condition in publicly dedicated facilities or improvements that requires the Town to make repairs in such facilities over and above the normal amount of maintenance that they would require. If such defects appear, the guaranty may be enforced regardless of whether the facilities or improvements were constructed in accordance with the requirements of this Ordinance.

11.6.9 Maintenance of Dedicated Areas Until Acceptance

All facilities and improvements with respect to which the owner makes an offer of dedication to public use shall be maintained by the owner until such offer of dedication is accepted by the appropriate public authority.

Section 11.6 as amended by: 2014-UDO-01, 2021-UDO-01

CHAPTER 12

DEVELOPMENT PLAN REQUIREMENTS

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12.1 Purpose and Applicability

The purpose of this Chapter is to provide uniform standards for all development plans requiring approval by the Town of Marshall in accordance with Chapter 11. Every development plan shall include notes and graphics depicting the requirements of all applicable sections of this Ordinance.

12.2 Existing Features Plan

12.2.1 Existing Features Plan Submittal Requirements

Two (2) copies must be submitted with a required Sketch Plan

12.2.2 Plan Labeling

Plans analyzing each site's existing features are required for all Subdivisions of greater than five (5) lots and Zoning Permits for developments of greater than one acre, as they form the basis of the design process for building locations, lot lines, street alignments, and conservation areas. Detailed requirements for the Existing Features Plan shall include, at the minimum:

- (A) Property Boundaries;
- (B) Topographical contour lines, a minimum of five (5) foot intervals;
- (C) The location of severely constraining elements such as steep slopes (over 20 percent), wetlands, watercourses, perennial streams, intermittent streams and 100-year floodplains, and all rights-of-way and easements; and
- (D) The location of significant features such as woodlands, tree lines, open fields or meadows, scenic views into or out from the property, watershed divides and drainage ways, fences or stone walls, rock outcrops, and existing structures, streets, tracks and trails.

12.3 Sketch Plans

12.3.1 Sketch Plan Submittal Requirements

- Two (2) copies for review by the Administrator
- Seven (7) copies for review by the Planning Board
- Digital copy in PDF format

12.3.2 Plan Labeling

A sketch plan is drawn to illustrate the initial thoughts about a conceptual layout for building sites, street alignments, and conservation areas, taking into account the special conditions identified in the Existing Features Plan. This is the stage where drawings are tentatively illustrated, before heavy engineering costs are incurred in the design of any proposed subdivision layout. The applicant shall submit a Sketch Plan drawn at a scale no smaller than 100 feet to one (1) inch, unless the project is so large the Ordinance Administrator determines a scale of 200 feet to one (1) inch is adequate. The Sketch Plan shall contain the following information:

- (A) Name of proposed development
- (B) Sketch vicinity map
- (C) Tract boundary and total acreage
- (D) Proposed lot layout and size of lots
- (E) Proposed street layout and approximate right-of-way widths
- (F) Location of nearest existing and proposed water and sewer lines
- (G) Sketch of any proposed drainage facilities
- (H) Statements regarding how property will be served with water and sewer
- (I) Zoning of subject and adjacent property
- (J) Location in proximity to any Special Flood Hazard Areas
- (K) Existing Features Plan

12.4 Preliminary Plats

12.4.1 Preliminary Plat Submittal Requirements

A Preliminary Plat shall be prepared by a Registered Land Surveyor, Landscape Architect, or Professional Engineer. The following number of copies shall be submitted for review:

- Seven (7) full size paper copies for review by the Planning Board
- Five (5) full size paper copies for review by the Town Board
- Digital copy in PDF format

12.4.2 Preliminary Plat Labeling Requirements

- (A) Title Block: Subdivision name, subdivider's name, north arrow, scale (denoted graphically and numerically) , date of plat preparation, location of subdivision (township, county and state) , name and seal of registered land surveyor preparing the plat.
- (B) Vicinity Map: A sketch vicinity map showing the location of the subdivision in relation to the surrounding area.
- (C) Site Data: Acreage in total tract, smallest lot size, total number of lots, lineal feet of streets
- (D) Town Limits and Zoning: Indicate both on and adjacent to the land to be subdivided the location of town limits, zoning of property, and location of zoning lines if property is located in more than one zone.
- (E) Tract Boundaries: Exact boundaries of the tract or portion thereof to be subdivided, with all bearings and distances accurately shown.
- (F) Property Lines: Property lines and owners' names of record of all adjoining properties and/or adjoining subdivision of record which intersect with the perimeter of the tract being subdivided.
- (G) Natural Features/Critical and Sensitive Areas: streams, creeks, ponds, reservoirs, location of the floodway and flood fringe boundaries if applicable, wetlands, farmland, rock outcrops, wooded areas, slopes greater than 25 percent; significant cultural features including cemeteries and National Register of Historic Places landmarks or districts.
- (H) Existing Physical Features: Existing physical features including buildings, streets (include names, whether public or private, right-of-way, pavement type and width), railroads, power lines, drainage ways, culverts and drainpipes, sewer and water mains, and any public utility easements on and adjacent to the tract being subdivided
- (I) Topographic Lines: Topographic contour lines at five (5) foot intervals
- (J) Proposed Lot Layout: All proposed lot and street right-of-way lines with approximate dimensions, lot and block numbers, all easements, designation of any dedication or reservations to be made, building setback lines (if applicable), and proposed use of land if other than single family residences.
- (K) Street Layout: Proposed streets and alleys, showing pavement widths; rights-of-way; curbing if any; percent of finished grades, street names, and a street profile drawn to the scale of one inch equals 40 feet horizontal, and one inch equals four feet vertical.
- (L) Street Maintenance: Statement whether streets are private or are to be taken over by the Town of Marshall or NCDOT.

- (M)** Provision of water and wastewater disposal shall be indicated by one of the following methods:
- (1)** Water and Sewer Layout:
 - (a)** Sketch view of proposed water and sewer system layouts showing location of lines, line sizes, approximate location of manholes, pumps, hydrants, force mains or treatment facilities, and the connection of the proposed system(s) with existing systems. A typical trench section shall be shown.
 - (b)** Letters of approval for the plans for the proposed sanitary sewer and water distribution systems from the appropriate agencies.
 - (c)** Water and sewer plans shall be submitted to the town's consulting engineer for review and recommendation to the Planning Board and Board of Aldermen prior to Preliminary Plat approval.
 - (2)** Location plans for individual water supply and septic system as approved by Madison County Health Department (if connection to Town systems not possible)
- (N)** Drainage System: Sketch view of proposed drainage facilities, including approximate location and dimensions of open drainage ways, storm sewers, culverts, retaining ponds or areas where water is to be diverted through grading, and any other evidence necessary to assure the Board of Aldermen that the proposed method of drainage is adequate to safeguard property in the Town. Drainage provisions shall be submitted to the Town's consulting engineer for review and recommendation to the Planning Board and Board of Aldermen prior to Preliminary Plat Approval.
- (O)** Sedimentation Control: A sedimentation control plan approved by the North Carolina Department of Environmental Quality.
- (P)** Driveway Permits: Any driveway permits approved by NCDOT.
- (Q)** Other Improvements: Proposed location and description of any other improvements including, but not limited to, school sites, pedestrian or bike ways, reserved open space or recreational facilities (indicate whether public or private), commercial areas, or buffer strips.

Section 12.4 as amended by: 2021-UDO-01

12.5 Final Plats

12.5.1 Final Plat Submittal Requirements

The Final Plat shall be prepared by a Registered Land Surveyor currently licensed and registered in the State of North Carolina by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors. The Final Plat shall conform

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to the provisions for plats, subdivisions, and mapping requirements set forth in NCGS 47-30 and the Manual of Practice for Land Surveying in North Carolina. The Final Plat shall be of a size suitable for recording with the Madison County Register of Deeds and shall be at a scale of not less than one (1) inch equals 100 feet. Maps may be placed on more than one (1) sheet with appropriate match lines. The following number of copies shall be submitted for review:

- Seven (7) full size paper copies for review by the Planning Board
- Two (2) mylar copies for signature
- One (1) copy of recorded plat for file
- Digital copy in PDF format (seal not required)

12.5.2 Final Plat Labeling Requirements

- (A)** Title Block: Subdivision name, north arrow, scale denoted graphically and numerically, date of plat preparation, and township, county and state in which the subdivision is located, and the name(s) of the owner(s) and the registered surveyor responsible for the subdivision (including the seal and registration number of the registered surveyor).
- (B)** Tract Boundaries: The exact boundary lines of the tract to be subdivided fully dimensioned by lengths and bearings, and the location of intersecting boundary lines and adjoining lands.
- (C)** Adjoining Property Owners: The names and deed references of owners of adjoining properties and adjoining subdivisions of record (proposed or under review).
- (D)** Location of Improvements: All visible and apparent rights-of-way, watercourses, utilities, roadways, and other such improvements shall be accurately located where crossing or forming any boundary line of the property shown .
- (E)** Engineering Data: Sufficient engineering data to determine readily and reproduce on the ground every straight or curved boundary line, street line, lot line, right-of-way line, easement line and setback line, including dimensions, bearings or deflection angles, radii, central angles, and tangent distances for the centerline of curved streets and curved property lines that are not the boundary of curved streets.
- (F)** Monuments: The accurate locations and descriptions of all monument, markers and control points.
- (G)** Lot and Block Numbers: The blocks numbered consecutively throughout the entire subdivision, and the lot numbered consecutively throughout each block.
- (H)** Setback Lines: Minimum building setback lines, if applicable.

CHAPTER 12 – DEVELOPMENT PLAN REQUIREMENTS

- (I) Streets: Street names, right-of-way lines, and percents grade of all streets and the location and width of all adjacent streets and easements. Designation shall be made as to whether said streets are to be designated as public or private.
- (J) Utility layouts: Layouts of water, sanitary sewer, and storm drainage systems.
- (K) Right-of-Way: The location and dimensions of all rights-of-way, utility or other easements, natural buffers, pedestrian or bicycle paths, and areas to be dedicated to public use with the purpose of each stated.
- (L) Flood Information: The location of the floodway and flood fringe boundaries, if applicable.
- (M) Open Space: The location of dedicated open space with a note that the land shall not be developed for any purposes other than the designated open space type.
- (N) Forms of Final Certifications: The following certificates shall be shown on the original and all copies of the Final Plat:

1. Certificate of Approval by the Planning Board

I, _____, Chairman of the Planning Board, hereby certify that the said Board fully approved this final plat of the Subdivision entitled _____ on the _____ day of _____, 20____.

Planning Board Chairman

Date

2. Certificate of Ownership and Dedication

I(We), hereby certify that I am(we are) the owner(s) of the property located within the subdivision-regulation jurisdiction of the Town of Marshall, North Carolina as shown and described hereon and that I(we) hereby adopt this plat of subdivision with my(our) free consent, and dedicate all streets, walks, parks and other sites to public or private use as noted in the Disclosure of Private Roadways, where applicable.

Owner(s)

Date

3. Certificate of Survey and Accuracy

I, _____, certify that this Plat was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (an actual survey made under my supervision) (deed description recorded in book (File) _____, page _____, (Slide) _____, etc. _____)(other); that the precision of the survey before adjusting was one (1) part in _____ as calculated by latitude and departures and that this map was prepared in accordance with G.S. 47-30, as amended. Witness my original signature, license number, and Seal, this _____ day of _____ A.D., 20__.

Professional Land N.C. Surveyor

License Number

4. Certification of Approval of the Installation and Construction of Streets, Utilities and Other Required Improvements

I hereby certify (1) that streets, utilities and other required improvements have been installed in an acceptable manner and according to town specifications and standards in the subdivision entitled _____ or, (2) that a guarantee of the installations of the required improvements in an amount and manner satisfactory to the Town of Marshall has been received.

Town Clerk

Date

5. Certificate of Approval for Recording Plat and Acceptance of Dedications

I, _____, the Town Clerk of the Town of Marshall, North Carolina, do hereby certify that on the _____ day of _____, _____, the Planning Board of the Town of Marshall approved this plat for recording and accepted the dedication of the streets, easements, rights-of-way and public parks and other sites for public purposes as shown hereon, but assume no responsibility to open or maintain same until, in the opinion of the governing body of the Town of Marshall, it is in the public interest to do so.

Town Clerk

Date

(Seal)

- (G) Lot lines with bearings and distances
- (H) Zoning district and applicable overlay districts
- (I) Adjacent property owner names, parcel numbers, and zoning
- (J) Total acreage
- (K) Acreage in right-of-way
- (L) Density per acre
- (M) Building setbacks in table format and building envelopes show on lots
- (N) Locations of existing structures

12.6.3 Plans and Details

- (A) Site Plan
- (B) Existing Features Plan (if applicable)
- (C) Grading Plan (if applicable)
- (D) Soil and Erosion Control Plan (if applicable)
- (E) Written approval from NCDENR for Soil and Erosion Control (if applicable)
- (F) Stormwater Plan (if applicable)
- (G) Landscaping Plan
- (H) Utility Plan
- (I) Lighting Plan
- (J) Building Elevations showing:
 - (1) Exterior wall materials
 - (2) Roof materials
 - (3) Dimensions including building height, width, and roof slope
 - (4) Front façade window dimensions including sill height, window height, window width, and window area.

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CHAPTER 13

NONCONFORMITIES

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13.1 Purpose & Applicability

- 13.1.1** The purpose of this Chapter is to regulate and limit the continued existence of uses and structures established prior to the effective date of this Ordinance (or any amendment subsequent thereto) that do not conform to this Ordinance.
- 13.1.2** Many nonconformities may continue, but the provisions of this Chapter are designed to minimize substantial investment in nonconformities and to bring about eventual elimination and/or lessen their impact upon surrounding conforming properties in order to preserve the integrity of the area in which it is located and the intent of this Ordinance.
- 13.1.3** Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. In no case, however, shall work costing more than 60 percent of the taxed value of the structure be done, singularly or cumulatively, within any five (5) year period.

13.2 Nonconforming Lots

13.2.1 Vacant Lots

This Section regulates vacant lots for which plats or deeds have been recorded in the Register of Deeds office of Madison County, which at the time of the adoption of this ordinance, or any amendment thereto, fail to comply with the minimum area or width requirements of the districts in which they are located. Any such non-conforming lot may be used for any of the uses permitted in the district in which it is located provided that other dimensional and special requirements are met.

13.2.2 Occupied Lots

This Section regulates lots occupied by buildings or structures at the time of the adoption of this Ordinance, or any amendment thereto, and/or used for any uses permitted in the districts in which they are located, that fail to comply with the minimum requirements for area, width, yard and/or setbacks for the district in which they are located. These lots may continue to be used for any of the uses permitted in the district in which they are located. However, the nonconformity shall not be increased.

13.3 Nonconforming Uses

13.3.1 Open Uses of Land

- (A)** This category of nonconformance consists of lots used for storage yards, used car lots, auto wrecking, junkyards, and similar open spaces where the only

buildings on the lot are incidental and accessory to the open use of the lot and where such use of the land is not permitted to be established hereafter, under this ordinance, in the district in which it is located. A legally established non-conforming open use of land may be continued except as follows:

- (B) When a nonconforming use of land has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
- (C) A nonconforming open use of land shall be changed only to conforming uses.
- (D) A nonconforming open use of land shall not be enlarged to cover more land than was occupied by that use when it became nonconforming.
- (E) When any nonconforming open use of land is discontinued for a period in excess of 180 days, any future use of the land shall be limited to those uses permitted in the district in which the land is located. Vacancy and/or non use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.
- (F) Nonconforming automobile storage, junk yards, and salvage yards shall provide an opaque screen in accordance with the screening requirements in Section 8.6 for outdoor storage no later than one (1) year after the adoption of this Ordinance.

13.3.2 Uses of Structures

This category of nonconformance consists of buildings or structures used at the time of enactment of this ordinance, or any amendment thereto, for purposes of use not permitted in the district in which they are located. Such uses may be continued as follows:

- (A) A nonconforming use shall not be changed to another nonconforming use.
- (B) When a nonconforming use has been changed to a conforming use, it shall not thereafter revert to any nonconforming use.
- (C) A nonconforming use may not be extended or enlarged, nor shall a structure containing a nonconforming use be altered except as follows:
- (D) Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
- (E) Maintenance and repair necessary to keep the structure in sound condition are permissible.
- (F) Expansion of a nonconforming use of a building or structure into portions of the structure which, at the time the use became nonconforming, were already erected and arranged or designed for such nonconforming use is permissible.
- (G) When any nonconforming use of a building or structure is discontinued for a

period in excess of one hundred eighty (180) days, the building or structure shall not thereafter be used except in conformance with the regulations of the district in which it is located. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

- (H) Nothing herein shall prevent the maintenance, repair and extension of a single-family dwelling that is nonconforming as to use, provided it is done in conformance with the dimensional requirements of the zoning district in which it is located, nor prevent the maintenance, repair, extension, or construction of a residential accessory building or swimming pool, provided done in conformance with the requirements of this Ordinance.
- (I) Any nonconforming use may be changed to a conforming use, or with the approval of the Board of Adjustment, to use in character with the uses permitted in the district. In permitting such changes, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this Ordinance.

13.4 Nonconforming Structures

This category includes any structure not in conformance with the restrictions of this Ordinance after the effective date of adoption. Such nonconformities shall include, but not be limited to, height, bulk, and setback. Such nonconforming structures shall be allowed to remain with the following conditions:

- 13.4.1** A nonconforming structure may not be enlarged or altered in any dimension that increases the nonconformity except where maintenance and repair are necessary to keep the structure in sound condition.
- 13.4.2** When any nonconforming structure is removed, it may not be replaced with another nonconforming structure.
- 13.4.3** When any nonconforming structure is damaged, repair must follow the guidelines listed in Section 13.5.
- 13.4.4** Structural alterations as required by law or ordinance to secure the safety of the structure are permissible.
- 13.4.5** Conforming uses, except Adult Establishments, may be established or re-established in nonconforming buildings or structures provided that off-street parking is provided as required by this Ordinance and provided no other provision of this Ordinance for the establishment of new uses is violated.

13.5 Reconstruction of Damaged Structures

13.5.1 Any nonconforming structure, or any structure containing a nonconforming use, which has been damaged by fire, wind, flood or other causes, shall not be rebuilt, altered or repaired after damage exceeding 60 percent of its value immediately prior to damage with the exception of single family homes or mobile homes used for residential purposes which may be rebuilt or replaced provided the provisions of the Flood Damage Prevention regulations of Section 7.5, other Town of Marshall Ordinances, and the conditions below are met:

- (A) Repairs are initiated within one (1) year and completed within two (2) years of such damage;
- (B) The total amount of space devoted to a nonconforming use may not be increased;
- (C) Reconstructed nonconforming structures may not be made more nonconforming by the repairs; and
- (D) Where possible, any nonconforming structure shall be repaired or reconstructed in such a manner so as to minimize the nonconformance(s).
- (E) Nothing herein shall prevent the reconstruction of a nonconforming single-family dwelling that was destroyed by fire or natural disaster provided such reconstruction conforms to the dimensional requirements of the zoning district in which it is located

13.6 Continuation of Manufactured Home Parks

13.6.1 Nonconforming manufactured home parks may continue to operate by the same regulations under which they were approved, except that if a manufactured home is removed in a nonconforming park, then that home may only be replaced with a unit that conforms to the requirements of Section 4.2.8, Subsections C, G, K, L, and M.

13.6.2 No new spaces may be added in a nonconforming manufactured home park, unless the park is brought up to all of the standards of Section 4.2.8.

13.7 Continuation of Nonconforming Manufactured Homes on Individual Lots

13.7.1 Manufactured homes located on individual lots which are nonconforming may be continued until such time as the home is replaced. The replacement unit may not be another nonconforming structure.

13.7.2 If an existing nonconforming manufactured home is removed, it shall only be replaced with a conforming structure.

13.7.3 If a nonconforming manufactured home is abandoned for a period of more than 180 days, the manufactured home shall be removed.

13.8 Nonconforming Signs

13.8.1 Signs that were legally erected and were in place prior to the adoption of this Ordinance but which do not conform to the provisions of this Ordinance are declared nonconforming signs. Signs that were legally erected and that are in place and which conformed to the provisions of this ordinance at the time erected, but which do not conform to an amendment of this ordinance enacted subsequent to the erection of said signs also are declared nonconforming signs.

13.8.2 All nonconforming signs shall be maintained but shall not be:

- (A)** changed, replaced or relocated except in conformance with the provisions of this Ordinance, provided that copy may be changed on an existing sign;
- (B)** expanded or modified in any way which increases the sign's degree of nonconformity; reestablished after damage or destruction in excess of 50 percent of the appraised tax value at the time of the damage or destruction.

13.8.3 Nonconforming portable and temporary signs shall be removed within 180 days of the effective date of this Ordinance.

13.8.4 Minor repairs and maintenance of nonconforming signs necessary to keep a nonconforming sign in sound condition are permitted. If repair or maintenance of a nonconforming sign results in the removal of the sign frame structure for any length of time, the replaced sign frame structure and any copy placed on it shall be in conformance with this Ordinance.

13.8.5 If a nonconforming sign is blank or advertises a business, service, commodity, accommodation, attraction or other enterprise or activity that is no longer operating or being offered or conducted, that sign shall be deemed abandoned and shall be removed or brought into compliance by the sign owner, property owner, or other party having control over such sign within 180 days after the use has ceased operation or the service or commodity has ceased being offered.

13.9 Nonconforming Landscaping and Buffering

Except as herein provided, any expansion of an existing use or structure, parking area, or a significant change of use which is deficient in landscaping and/or buffering, shall not occur without the screening and/or landscaping required by Chapter 8 having first been provided on-site. The CB district is exempt from this requirement. The requirements of Chapter 8 shall be met to the greatest extent possible as determined by the Administrator.

13.10 Nonconforming Parking and Loading

- 13.10.1** On any lot in any zoning district, except the CB district, which contains a use which does not comply with the off-street parking and loading regulations contained in Chapter 9 of this Ordinance, no expansion or any significant change of use shall be approved which would result in a need to increase the number of off-street parking and/or loading spaces required (except as herein provided), until the requisite number of off-street parking spaces and all paving requirements have been met.
- 13.10.2** A Zoning Permit may be issued when there has been a significant change of use and the number of off-street parking spaces required for the new use (per Chapter 9 of this Ordinance) is within 10 percent or 10 spaces, whichever is less, of the number of off-street parking spaces actually provided. Such relief may be granted on a one- time only basis per lot or planned development.

CHAPTER 14

MAP AND TEXT AMENDMENTS

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14.1 Purpose

The purpose of this Chapter is to set forth procedures for amending the text of these regulations and the zoning classification of land as shown on the Zoning Map. The purpose is not to relieve particular hardships, nor to confer special privileges or rights on any person, but only to make adjustments necessary in light of changed conditions or changes in public policy. Procedures for making amendments to the Unified Development Ordinance text or Zoning Map are also set forth.

14.2 Amendment Initiation

14.2.1 Any amendment may be initiated by the Town Board of Aldermen or Planning Board on its own resolution, by any owner of a legal or equitable interest in the property affected by the amendment, or by a local government agency of Marshall, or by any other person living or owning property within the zoning jurisdiction of Marshall in accordance with the procedures set forth herein.

14.2.2 For Conditional Zoning district map amendments (rezonings), only an owner of a legal or equitable interest in the property may initiate the amendment.

14.3 Application Submittal

14.3.1 Applications for All Amendments

- (A) An application form and fee shall be submitted by the applicant to the Administrator. The application shall include a description of the proposed change. The application form and fee shall be waived for any amendment request submitted by a Marshall official or agency acting on behalf of the Town of Marshall. Completed applications shall be forwarded by the Administrator to the Planning Board at their next regularly scheduled meeting.
- (B) The Town Board of Aldermen shall set a fee payable to the Town of Marshall, North Carolina, to cover the necessary administrative costs and advertising of each application for a change or amendment. The set fee shall be posted in the Town Clerk's Office.
- (C) An application for amendment shall be submitted to the Administrator at least 10 days prior to the Planning Board's meeting at which the application is to be considered.

14.3.2 Text Amendments

For text amendments, the application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore.

14.3.3 Map Amendments (Rezoning)

- (A) For all map amendments (rezonings), applications shall contain a statement regarding the consistency of the request with adopted Town plans and the surrounding area.
- (B) For Conditional Zoning district map amendments (rezonings), the application shall be accompanied by a description of the use or uses proposed and any conditions being proposed by the applicant. The applicant shall also provide a statement of reasonableness regarding the request on the application. In addition to the application, the applicant shall submit a site- specific plan drawn to meet the requirements of Chapter 12, as applicable.

14.4 Text Amendment Process

14.4.1 Planning Board Action

- (A) The Planning Board shall consider and make recommendations to the Board of Aldermen concerning each proposed Text Amendment.
- (B) The Planning Board shall have 30 days from the initial referral of the request by the Administrator to either recommend approval or denial of the amendment by simple majority vote. If no recommendation is received from the Planning Board within 30 days after initial referral, the proposed amendment may be considered by the Town Board without such recommendation. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies.

14.4.2 Town Board of Aldermen Action

- (A) Before taking action, the Town Board shall consider the Planning Board's recommendation on each proposed Text Amendment.
- (B) The Town Board of Aldermen shall conduct a legislative public hearing. Notice of public hearing shall be given as required by NCGS once a week for two (2) consecutive weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the public hearing date.
- (C) The Town Board of Aldermen shall include with its decision a written statement regarding the consistency of the request with adopted Town plans and policies.

Section 14.4 as amended by: 2021-UDO-01

14.5 Standard Rezoning Process

14.5.1 General Provisions

- (A) When considering a standard rezoning request neither the Planning Board nor the Town Board of Aldermen shall evaluate the petition based on any specific proposal for the use or development of the affected property and the petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development except for those which would apply to any use permitted in the requested district, provided, however, such information may be presented and considered when on an application for a map amendment for a Conditional Zoning District as outlined in Section 14.6 below.
- (B) Upon approval of the map amendment, the Administrator shall oversee the updating of the Zoning Map to reflect the approved changes.

14.5.2 Planning Board Action

- (A) The Planning Board shall consider and make recommendations to the Board of Aldermen concerning each proposed zoning map amendment.
- (B) The Planning Board shall have 30 days from the initial referral of the request by the Administrator to either recommend approval or denial of the amendment by simple majority vote. If no recommendation is received from the Planning Board within 30 days after initial referral, the proposed amendment may be considered by the Town Board without such recommendation. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies.

14.5.3 Town Board of Aldermen Action

- (A) Before taking action, the Town Board shall consider the Planning Board's recommendation on each proposed zoning map amendment.
- (B) The Town Board of Aldermen shall conduct a legislative public hearing. Notice of the public hearing shall be given as follows:
 - (1) A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for rezonings (map amendments) noted in Subsection (2) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.
 - (2) A notice of the public hearing shall also be sent by certified mail by the Zoning Administrator or designee to the affected property and to all adjacent property owners. The mail notice shall not be required if a

Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in Subsection (1). However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public hearing by first class mail.

- (3) The Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days and not more than 25 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.
 - (4) For map amendments initiated by a third party, property owner(s) who are not signatories of the application for zoning map amendment must be notified through personal delivery or registered, certified, or delivery receipt mail. Such notice shall state the existing zoning classification and the classification requested by the third party and the date, time, and location of the public hearing. The notice shall be written by the Administrator, yet the burden for making this actual notice is on the third party requesting the rezoning, the proof of which shall be provided to the Administrator prior to the public hearing. This requirement shall not apply if a map amendment is initiated by the Town.
 - (5) No amendment that down-zones property shall be initiated nor is it enforceable without written consent of all property owners whose property is subject of the down-zoning amendment, unless the down-zoning is initiated by the local government.
- (C) The Town Board of Aldermen shall include with its decision a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.

Section 14.5 as amended by: 2021-UDO-01

14.6 Conditional Zoning Process

14.6.1 General Provisions

- (A) The Conditional Zoning (CZ) approval process is established to address those situations when a particular use may be acceptable but the general zoning district(s) that would allow that use would not be acceptable. Rezoning of property to any CZ district is a voluntary procedure on the part of the property owner and is intended for firm development proposals. It is not intended or suited for securing early zoning for a tentative proposal that may be undertaken at some unknown time in the future. Such zones may be approved or changed only by the

Town Board of Aldermen in accordance with the regulations contained herein.

- (B)** The applicant initiating a CZ Rezoning shall provide at a minimum the drawings and information required for a Site Plan or Subdivision as outlined in Chapter 12.
- (C)** When considering a petition for a rezoning to a CZ District, the Planning Board and the Town Board of Aldermen shall evaluate the petition based on specific proposal for the use or development of the affected property and the petitioner shall provide materials and descriptions of the proposed use and development.
- (D)** Any use permitted under this process must also, as a minimum, conform to the development regulations for the corresponding zoning district that is requested.
- (E)** In approving a CZ Rezoning, the Town Board of Aldermen may impose such additional restrictions and requirements upon approval as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.
- (F)** Any request to materially change the conditions specified within a CZ District once it has been rezoned shall be subject to the entire approval process again.
- (G)** Upon approval of the map amendment, the Administrator shall oversee the updating of the Zoning Map to reflect the approved changes.

14.6.2 Planning Board Action

- (A)** The Planning Board shall consider and make recommendations to the Board of Aldermen concerning each proposed zoning amendment. The Planning Board shall have up to 30 days from the date of referral by the Administrator to recommend approval, approval with conditions, or denial of the request to the Town Board of Aldermen.
- (B)** The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area. The Planning Board shall also include with its recommendation a written statement regarding the reasonableness of the request.

14.6.3 Town Board of Aldermen Action

- (A)** Before taking such lawful action as it may deem advisable, the Town Board shall consider the Planning Board's recommendation on each proposed zoning amendment.
- (B)** The Town Board of Aldermen shall conduct a legislative public hearing. Notice of the public hearing shall be given as follows:
 - (1)** A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for Rezonings (map amendments) noted in Subsection (B) below shall

consist of a notice not less than one-half (1/2) of the newspaper page in size.

- (2) A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all adjacent property owners, including those separated by a street, railroad, or other transportation corridor. The first class mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in Subsection (A). However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public hearing by first class mail.
 - (3) For Rezonings (map amendments), the Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.
- (C) The Town Board of Aldermen shall make a statement regarding the consistency of the Conditional Zoning District with the Towns adopted plans and policies. The Town Board shall also provide a statement regarding the reasonableness of the request.

14.6.4 Effect of Approval and Expiration

- (A) If a petition for a CZ Rezoning is approved as provided for herein, the district that is established and all conditions which may have been attached to the approval are binding on the property as an amendment to the Zoning Map. Subsequent development on the property(ies) in question shall be in accordance with the standards for the approved CZ district and any conditions attached to the approval. Except as herein provided for "minor changes", changes to the approved petition or to the conditions attached to the approval shall be treated the same as an amendment to the Zoning Map and shall be processed in accordance with the Town Board of Aldermen approval process. Minor changes in the detail of the approved application may be made with the approval of the Administrator. The following criteria qualify as a "minor change":
- (1) The proposed change(s) will not alter the basic relationship of the proposed development to adjacent property; and
 - (2) The proposed change(s) will not alter the uses permitted; and
 - (3) The proposed change(s) will not increase the height of any structure to the extent that additional usable floor space will be added; and

- (4) The proposed change(s) will not increase the gross floor area of any non-residential use by the smaller of 10 percent or 10,000 square feet. Such limitations shall be cumulative and shall be based on the gross floor area specified in the CZ district as originally approved; and
 - (5) The proposed change(s) will not result in an increase in the number of dwelling units constructed for any residential use; and
 - (6) The proposed change(s) will not decrease the off-street parking below the minimum number of parking spaces required by this Ordinance.
- (B) It is intended that property be rezoned to a CZ District only in light of firm plans to develop the property. Therefore, after the date of approval of the CZ District, if a building permit has not been secured or final plat recorded at the end of two (2) years following the date of the approval of the CZ District, the Administrator shall notify the applicant of such a finding. The Administrator shall then have the Planning Board to make a recommendation to the Town Board of Aldermen regarding the rescission of the Conditional Zoning District and the zoning of the property revert to the zoning district in effect prior to the initial approval. Rescission shall follow the standard rezoning process set forth in Section 14.5.

Section 14.6 as amended by: 2021-UDO-01

14.7 Protest Petition

- (A) A valid protest petition against a map amendment request, shall be signed by the owners of 20 percent or more of the subject area or five (5) percent of the surrounding property extending 100 feet from the subject area. Where the subject area abuts a street right-of-way, the 100 feet shall be measured starting from the opposite side of the street right-of-way unless the right-of-way is greater than 100 feet.
- (B) A protest petition shall not be valid unless it is in the form of a written petition bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the Town at least two (2) normal work days, excluding Saturday, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. All protest petitions shall be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. Citizen Comments must be valid at the time that the vote is taken and shall meet the requirements of NCGS 160D-603.
- (C) If a valid protest petition is filed, then a map amendment shall not become effective except by favorable vote of three-fourths (3/4) of all the members of the Town Board of Aldermen.

- (D) Protest petitions shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise.

14.8 Resubmission of Request

- (A) If the Town Board of Aldermen has denied an application for the rezoning of a piece of property or has approved a rezoning to a general zoning district which is more restrictive than that which was originally requested, the Planning Board shall not review any applications for the same changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous denial except as provided below.
- (B) The Administrator may allow re-submission of such petition within said one (1) year period if he determines that, since the date of action on the prior petition:
- (1) There has been a significant change in the zoning district classification of an adjacent piece of property; or
 - (2) The Town Board of Aldermen has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed;
 - (3) Construction or expansion of a street, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification; or
 - (4) There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.

CHAPTER 15

ADMINISTRATION

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15.1 Purpose

The purpose of this Chapter is to set forth the powers and duties of the Administrator, Board of Adjustment, Planning Board, and Town Board of Aldermen as they relate to this Ordinance. This Chapter also establishes the penalties for violation of the UDO.

15.2 Administrator

- 15.2.1** The Town Board shall appoint a Unified Development Ordinance Administrator to enforce the provisions of this Ordinance. The assistance of such other persons may be provided as the Town Board directs.
- 15.2.2** Throughout this Ordinance, the Administrator may be referred to as “Administrator”, “Zoning Administrator”, “Subdivision Administrator” or “Planning Director”.
- 15.2.3** The Floodplain Administrator is Madison County Building Inspector.
- 15.2.4** The various provisions of this Unified Development Ordinance shall be administered by the Administrator and designated staff. It shall be the duty of the Administrator to carry out and enforce this Ordinance, remedy violations of this Ordinance, follow the development approval processes of this Ordinance, and issue permits in compliance with this Ordinance.
- 15.2.5** The Administrator shall maintain a record of all Zoning Permits, development approvals, Conditional Use Permits, Variances, Text Amendments, Map Amendments (rezonings) on file at his office, and copies shall be made available on request to interested parties.
- 15.2.6** All questions arising in connection with this ordinance shall be presented first to the zoning administrator, who shall be responsible for the day-to-day administration of this Ordinance.
- 15.2.7** The Administrator shall issue Zoning Permits and Certificates of Zoning Compliance as prescribed herein.
- 15.2.8** The Administrator shall serve as clerk to the Board of Adjustment, and all applications for variances and conditional use permits shall first be presented to the Administrator, who in turn shall refer the applications to the Board of Adjustment.
- 15.2.9** If the Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings or structures; removal of illegal buildings or structures, or of additions, alterations or structural changes thereto;

discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Board of Adjustment.

15.3 Board of Adjustment

15.3.1 Establishment of the Board of Adjustment

- (A) There shall be and hereby is created a zoning Board of Adjustment consisting of five members to be appointed by the Town Board of Aldermen. The Town Board shall also appoint two alternate members to serve on the Board of Adjustment in the absence, for any cause, of any regular member. Such alternate members while attending any regular or special meeting of the zoning board and serving in the absence of any regular member, shall have and exercise all the powers and duties of such regular member so absent. In no case, however, shall more than five regular members or combination of regular members and the alternate members be empowered to participate in any meeting or hearing, including asking questions of witnesses or engaging in deliberation of the case, make motions, or to vote on any matter that comes before the Board involving the Unified Development Ordinance.
- (B) Members of the Board of Adjustment shall serve a term of three years, provided that upon initial appointment the terms of office may be staggered. In filling vacancies created by resignation or other causes, a new member may be appointed to fill the unexpired term of the member so vacating. Alternate members shall be appointed for three year terms in the same manner as regular members.

15.3.2 Board of Adjustment Meetings

- (A) All meetings of the Board shall be held at a regular place and shall be open to the public. The Board shall keep minutes of its proceedings in a book maintained for that purpose only, showing the vote of each member upon each question, or if absent or failing to vote, an indication of such fact; and final disposition of appeals shall be by recorded resolution indicating the reasons of the Board therefore, all of which shall be a public record. No final action shall be taken on any matter unless a quorum is present.
- (B) A quorum for the Board of Adjustment shall consist of the number of members equal to 4/5ths of the Board membership (excluding vacant seats). A quorum is necessary for the Board to take official action.
- (C) The concurring vote of four-fifths of the Board shall be necessary to grant any Variance. A majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered members of the board for calculation of the requisite majority if there are no

qualified alternates available to take the place of such members.

- (D) Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused or has been allowed to withdraw from the meeting.
- (E) A member of the board or any other body exercising quasi-judicial functions pursuant to this Article 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 conflicts include, but are not limited to:
 - (1) A financial interest in the outcome of the matter, or
 - (2) Undisclosed ex parte communications, or
 - (3) A close familial, business, or associational relationship with an affected person, or
 - (4) A member having a fixed opinion prior to hearing the matter that is not susceptible to change.
- (F) If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

15.3.3 Powers & Duties

The Board of Adjustment shall have the following powers and duties:

(A) Appeals

- (1) The Board of Adjustment shall hear and decide appeals from any decision or determination made by the Administrator in the enforcement of this ordinance and may hear appeals arising out of any other ordinance that regulates land use or development including Subdivision and Flood Damage Prevention. As used in this section, the term "decision" includes any final and binding order, requirement, or determination. The Board shall hear and decide appeals pursuant to the following:
 - (a) Any person who has standing under G.S. 160A-393(d) or the town may appeal a decision to the Board of Adjustment. An appeal is taken by filing a notice of appeal with the town clerk. The notice of appeal shall state the grounds for the appeal.
 - (b) The official who made the decision shall give written notice to the owner of the property that is the subject of the decision and to the party who sought the decision, if different from the owner. The written notice shall be delivered by personal delivery, electronic mail, or by first-class mail.
 - (c) The owner or other party shall have 30 days from receipt of the written notice within which to file an appeal. Any other person with standing to appeal shall have 30 days from receipt from any source of actual or

constructive notice of the decision within which to file an appeal. All appeals shall be made upon the form specified for that purpose, and all information required on the form shall be complete before an appeal or application shall be considered as having been filed. Once appeals have been filed with the town clerk, the clerk shall immediately notify the chair of the Board of Adjustment that such appeals have been received.

- (d)** It shall be conclusively presumed that all persons with standing to appeal have constructive notice of the decision from the date a sign containing the words "Zoning Decision" or "Subdivision Decision" in letters of at least six inches high and identifying the means to contact an official for information about the decision is prominently posted on the property that is the subject of the decision, provided the sign remains on the property for at least 10 days. Posting of signs is not the only form of constructive notice. Any such posting shall be the responsibility of the landowner or applicant. Verification of the posting shall be provided to the official who made the decision.
- (e)** The official who made the decision shall transmit to the board all documents and exhibits constituting the record upon which the action appealed from is taken. The official shall also provide a copy of the record to the appellant and to the owner of the property that is the subject of the appeal if the appellant is not the owner.
- (f)** An appeal of a notice of violation or other enforcement order stays enforcement of the action appealed from unless the official who made the decision certifies to the board of adjustment after notice of appeal has been filed that because of the facts stated in the affidavit, a stay would cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, enforcement decisions shall not be stayed except by a restraining order, which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the board of adjustment shall meet to hear the appeal within 15 days after 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 permissions to use such property; in these situations the appellant may request and the board may grant a stay of a final decision of permit applications or building permits affected by the issue being appealed.
- (g)** Subject to the provisions of subdivision (f) of this subsection, the board of adjustment shall hear and decide the appeal within a reasonable time.
- (h)** The official who made the decision shall be present at the hearing as a witness. The appellant shall not be limited at the hearing to matters stated in the notice of appeal. If any party or the city would be unduly prejudiced

by the presentation of matters not presented in the notice of appeal, the board shall continue the hearing. The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision.

- (i) When hearing an appeal pursuant to G.S. 160A-400.9(e) or any other appeal in the nature of certiorari, the hearing shall be based on the record below and the scope of review shall be as provided in G.S. 160A-393(k).
- (j) The parties to an appeal that has been made under this subsection may agree to mediation or other forms of alternative dispute resolution.

(B) Variances

- (1) Upon application, when unnecessary hardships would result from carrying out the strict letter of the zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:
 - (a) Unnecessary hardship would result from the strict application of the ordinance. It shall not be 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.
 - (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 shall not be regarded as a self-created hardship.
 - (d) The requested variance is consistent with the spirit, purpose, and intent of this ordinance, such that public safety is secured, and substantial justice is achieved.
 - (e) For Flood Hazard Areas additional conditions as stated in Section 7.5.7(E)(9)9e) apply.
 - (f) No change in permitted use may be authorized by variance.

Appropriate Conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

(C) Special Use Permits

Upon application, the Board of Adjustment may grant in particular cases and

subject to the appropriate conditions and safeguards, permits for special uses as authorized by this ordinance and set forth as special uses in the Permitted Uses Table in Chapter 3. A Special Use Permit may be granted by the Board of Adjustment in accordance with the requirements of Section 11.4.

15.3.4 Hearing Process

- (A)** Appeals from the enforcement and interpretation of this Ordinance, requests for Variances, and requests for Special Use Permits shall be filed with the Administrator specifying the grounds thereof. The Administrator shall transmit to the Board of Adjustment all applications and records pertaining to such appeals and variances.
- (B)** The Board of Adjustment shall fix a reasonable time for the hearing of the Appeal, Variance, or Special Use Permit give due notice thereof, and decide it within a reasonable time. Due notice shall be given as follows:
 - (1)** Notice of hearings conducted pursuant to this section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is subject to the hearing, including those separated by a street, railroad, or other transportation corridor; and to any other persons entitled to receive notice as provided by the unified development ordinance. In the absence of evidence to the contrary, the town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice shall be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing.
 - (2)** Within that same period, the town shall prominently post a notice of the hearing on the site that is the subject of the hearing on an adjacent street or highway right-of-way. When multiple parcels are involved, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The Administrator may elect to take any other action deemed to be useful or appropriate to give notice of the public hearing on any proposed amendment.
- (C)** Subpoenas. The Board of Adjustment through the chair, or in the chair's absence anyone acting as chair, may subpoena witnesses and compel the production of evidence. To request issuance of a subpoena, persons with standing under G.S. 160D-1402(c) may make a written request to the chair explaining why it is necessary for certain witnesses or evidence to be compelled. The chair shall issue requested subpoenas he or she determines to be relevant, reasonable in nature and scope, and not oppressive. The chair shall rule on any motion to quash or modify a subpoena. Decisions regarding subpoenas made by the chair may be appealed to the full board of adjustment. If a person fails or refuses to obey a subpoena issued pursuant to this subsection, the board of adjustment or the party seeking the subpoena may apply to the General Court of Justice for an order requiring that its subpoena be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

- (D) Oaths. All persons who present evidence or speak to the Board of Adjustment shall be sworn. The chair of the board or any member acting as chair and the secretary are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the Board of Adjustment, willfully swears falsely is guilty of a Class 1 misdemeanor.
- (E) The board shall determine contested facts and make its decisions 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 secretary. 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 becomes effective. The person required to provide notice shall certify that proper notice has been made. All findings and conclusions necessary to the issuance or denial of the requested permit, variance, or appeal (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely on incompetent evidence unless competent evidence is not reasonably available, the evidence in question is determined to be reliable, and the matter at issue is not seriously disputed.
- (F) Every quasi-judicial decision of the Board shall be subject to review by the Madison County Superior Court by proceedings in the nature of certiorari pursuant to G.S. 160A-393. A petition for review shall be filed with the Clerk of Superior Court by the later of 30 days after the decision is effective or after a written copy thereof is given in accordance with subsection (E) above. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition.

15.3.5 Application Fees

The Board of Aldermen shall set a fee, payable to the Town of Marshall, North Carolina, to cover the necessary administrative costs and advertising of each application for the proceeding. The set fee shall be posted in Town Hall.

15.3.6 Stay of Proceedings

- (A) An appeal stays all proceedings in furtherance of the action appealed from, with the following exceptions:
 - (1) The Administrator certifies to the zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property; or

- (2) The Administrator certifies to the zoning Board of Adjustment, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, seriously interfere with enforcement of the Ordinance because the violation charged is transitory in nature.
- (B) In either case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the zoning board of adjustment or by a court of record on application, on notice to the Administrator, and on due cause shown.

15.3.7 Appeals of Decisions

Any person or persons, jointly or individually, aggrieved by any decision of the Board of Adjustment may within 30 days after the filing of the decision in the office of the board, but not thereafter, present to Superior Court a petition duly verified, setting forth that such decision is illegal, in whole or in part, specifying the ground of illegality.

Section 15.3 as amended by: 2014-UDO-01, 2021-UDO-01

15.4 Planning Board

15.4.1 Power and Duties

- (A) The Planning Board shall serve in an advisory capacity to the Town Board and shall provide recommendations to the board including recommendations pertaining to zoning amendments and other matters as designated in NCGS160D-301 including:

- (1) **Studies**

The Planning Board shall make careful studies of present conditions and the probable future development of the Town and its environs. Such studies may include but not be limited to: land use surveys; population studies; economic base studies; school, park and recreation studies; traffic and parking studies; and urban renewal studies.

- (2) **Plans**

The Planning Board shall formulate and maintain a comprehensive plan of the Town and its environs for the purpose of achieving a coordinated, adjusted and harmonious development of the Town which would promote, in accordance with present and future needs, the safety, morals, order, convenience, prosperity, and general welfare of its citizens; efficiency and economy in the process of development, convenience of traffic; safety from fire and other dangers; adequate light and air; healthful and convenient distribution of

population; provision of adequate open spaces; good civic design and arrangement; wise and efficient expenditures of public funds; adequate provision for public utilities; and for other matters pertaining to the public requirements. A land use plan, including but not limited to, steep slope development, a major thoroughfare plan, a utilities plan, a plan for economic development, a recreation plan, a school plan, a community facilities plan and water and sewer plans.

(3) Policies and Procedures

The Planning Board shall develop and recommend policies, ordinances administrative procedures to the Town Board for implementing and carrying out plans in a coordinated and efficient manner and perform any functions in the administration and enforcement of various means for carrying out plans that the Town Board may direct.

(4) Zoning Ordinance

The Planning Board shall prepare a zoning ordinance to govern the use of buildings and premises which ordinance shall be submitted to the Town Board for its consideration and adoption. After the adoption of a zoning ordinance by the Town Board, no change, alteration or amendment of such ordinance shall be made until such change, alteration or amendment shall have been submitted to the Planning Board for its recommendation. A majority vote of not less than three-fourths of the entire membership of the Town Board will be required to overrule an unfavorable recommendation by the Planning Board.

(5) Subdivision Regulations

The Planning Board shall prepare subdivision regulations governing the subdivision of land within the Town and its environs.

(6) Powers of Review

The Planning Board shall review and make recommendations to the Town Board upon the extent, location and design of all public structures and facilities, on the acquisition and disposal of public properties, on the opening, abandonment of utilities whether publicly or privately owned. However, in the absence of a recommendation from the Planning Board after the expiration of thirty (30) days from the date on which the question has been submitted to the Planning Board, the Town Board may, if it deems wise, to take final action.

15.4.2 Membership

- (A) The Planning Board shall consist of 5 members each of whom shall be a citizen of the Town and appointed by the Town Board for a term of five years.
- (B) The Planning Board shall meet and elect a chairman and create such offices as it may determine necessary and appropriate. The initial term of each member shall be determined according to the class to which he belongs. Each class shall be determined by lots. Such initial terms shall be as follows: Class I-one (1) year; Class II-two (2) years; Class III-three (3) years; Class IV-four (4) years and Class V- five (5) years.
- (C) As the terms of these five (5) members expire, new appointments for terms of five years shall be made.
- (D) Vacancies, occurring for reasons other than expiration of terms, shall be filled by the Town Board as they occur for the period of the unexpired term. Faithful attendance by the Members at meetings of the Planning Board is considered essential as prerequisite for continued membership on the Planning Board.
- (E) Members of the Planning Board may, after a public hearing, be removed by the Town Board for inefficiency, neglect of duty or malfeasance in office.
- (F) All Members of the Planning Board shall serve without compensation.

15.4.3 Organization, Rules, Meetings, and Records

- (A) The chairman and other officers elected by the Planning Board shall each serve a term of one year with eligibility for re-election.
- (B) The Planning Board shall adopt rules for transaction of business and shall keep a record of its Member's attendance, its resolutions, discussions, findings, and recommendations which record shall be a public record.
- (C) The Planning Board shall meet at least once monthly and all of its meetings shall be open to the public.

Section 15.4 as amended by: 2021-UDO-01

15.5 Town Board of Aldermen

15.5.1 The Town Board of Aldermen shall hold the following powers and duties related to this Ordinance:

- (A) To review, hold public hearings, and make decisions for Text Amendments and Map Amendments (Standard and Conditional Zoning requests).

(B) To make decisions on all issues related to the Unified Development Ordinance, Zoning Map, Comprehensive Land Use Plan, and other land use plans which may be adopted from time to time.

(C) To review and approve Preliminary Plats for subdivisions.

15.5.2 The duties of the Town Board in connection with this Ordinance shall not include the hearing and passing upon of disputed questions that may arise in connection with the enforcement thereof, but the procedure for determining such questions shall be as prescribed in this ordinance.

15.6 Penalties

15.6.1 Violations

When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this Chapter or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided in similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the Board of Adjustment pursuant to G.S. 160D-405.

(A) Nothing in this Ordinance, nor shall enforcement of one remedy provided herein prevent the enforcement of any other remedy or remedies provided herein or in other ordinances or laws. In addition to the remedies provided for herein, any violation of the terms of this Ordinance shall subject the violator to the penalties and remedies, either criminal or civil or both.

(B) In case any structure or use is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this Ordinance as herein provided, an action for injunction or other appropriate action to prevent such violation may be instituted by the Administrator, the Madison County Building Inspector, any other appropriate Town authority, or any person who may be damaged by such violation.

15.6.2 Penalties

(A) The Administrator will notify any person, firm, or corporation of a suspected

violation of this Ordinance in person or in writing. Any person, firm, or corporation who violates the provisions of this Ordinance shall upon conviction be guilty of a misdemeanor and shall be fined not exceeding 500 dollars (\$500.00) and/or imprisoned not exceeding 30 days. Each day of violation shall be considered a separate offense.

- (B) In addition to the other remedies cited in this Ordinance for the enforcement of its provisions, and pursuant to NCGS 160A-175, the regulations and standards in this Ordinance may be enforced through the issuance of civil penalties by the Administrator.
- (C) Subsequent citations for the same violation may be issued by the Administrator if the offender does not pay the citation (except as otherwise provided in a Warning Situation) after it has been issued unless the offender has sought an appeal to the actions of the Administrator through the Board of Adjustment. Once the 10-day warning period has expired, each day which the violation continues shall subject the violator to additional citations to be issued by the Administrator.
- (D) The following penalties are hereby established:

Citation	Civil Penalty
Warning	Correct Violation within 10 days
First	\$50.00
Second	\$100.00
Third and Subsequent	\$200.00

- (E) If the offender fails to pay the civil penalties within five (5) days after having been cited, the Town may recover the penalties in a civil action in the nature of debt.

15.6.3 Remedy

- (A) In any case where a building is created, constructed, reconstructed, altered, repaired, converted, or maintained, or any building or land is used in violation of this Ordinance, the Administrator, or any other appropriate town authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violations.
- (B) The Administrator or his designee may remove and destroy or otherwise dispose of any sign placed on public property or within any right-of-way of any public or private street.

15.6.4 Stop Work Order Issuance and Revocation of Permits

- (A) Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this Ordinance, the Administrator may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped.

The stop work order shall be in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work.

- (B)** The Administrator may revoke any permit 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.

Section 15.6 as amended by: 2021-UDO-01

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APPENDIX A

DEFINITIONS

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A.1 Purpose

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.

A.2 Interpretation

- A. Words used in the present tense include the future tense.
- B. Words used in the singular number include the plural, and words used in the plural number include the singular.
- C. Any word denoting gender includes the female and the male.
- D. The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
- E. The word "lot" includes the word "plot" or "parcel" or "tract".
- F. The word "shall" is always mandatory and not merely directory.
- G. The word "structure" shall include the word "building."
- H. The term "street" shall include the word "road".
- I. The term "Zoning Map," shall mean the Official Zoning Map of Marshall, North Carolina.
- J. The term "Town Board of Aldermen" shall mean the "Town Board of Aldermen of the Town of Marshall, North Carolina."
- K. The term "Planning Board" shall mean the "Planning Board of the Town of Marshall, North Carolina."
- L. The term "Administrator" shall mean the "Zoning Administrator, Subdivision Administrator, Floodplain Administrator, or Unified Development Ordinance Administrator of the Town of Marshall, North Carolina."
- M. The terms "Planning Department" and "Planning Staff" shall mean the "Planning Department of the Town of Marshall, North Carolina."
- N. The terms "Ordinance", "Code", and "Unified Development Ordinance" shall be synonymous and refer to the "Town of Marshall Unified Development Ordinance."

A.3 Acronyms

Below is a list of acronyms (other than zoning districts) and their meanings found throughout the Ordinance:

- BFE: Base Flood Elevation
- DUA: Dwelling Units per Acre
- FEMA: Federal Emergency Management Agency
- FIRM: Flood Insurance Rate Maps
- HOA: Homeowners Association
- UDO: Unified Development Ordinance
- MPO: Metropolitan Planning Organization
- NC: North Carolina
- NCDEQ: North Carolina Department of Environmental Quality
- NCDOT or DOT: North Carolina Department of Transportation
- NCGS or GS: North Carolina General Statute
- ROW: Right-of-way
- SR: Secondary Road in the North Carolina Secondary Road system
- US: United States of America

Section A.3 as amended by: 2021-UDO-01

A.4 Definitions

Abandonment

A use shall be deemed to be abandoned when:

- The use is discontinued (other than in association with the settlement of an estate or for any use which is seasonal in nature); or
- The premises are devoted to another use; or
- When the characteristic equipment and furnishings of a non-conforming nonresidential use have been removed from the premises and have not been replaced by the same or similar equipment within 180 days; or
- Failure to take all positive action to resume the non-conforming use with reasonable dispatch, including the failure to advertise the property for sale or for lease.

Accessory Dwelling

A single-family residential unit that is subordinate to the principal dwelling located on the same property and is used as a rental unit, guest house, or as the residence of an immediate family member of the owner and occupant of the principal dwelling.

Accessory Structure

A structure that is subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the

principal use or structure. In no event shall "accessory structure" be construed to authorize a principal use or structure not otherwise permitted in the district in which the use is located. Accessory structures include but are not limited to detached garages, storage buildings, pools and pool houses, piers and other water related structures.

Accessory Use

A use customarily incidental and subordinate to the principal use or structure and located on the same lot with such principal use or structure.

Addition

An extension or increase in the footprint or floor area of building or structure.

Adjacent

Having common property boundaries or lot lines which are not separated by a street or alley or body of water.

Administrator

The appointed Town staff member that administers this Ordinance.

Adult Establishment

Any principal or accessory structure or use of land which meets the definition of adult establishment as set forth in North Carolina General Statute Section 14-202.10, including topless bars. Notwithstanding the definition of "adult bookstore" provided in G.S. 14-202.10(1), for purposes of this Ordinance "adult bookstore" means a retail establishment:

- which receives a majority of its gross income during any calendar month from the sale or rental of
 - a) "publications" which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to "specified sexual activities", as defined in G.S. 1-202.10(10), or "specified anatomical areas", as defined in G.S. 1-202.10(11); and/or
 - b) merchandise that are "sexually oriented devices", as defined in G.S. 1-202.10(9); or
- having as a preponderance of its publications and/or merchandise
 - a) "publications" which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities", as defined in G.S. 1-202.10(10), or "Specified anatomical areas", as defined in G.S. 1-202.10(11), and/or
 - b) merchandise that comprises "sexually oriented devices", as defined in G.S. 1-202.10(9).

Adult establishment may consist of, include, or have the characteristics of any or all of the following:

- Adult or Sexually Oriented Bookstore Sales and Distribution
- Adult or Sexually Oriented Paraphernalia Sales and Distribution
- Adult or Sexually Oriented Cabaret
- Adult or Sexually Oriented Mini Motion Picture Theater
- Adult or Sexually Oriented Motion Picture Theater

Alley

A public or private way which affords only a secondary means of access to abutting property and is not intended for general traffic circulation.

Alteration

A change in the size, configuration, or location of a structure; or a change in the use of a structure or lot from a previously approved or legally existing size, configuration, location, or use.

Amendment, Text

A change to any text of the Marshall Unified Development Ordinance.

Amendment, Zoning Map (Rezoning)

A change of the zoning designation of a property or properties on the Marshall Zoning Map.

Amusement Arcade

A commercial facility providing recreational activities that typically include coin-operated amusement machines such as pinball machines, electronic video games and skeeball machines. A facility shall be deemed an amusement arcade if it has eight (8) or more of such machines.

Animal Services

A public or private facility for medical or surgical treatment, grooming, breeding, selling, or boarding of animals. Unless outdoor kennels are specifically allowed, all facilities associated with animal services shall be located indoors.

Apartment building

A multi-family residential building or portion thereof which provides three (3) or more dwelling units which share means of egress and other essential facilities. (Source: NC State Building Code, Vol. 1, Section 202)

Appeal

A request by an applicant for the Board of Adjustment to review a decision or interpretation by the Administrator.

Artist, craftsman

A professional who creates a low volume of unique works of art, sculpture, pottery, furniture, jewelry, or similar items. This does not include the on-site retail sales of items. Higher volume and mass-produced items shall be considered manufacturing.

Assembly halls, gymnasiums, and similar structures

Places of gathering for sporting events, performing arts events, or similar events.

Awning

A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted from a building to a flat position against the building, but not to include a canopy.

Bar

A commercial establishment in which the primary activity is the consumption of alcoholic beverages and the primary source of income is from the sale of alcoholic beverages.

Bed and Breakfast Inn

A use, that takes place within a building that prior to such an establishment was a single family dwelling, which consists of renting one or more rooms on a daily basis to tourists, vacationers, and business people, where provision of meals is limited to the breakfast meal, available only to guests. The homeowner shall reside on site and employment shall not exceed two full-time employees, not including the owner(s).

Best Management Practices (BMP)

A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source inputs to receiving waters in order to achieve water quality protection goals.

Block

A unit of land bounded by streets or by a combination of streets and public land, waterways, or any other barrier to the continuity of development.

Boarding House

A building or portion thereof which contains not more than five (5) rooms designed or intended to be used for residential occupancy for compensation. It may also serve meals for compensation to the boarders.

Bona Fide Farm & Agricultural Uses

In accordance with NCGS 160D-903, for purposes of this Ordinance, the terms, "bona fide farm" "agriculture", "agricultural", and "farming" refer to all of the following:

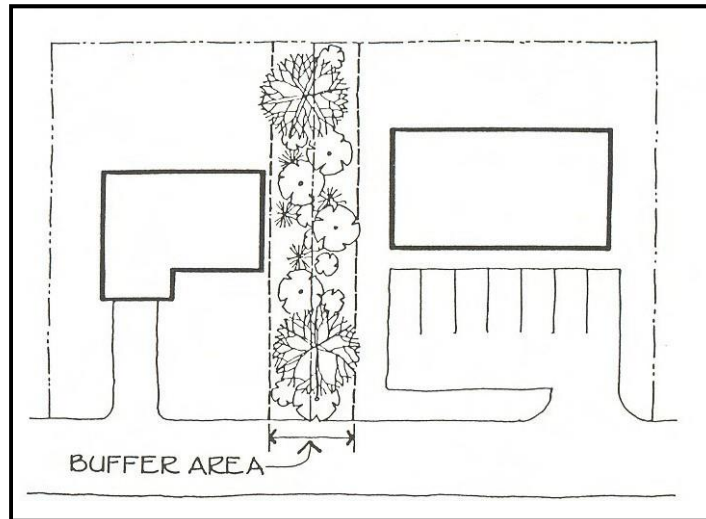
- The cultivation of soil for production and harvesting of crops, including but not limited to fruits, vegetables, sod, flowers and ornamental plants.
- The planting and production of trees and timber.
- Dairying and the raising, management, care, and training of livestock, including horses, bees, poultry, and other animals for individual and public use, consumption, and marketing.
- Aquaculture as defined in NCGS 106-758.
- The operation, management, conservation, improvement, and maintenance of a farm and the structures and buildings on the farm, including building and structure repair, replacement, expansion, and construction incident to the farming operation.
- When performed on the farm, "agriculture", "agricultural", and "farming" also include the marketing and selling of agricultural products, agritourism, the storage and use of materials for agricultural purposes, packing, treating, processing, sorting, storage, and other activities performed to add value to crops, livestock, and agricultural items produced on the farm, and similar activities incident to the operation of a farm.

Uses which shall not be deemed as "agricultural uses", for the purposes of this Ordinance, include zoos, kennels, equestrian facilities, commercial slaughtering.

Buffer

A strip of land with natural or planted vegetation located between a structure and a side or rear property line intended to separate and partially obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

FIG. A.1: BUFFER



Buffer, Vegetative (Undisturbed Buffer)

An area of natural or planted vegetation through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants. The buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers.

Buildable Area

The area of a lot remaining after the minimum yard and open space requirements of this Ordinance have been met.

Building

A temporary or permanent structure having a roof supported by exterior walls or constructed columns and which can be used for residence, business, industry, or other public or private purposes or accessory thereto. The term "building" shall be construed as if followed by the words "or parts thereof".

Building Envelope

The three-dimensional space within which a structure is permitted to be built on a lot and that is defined by maximum height regulations, and minimum yard setbacks or build-to lines, buffers, easements, or other applicable regulations.

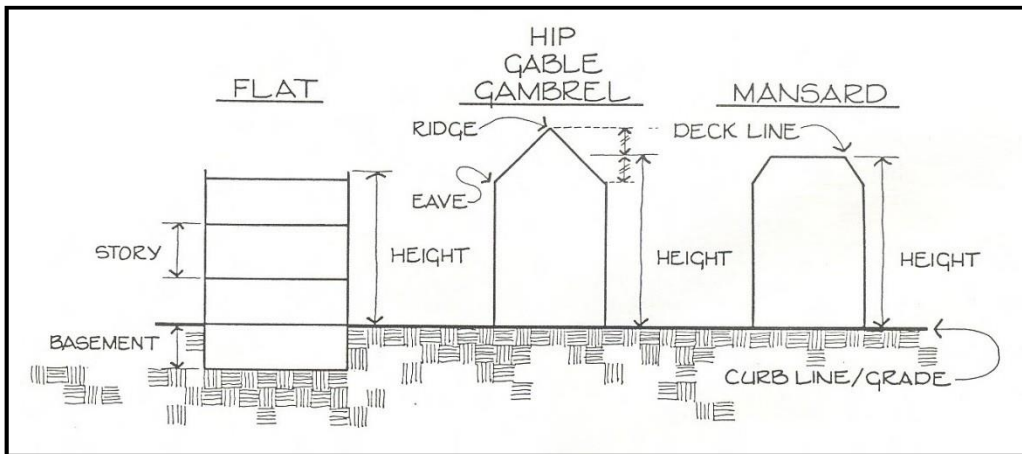
Building Footprint

The land area on which a building is located or proposed for location.

Building Height

The vertical distance from the mean grade elevation taken at the fronting street side of a structure to the parapet or roofline of a flat roof, the eaves of a pitched roof, or the deck line of a mansard roof. Towers, spires, steeples, and enclosed rooftop mechanical equipment are not counted in height measurements.

FIG. A.2: HEIGHT FOR DIFFERENT ROOF TYPES

**Building Line**

The line formed by the facades of buildings which creates a frame defining the public realm. Respecting building lines means to place walls or landscaping in such a manner as to continue the frame where there is an absence of buildings.

Building Permit

A permit obtained from the Madison County Building Inspections Department which sets the inspection schedule and construction techniques for a project.

Build Out

The completed construction of all phases of a development as allowed by all Ordinances which regulate an area. The scale of build out can be from a single lot to the entire Town's jurisdiction.

Build-to Line

The line at which construction of a building is to occur on a lot. A build to line runs parallel to the front property line and is established to create an even building facade line on a street.

Built-upon Area

Built-upon areas shall include that portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel roads, recreation facilities (e.g., tennis courts), etc. (Note: Wooden slatted decks and the water area of a swimming pool are considered pervious).

APPENDIX A– DEFINITIONS

Caliper

The size of tree's trunk diameter as measured six (6) inches above the ground for trees four (4) inches or less, and as measured 12 inches above the ground for trees larger than four (4) inches.

Campgrounds

Land containing two (2) or more campsites which are located, established, or maintained for occupancy by people in temporary living quarters, such as tents, recreation vehicles, or travel trailers which are used for recreation or vacation purposes. A manufactured home park shall not be deemed a campground.

Campsite

Any plot of ground within a campground intended for the exclusive occupancy by a cabin, recreation vehicle, or tent.

Canopy

A permanent structure other than an awning attached or unattached to a building for the purpose of providing shelter to patrons or automobiles, or as a decorative feature on a building wall. A canopy is not a completely enclosed structure.

Carrying Capacity

The amount of traffic which can be accommodated on a street without reducing the service level of the street as defined by the North Carolina Department of Transportation or street design standards of this Ordinance. Carrying capacity is determined by the amount of traffic per land per hour.

Cemetery

Property used for the interment of the dead, which use may include the commercial sale and location of burial lots, crypts, or vaults for use exclusively on the subject property. A cemetery shall not be used for the preparation or embalming of bodies or the cremation of bodies. Setback for cemeteries shall be measured from the nearest structure or gravesite. This definition shall be construed to include bona fide pet cemeteries.

Certificate of Occupancy (CO)

A certificate allowing the occupancy or use of a building and certifying that the structure or use has been constructed or will be used in compliance with this Ordinance and all other applicable regulations.

Change of Use

Any use of a building or land that substantially differs from the previous use. Substantial difference shall mean a change from one land use category to another in the Permitted Uses Table, a large increase in the required parking for a use, or a use that requires a Conditional Use Permit.

Church

See "Religious Institution".

Civic Uses

Uses intended to serve as public gathering places. Such uses include governmental offices, churches or other places of worship, schools, post offices, and non-profit or charitable clubs and organizations.

Commercial Use

All retail sales establishments, office uses (i.e.: medical and financial), service industry uses (i.e.: restaurants, hotels/motels/inns), wholesale businesses, and general business (i.e.: mini-storage, automotive repair).

Common Open Space

Land and/or water areas within the site designated for development, not individually owned or dedicated for public use, which are designed and intended for the common use or enjoyment of the residents of the development but not including any lands occupied by streets, street rights-of-way, or off-street parking.

Common Open Space, Improved

Common open space which has been improved with recreational areas and amenities such as, but not limited to, ballfields, tennis courts, swimming pools, nature trails, clubhouses, etc.

Communications offices

Newspaper, internet, telephone, and similar communications businesses with no retail sales or visible towers or transmission equipment.

Conditional Zoning District

A district created through the approval of a zoning map amendment with a site specific plan in which the uses are limited to those in the base zoning district and are subject to conditions imposed by the Town Board of Aldermen.

Condominium

The ownership of single units in a multi-unit structure with common areas and facilities, real estate portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. (Sources: Unit Ownership Act {NCGS 47A-3} & NC Condominium Act NCGS 47C-1-103)

Construction Trailer

A structure standing on wheels towed or hauled by another vehicle and used for neither overnight nor year-round occupancy at the construction site on a temporary basis for office purposes.

Contiguous

Next to, abutting, or touching and having a boundary, or portion thereof, which is contiguous including properties traversed or separated by a road, stream, right-of-way or similar man-made or natural configuration. The term "contiguous" shall also mean "abutting" or "adjacent".

Convenience Store

Any retail establishment offering for sale gasoline and motor fuel, prepackaged food products, household items, and other goods commonly associated with the same and having a gross floor area of less than 5,000 square feet.

Correctional Facility

A facility operated by Madison County or the State of North Carolina (or a private contractor thereof) used for the temporary incarceration of persons after arrest or pending hearing or trial or for the incarceration and or housing of persons serving sentences or incarceration or housing of persons serving criminal sentences.

Country Club

A private recreational facility open to members and their guests. Uses at a country club frequently include golf courses, swimming pools (outdoors), and club-houses. Meal service may be available, but is generally limited to members and their guests. A country club may be developed as a free-standing entity or as part of a residential community or planned residential development.

Cul-De-Sac

The turn around at the end of a dead-end street.

Cut-off

The point at which all rays emitted by a lamp, light source, or luminaire are completely eliminated (cut-off) at a specific angle above the ground.

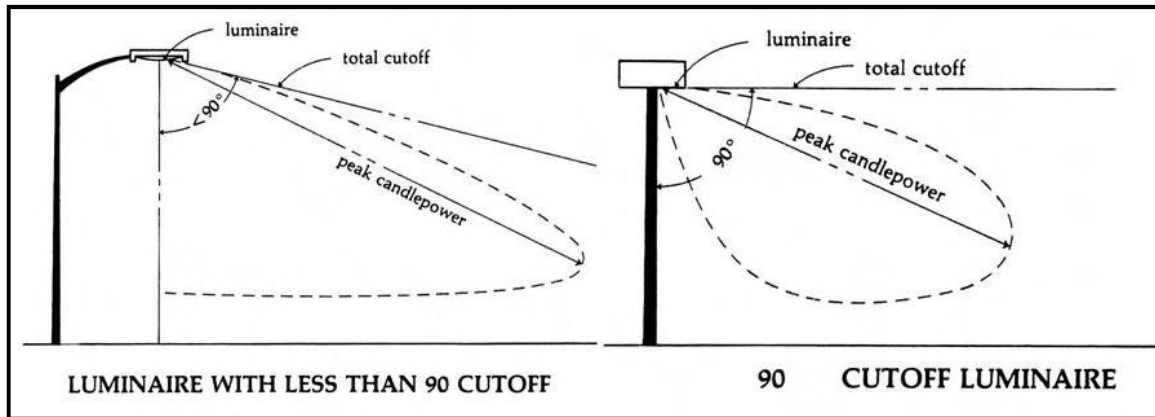
Cut-off Angle

The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted

Cut-off Light (Fixture)

A light with elements such as shields, reflectors, or refractor panels that direct and cut off light at a cut-off angle that is less than 90°.

FIG A.3: CUT-OFF LIGHT (FIXTURE)

***Daycare Center***

A place where daytime care is provided to more than five (5) children, handicapped persons, or senior citizens unrelated by blood or marriage to, and not the legal wards or foster children of the attendant adult within an occupied residence. Persons who are related by blood or marriage to the attendant adult shall not be counted as patrons of the daycare center.

Dedication

A gift by the owner of a portion of his property to another party without any compensation being given for the transfer. Dedication typically refers to right-of-way for streets and utilities or open space dedication for parks, playgrounds, etc. The dedication is made by written instrument on a plat and is completed with an acceptance by the other party, typically a government body.

Density

A ratio expressed as the number of dwelling units per acre (DUA). The ratio is derived by dividing the total number of dwelling units by the total land area (in acres) used or proposed to be used for purposes such as buildings, roads, public facilities, and open spaces.

Development

Any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil.

Development, Existing

Those projects that are built or those projects that at a minimum have established a vested right under North Carolina Zoning Law as of the effective date of this Ordinance based on at least one of the following criteria:

- substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project, or
- having an outstanding valid building permit as authorized by the General Statutes (NCGS 160D-102), or

APPENDIX A– DEFINITIONS

- having an approved site specific or phased development plan as authorized by the General Statutes (NCGS 160D-108).

Distribution Use

A use in which products or goods are brought in or manufactured on-site and are trucked off-site.

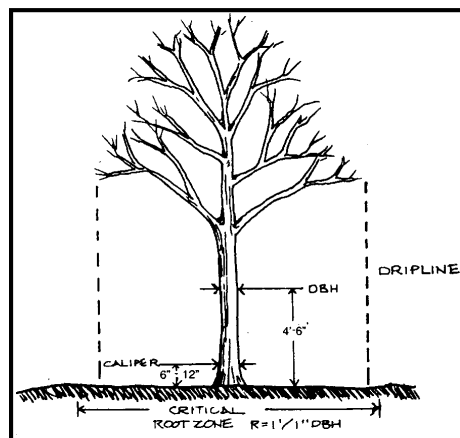
Disturbed Ground

Any area of ground on a site which during construction is dug up, filled, graded, built on or used for storage or parking.

Drip Line

An imaginary vertical line extending from the outer most portion of the tree canopy to the ground.

FIG A.4: DRIPLINE



Drive-through use

A facility designed to enable a person to transact business while remaining in a motor vehicle. This includes drive-in facilities in which vehicles pull into a designated parking spot to transact business.

Dwelling Unit

A building, or portion thereof, providing complete and permanent living facilities for one (1) family. The term "dwelling" shall not be deemed to include a motel, hotel, bed and breakfast inn, manufactured home or other structure designed for transient residence. See also *Residential*.

Dwelling, Multi-family

The development of three (3) or more attached dwelling units. This includes townhomes, apartments, quadraplexes, triplexes, and more than one duplex (two-family dwelling).

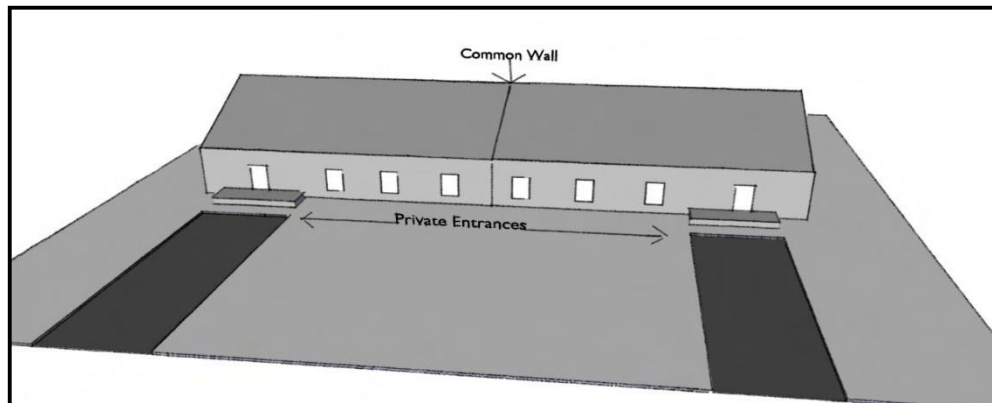
Dwelling, Single-family (detached)

A separately owned residence for use by one family as a housekeeping unit with space for eating, living, cooking, and sanitation (Source: NCGS 87-15.5) where the dwelling unit is on a separate lot of record, no lot contains more than one dwelling unit, no dwelling unit shares a wall with another dwelling unit, and each dwelling unit is surrounded on all sides by yard.

Dwelling, Two-Family Attached (Duplex)

A building, or portion thereof, arranged or designed to be occupied by two (2) families, the structure having only two (2) dwelling units located on the same lot of record and sharing a common wall.

FIG A.5: TWO-FAMILY DWELLING (DUPLEX)

***Easement.***

A grant by the property owner of a strip of land for a specified purpose and use by the public, a corporation, or persons.

Easement, access

A recorded right-of-way, made of crushed gravel or pavement, which is graded and cleared of brush so as to permit access by all vehicles.

Electronic Gaming Operation. Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. This term includes but is not limited to internet cafes, internet sweepstakes, beach sweepstakes, or cybercafés. This does not include any lottery approved by the State of North Carolina.

Emergency Services

Police department, fire department, rescue squad, emergency medical technicians, ambulatory services, or similar services that respond in the event of an emergency.

Encroachment

The part of a structure which intrudes into an easement, dedicated right-of-way, or required setback.

Engineering Drawings (Construction Drawings)

The drawings necessary to prepare a site for construction, guide the construction of improvements, and complete the site following construction of improvements. These plans may include an overall site plan, grading plan, soil and erosion control plan, landscaping plan, lighting plan, site details, street cross sections, storm water detention details, etc.

APPENDIX A– DEFINITIONS

Equestrian Facilities

Businesses that specialize in the boarding of horses, horse riding, riding lessons, equestrian competition, or similar equestrian uses.

Extraterritorial Jurisdiction (ETJ)

An area outside a municipality, extending up to one (1) mile from the municipal boundary, where, when established, the Town exercises planning, zoning, and subdivision regulations.

Façade

The vertical surface of a building which is set along a Building Line. The elevation of a facade is the vertical surface area. Facades are subject to visual definition by building height, setback lines, recess lines (a line prescribed for the full width of the facade above which the facade sets back. The location of a recess line is determined by the desired height to width ratio of the enfronting space or by a desired compatibility with existing buildings), and transition lines (a line prescribed for the full width of the facade expressed by a variation of material or by a limited projection such as a cornice or balcony).

Family

An individual, or two (2) or more persons related by blood, marriage or adoption living together as a single housekeeping unit, exclusive of household servants; or a group of not more than five (5) persons who need not be related by blood, marriage, or adoption living together as a single housekeeping unit.

Family Care Home for the Handicapped

A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six (6) resident handicapped persons, as defined by NCGS 168-21(2). This does not include adult care homes, group homes, residential care homes, child or adolescent care homes, and health care homes that do not care for handicapped persons.

Farmers' Market

An outdoor market open to vendors at which locally grown fruits and vegetables are sold on a retail basis.

Flag

A piece of durable fabric of distinctive design attached to a permanent pole that is used as a symbol or decorative feature.

Flat Roof

The silhouette formed by a roof line. Flat roof lines infer a roof with no pitch. The actual roof structure is required to have a slope for drainage purposes. This is separate from the roof line which can be stepped or flat in appearance through architectural elements such a cornices, mansards, and parapets; or pitched as with residential homes.

Flood Damage Prevention Definitions

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.

Appeal means a request for a review of the Floodplain Administrator's interpretation of any provision of the FDP-O.

Area of Shallow Flooding means a designated Zone AO 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).

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.

Development means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

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.

APPENDIX A– DEFINITIONS

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 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 (BFBMs), 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 the FDP-O, 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 the FDP-O and other zoning overlays, subdivision regulations, building codes, health regulations, special purpose overlays, 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.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

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:

APPENDIX A– DEFINITIONS

- 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;
- 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;
- individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or
- 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.

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 the FDP-O.

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.

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 the FDP-O 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-Encroachment Area means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (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 percent of the actual cash value of the structure is above ground.

Recreational Vehicle (RV) means a vehicle, which is:

- built on a single chassis;
- 400 square feet or less when measured at the largest horizontal projection;
- designed to be self-propelled or permanently towable by a light duty truck; and
- 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 Zone A1-A30, AE, A, A99 or AO.

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 (1) foot 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 FDP-O 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.

APPENDIX A– DEFINITIONS

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.

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 abasement, 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, 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.

Threat to 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.

Variance is a grant of relief from the requirements of the FDP-O.

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 is presumed to be in violation until such time as that documentation is provided.

Wall (Retaining wall) means a structure between lands of different elevations to stabilize the surfaces, prevent erosion and/or protect structures.

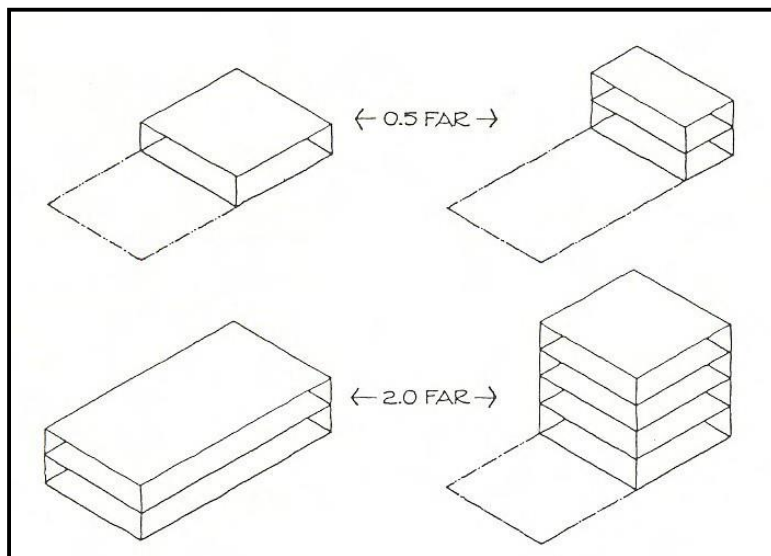
Water Surface Elevation (WSE) means the height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

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.

Floor Area Ratio

The gross floor area of all buildings and structures on a lot divided by the lot area. When computing this figure, the gross floor area of all enclosed parking deck buildings shall be excluded.

FIG A.6: FLOOR AREA RATIO



Footcandle

A unit measuring the luminance from a light source. Originally the footcandle was the luminance at one foot from a standard candle. It was then defined as the luminance produced by one lumen of luminous flux evenly distributed over a square foot. Though not an SI unit, footcandles are widely used to set lighting levels.

Frontage

The lot boundary along a public street.

Gated Community

A residential development that is entirely surrounded by a wall or fence with restricted access at entrance gates.

Golf Course

A tract of land for playing golf, improved with tees, fairways, hazards and which may include clubhouses and shelters.

Government Buildings

A structure or group of structures intended to carry out the necessary day-to-day functions of federal, state, county, or local government including government offices and public works facilities. This shall not include emergency services, animal control with outdoor kennels, park-related structures, colleges and universities, schools, utility facilities, correctional institutions, landfills or related structures, or hazardous material storage as these uses are defined separately herein.

Grade of Street

The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the side of the street at which grade is being measured.

Gross Floor Area

The sum of the gross horizontal areas of each floor of the principal building, measured from the exterior walls or from the center line of the party walls, including the floor area of accessory structures. The term does not include any area used exclusively for the parking of motor vehicles or for building or equipment access such as stairs, elevator shafts and maintenance crawlspaces or unused attics. This term also excludes pedestrian walkways and common areas within enclosed shopping areas.

Ground Cover

Low growing plants such as grasses, ivies, creeping bushes and similar decorative plantings. Where required by this Ordinance, ground covers shall have the capability of soil stabilization and erosion control.

Group Home

See *Residential Care Home*.

Handicapped

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

Hazardous Material

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

Home Occupation, Child Care

A type of home occupation in which the occupant of a home cares for not more than five (5) children in addition to his or her own children during daytime hours. Persons who are related by blood or marriage to the attendant adult shall not be counted as patrons of the daycare.

Home Occupation, Customary

Any use conducted for gain entirely within the dwelling and carried on by the occupants thereof, which use is clearly incidental and subordinate to the residential use and which does not change the character thereof and in connection with which there is no display. When observed from beyond the lot on which it is located, the home occupation does not give visual, audible, sensory, or physical evidence that the property is used for any nonresidential purpose.

Home Occupation, Rural

A use conducted for gain within an accessory structure on a residential lot in the R-1 district that may include office and service uses inside a fully enclosed building.

Hospital

An institution providing physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, central service facilities, emergency services, and staff offices.

Hotel/Motel

A facility offering transient lodging accommodations to the general public and which may provide additional services such as restaurants, meeting rooms and recreation facilities.

Impervious Surface

Any material which reduces and prevents absorption of storm water into previously undeveloped land. This includes but is not limited to, buildings, roads, pavement, gravel surfaces, etc. Items not considered to be impervious include the water area of a swimming pool and wooden slatted decks.

Impervious Surface Ratio

The gross area of all impervious surfaces on a lot divided by the lot area.

Industrial Development

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

Infill

The development of new buildings on vacant sites in a primarily built-up area.

Institutional Use

A use of a semi-public nature that typically serve community needs including but not limited to daycares, colleges, private schools, hospitals, research facilities, museums, residential care facilities, and other long-term medical care facilities.

Instructional School

A private business that instructs students on skills that may include but are not limited to dance, gymnastics, martial arts, art, and music.

Junkyard

Any land or land and structure in combination in which structures are incidental to the operation of the principal activity, used for the storage, baling, packing, sorting, handling, disassembling, purchase or sale of any materials which are used, salvaged, scrapped or reclaimed, but are capable of being reused in some form, including but not limited to metals, bones, rags, fibers, paper, cloth, rubber, rope, bottles machinery, tools, appliances, fixtures, utensils, lumber, boxes, crates, pipe, pipe fittings, tires, motor vehicles, and motor vehicle parts.

Loading Space, Off-Street

An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

Lot

A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

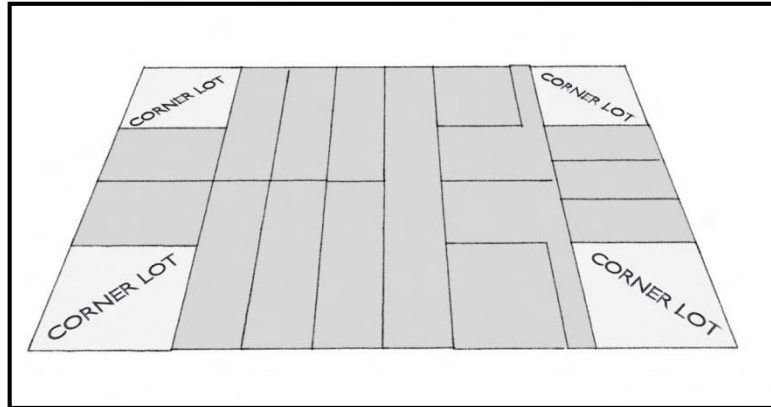
Lot Area

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

Lot Types

Corner Lot. A lot located at the intersection of 2 or more streets. A lot abutting on a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lines to the lot meet at an interior angle of less than 135°.

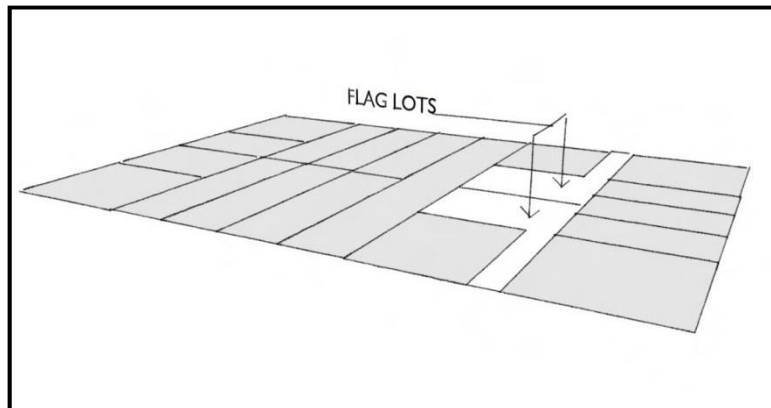
FIG. A.7: CORNER LOT



Double Frontage Lot. See *Through Lot*.

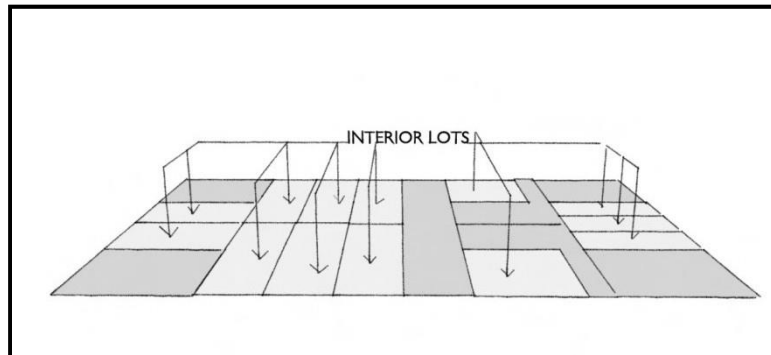
Flag Lot. An irregularly shaped lot where the building portion of the lot is connected to its street frontage by an arm or pole of the lot. The pole portion does not meet the minimum lot width of the district, but the building portion of the lot does.

FIG. A.8: FLAG LOT



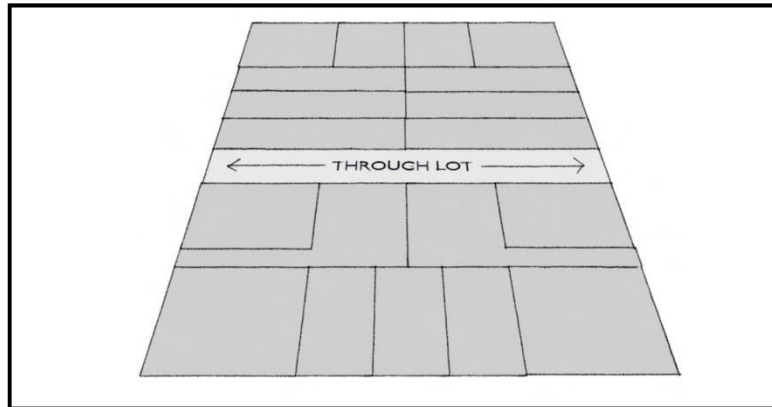
Interior Lot. A lot other than a corner lot with frontage on only one street.

FIG. A.9: INTERIOR LOT



Through Lot. A lot other than a corner lot with frontage on more than one street. Through lots abutting two (2) streets may be referred to as double frontage or reverse frontage lots.

FIG. A.10: THROUGH LOT



Reverse Frontage Lot. A lot on which the frontage is at right angles or approximate right angles (interior angles less than 135°) to the general pattern in the area). A reverse frontage lot may also be a corner lot, an interior lot or a through lot.

Single-tier Lot. A lot that backs upon a limited access highway, a railroad, a physical barrier, or another type of land use, and to which access from the rear is usually prohibited.

Lot Depth

The average horizontal distance between the front and rear lot lines.

Lot, Irregularly Shaped

Lots located at corners or intersections, which create shapes with three sides or with more than four sides and contain corner angles greater or less than 90 degrees. The front yard of such lots shall be determined with respect to adjacent homes, and the maintenance of street vistas.

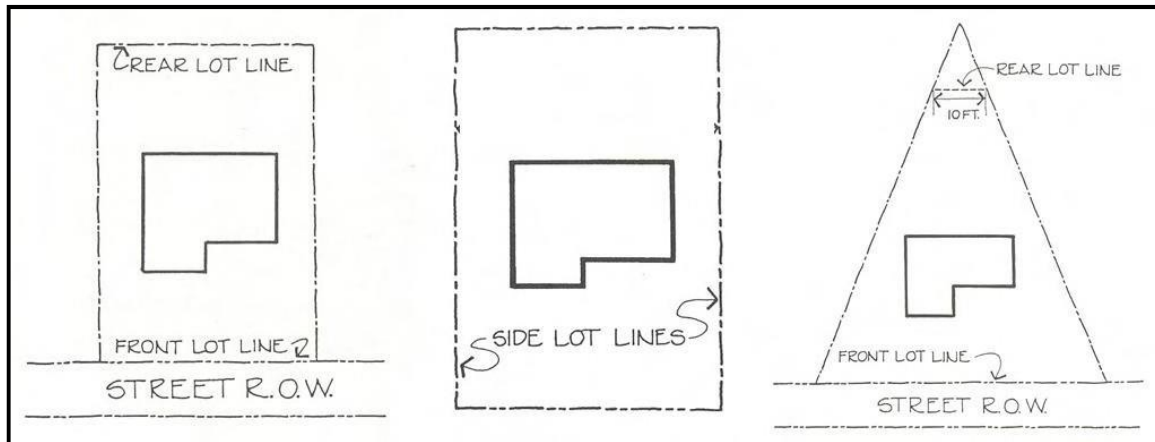
Lot Line. A line bounding a lot that divides one lot from another or from a street or any other public or private space.

Lot Line, Front. In the case of an interior lot, the lot line separating said lot from the street; in the case of a corner lot or through lot, the lot line separating said lot from the street that is designated as the front street in the request for a permit.

Lot Line, Rear. A lot line which is opposite and most distant from the front lot line, and in the case of an irregular or triangular-shaped lot, a line 10 feet in length within the lot parallel to and at the maximum distance from the front lot line.

Lot Line, Side. Any lot line that is not a front lot line or rear lot line; a lot line separating a lot from a side street is an exterior lot line, while a lot line separating a lot from another lot, or lots, is an interior lot line.

FIG A.11: LOT LINES

**Lot of Record**

A lot which is part of a subdivision, a plat of which has been recorded in the office of the Register of Deeds of Madison County or a lot described by metes and bounds, the description of which has been so recorded.

Lot of Record

Any lot for which a plat has been recorded in the Register of Deeds Office of Madison County, or described by metes and bounds, the description of which has been so recorded.

Lot, substandard

A parcel of land held in separate ownership, occupied or intended to be occupied by a principal building or structure together with accessory buildings, and uses, having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Ordinance.

Lot Width

The distance from side lot line to side lot line measured at the required minimum front yard setback parallel to the front property line. For flag lots, the front setback shall be set at the location where the minimum lot width is first met.

Manufactured Home

A dwelling unit that (i) is not constructed in accordance with the standards set forth in the North Carolina State Building Code, and (ii) meets or exceeds the construction standards promulgated by the US Department of Housing and Urban Development that were in effect at the time of construction.

Manufactured Home Park

Any premises where two or more manufactured homes are parked for living and sleeping purposes, or any premises used or set apart for the purpose of supplying to the public parking space for two or more manufactured homes for living and sleeping purposes, and which include any buildings, structures, vehicles or enclosures used or intended for use as part of such manufactured home park.

Manufactured Home Space

Any premises within a manufactured home park used or intended to be used or occupied by one manufactured home, together with automobile parking space, utility structures, and other required facilities incidental thereto.

Manufacturing, processing, & assembly

The assembly, fabrication, production or processing of goods and materials. This shall not include resource extraction and recycling and salvage operations.

Massing

The shape and form buildings assume through architectural design. There are ten architectural design elements which create urban space. A specific project may not need to incorporate all ten elements

1. Building Silhouette - similar pitch and scale to a roof line.
2. Spacing between building facades - setbacks or notches between primary facades which frame the structure.
3. Setback from property line - building setback and/or primary facade setback from property line.
4. Proportion of windows, bays, and doorways - vertical or horizontal elements tied together in bands across facade lengths.
5. Proportion of primary facade - size of facades similar in area and height to width ratios.
6. Location and treatment of entryways - important visual commonality between structures.
7. Exterior materials used - similar materials and treatment add to detail and monumentality of a building.
8. Building Scale - similarity of building height and configuration.
9. Landscaping - ties together buildings and defines space.
10. Shadow patterns form decorative features - the light and dark surfaces from materials used and projections from window bays and setbacks create visual breaks.

Microbrewery

A beer production operation that produces less than 15,000 barrels according to the American Brewers Association. A microbrewery may include distribution and a brewpub which brews and sells beer on the premises.

Mini-Warehouse

A structure containing separate storage spaces of varying sizes leased or rented on an individual basis that does not include outdoor storage.

Mixed-use Building

A minimum of a two (2) story building in which the ground floor contains a commercial enterprise and at least one (1) of the floors above contains residential units.

Mobile Home

See *Manufactured Home*.

Modular Home

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

Modular Home, Off-frame

A dwelling unit which is constructed in compliance with the North Carolina Building Code and is brought to the site and set in place on a permanent foundation by a crane. A steel frame is not used for the support of the structure.

Modular Home, On-frame

A dwelling unit which is constructed in compliance with North Carolina Building Code on a steel frame and is brought to the site on steel frames and the axles are removed. The steel frame is used to support the structure on top of a permanent foundation.

Motor Vehicle Services

Any building, premises, and land, in which or upon the primary use of land is a business which involves the maintenance, servicing or sale of new or used automobiles or similar vehicles including any vehicle leasing, rental, parking service, preparation or repair work conducted. This definition includes but is not limited to auto body shops, auto service stations, car washes, gas stations, and oil/lube servicing. This does not include the sale of parts or related products (i.e. auto parts store).

Nightclub

An establishment that is either public or private in which people gather for dancing and/or listening to taped or live music and there is the sale and consumption of alcoholic beverages on premises.

Noncommercial Copy

A sign message through pictures, illustrations, symbols and/or words, or any combination thereof, which does not contain any reference to a business or product but displays a substantive message, statement or expression that is protected by the First Amendment to the Constitution of the United States.

Nonconforming Lot

Any lot of record which does not meet the minimum yard or area requirements established in these regulations at the time of this Ordinance's adoption or any amendment thereto.

Nonconforming Sign

A sign that, on the effective date of this Ordinance or the date of any subsequent amendment thereto, does not conform to one or more of the regulations set forth in this Ordinance.

Nonconforming Structure

Any structure lawfully existing on the effective date of these regulations, or any amendment to it rendering such structure nonconforming, which does not comply with all of the standards and regulations of these regulations or any amendment thereto.

Nonconforming Use

Any use lawfully being made of any land, building or structure on the effective date of these regulations or on the effective date of any amendment thereto rendering such use non-conforming, which does not comply with all the regulations of these regulations or any amendment thereto, whichever might be applicable.

Nonprofit Organization

An organization that does not distribute its surplus funds to owners or shareholders, but instead uses them to help pursue its goals.

Nursery

A commercial enterprise conducted on land where flowers, shrubs and similar horticultural products are raised and sold to general public. Nurseries may include the use of greenhouses for growing purposes.

Office Use

Professional occupations within a building or buildings which do not generally involve the on-site sale of goods to customers.

Open Space

Any area which does not consist of buildings, streets, right of ways, parking, or easements, and serves as a passive or active recreational area, as conservation land for important vistas and topographic features, or as pervious area for watershed requirements. This area provides, or has the potential to provide, environmental, social and/or economic benefits to the community whether direct or indirect. Open space is categorized by type and includes playgrounds, plazas, squares, parks, greens, greenways, greenbelts, and nature preserves.

Open Storage

An unroofed storage area, whether fenced or not.

Outdoor Kennel

A commercial enterprise that involves the containment of animals outside a permanently constructed building for an extended period of time. This does not include fenced areas for brief animal exercise.

Outdoor Market

A use involving the sale of items outside an enclosed permanent structure on the same property or

by the same organizer(s) more than four (4) days per calendar year. This may include outdoor farmers markets, but does not include town-sponsored events.

Outdoor Storage

The storage of goods, products, or vehicles as an ancillary use by their owner or on a commercial basis outside of a permanently constructed building.

Outparcel

A parcel of land associated with and located within a shopping center or multi-tenant non-residential development, which is designated on an approved site plan as a location for a structure with an intended use.

Overlay District

A set of regulations which add an additional layer of design provisions to an underlying regulating district.

Package Treatment Plant

A small self-contained sewage treatment facility built to serve developed areas which lie beyond the service area of sanitary sewers.

Parapet

That portion of a building wall that extends above the roof line.

Park

Areas developed either for passive or active recreational activities. Parks may include, but shall not be limited to walkways, benches, open fields, multi-use courts, playgrounds, swimming and wading pools, amphitheaters, etc. The term park shall not include zoos, travel trailer parks, amusement parks, or vehicle, equestrian or dog racing facilities.

Parking Bay

A parking module consisting of one or more sets of one (1) or two (2) rows of parking spaces and the aisle from which motor vehicles enter and leave.

Parking Space, Off-Street

An area located outside of any street right-of-way which is designed to accommodate the parking of vehicles which meets all area requirements contained in Chapter 8 of this Ordinance.

Pedestrian-Oriented Development

Development which accommodates the needs of the pedestrian. Such development will have parking to the side or rear of a building, will mix uses and provide them in proximity to one another, will allow the pedestrian the option or choice of not having to use a car to accomplish certain trips, and will provide a variety of interesting and detailed streetscapes which balance the need of the pedestrian and car equally.

Permit, Building

Written permission by the Madison County Building Department issued for the construction, repair,

APPENDIX A– DEFINITIONS

alteration or addition to a structure.

Personal Service Uses

Services provided by licensed professional stylists, aestheticians, and therapists including but not limited to hair care, nail care, waxing, massage therapy, and similar spa services.

Photometric

Data regarding the luminous intensity of light sources on a particular site.

Pitch, Roof

The slope of a roof expressed as rise over run. (i.e. for a roof that rises four inches vertically for every 12 inches it runs horizontally the pitch is 4:12)

Plan, Existing Features

A plan submitted with the Sketch Plan that shows the existing features of a site including but not limited to topography, watercourses, stands of trees, significant trees, rock outcroppings, and environmentally sensitive areas.

Plan, Improvement

A plan that shows how a developer will install, bond, or guarantee improvements for a development (i.e. roads, turn lanes, water, sewer, etc.).

Plan, Phased Master

A plan which has been submitted to the Administrator by a landowner for phased development which shows the type and intensity of use for a specific parcel or parcels with a lesser degree of certainty than the plan determined by the Administrator to be a site specific development plan.

Plan, Site-Specific

A plan which has been submitted to the Administrator by a landowner describing with reasonable certainty the type and intensity of use for a specific parcel or parcels of property.

Plan, Sketch

An informal plan, indicating major features of a tract, its surroundings and the general layout of a proposed subdivision.

Plat, Final

A map of all or a portion of a subdivision that is the legal instrument for recordation. Final plats shall be consistent with the approved Preliminary Plat and be reviewed and recorded following the installation or guarantee of improvements.

Plat, Preliminary

A subdivision plan indicating the proposed layout of a subdivision and engineering documents prior to the installation of improvements.

Planned Development

An area planned as a single entity containing one or more residential, commercial, and mixed-use

clusters located on tracts or lots.

Premises

A parcel of real property with a separate and distinct number or designation shown on a recorded plat, record of survey, parcel map or subdivision map. When a lot is used together with one or more contiguous lots for a single use or planned development, all of the lots so used, including any lots used for off-street parking, shall be considered a single premises for purposes of these regulations.

Principal Structure

A building in which is conducted the principal use on the lot on which said building is situated. In any residential zoning district, any structure containing a dwelling unit shall be deemed to be the principal building on the lot where it is located.

Principal Use

The primary or predominant use of any lot.

Produce Stand

The sale of any form of agricultural or horticultural products at a retail stand located on the same site where the products are grown. Off-site produce stands shall be considered temporary uses and shall meet the requirements of such.

Quasi-judicial

The process by which the Board of Adjustment reviews requests for Conditional Use Permits, Variances, and Appeals. Sworn testimony is given during the public hearing and an evidentiary record is kept and voted upon based on specified findings of fact.

Recreation Facility, Private

A privately owned area of land that is developed for active and/or passive recreational pursuits with various manmade features and is designed to serve the immediate neighborhood in which it is located, or can be regional in scope, serving several neighborhoods. This includes private golf courses, country clubs, and community swimming pools.

Recreation Facility, Public

A publicly owned area of land that is developed for active and/or passive recreational pursuits with various manmade features and is designed to serve the immediate neighborhood in which it is located, or can be regional in scope, serving several neighborhoods.

Recreation Vehicle

A vehicular-type unit without a permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes. A recreation vehicle shall not be considered as being a single-family dwelling.

Religious Institution

A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services whose site may include an accessory

APPENDIX A– DEFINITIONS

area for the interment of the dead. Daycare centers (which have enrollment capacities in excess of 25 enrollees) and/or schools operated by the church on the facilities of the church shall be considered separate principal uses.

Repair Services (indoor)

The repair of any item that takes place entirely within an enclosed structure with no outdoor storage.

Residential Care Home. A home maintained for the purpose of providing skilled rehabilitative, nursing care, medical care, or other supervisory care at a lower level than that available in a hospital to not more than six (6) people in a residential setting. This category includes group homes for all ages. Halfway houses for persons adjusting to non-prison life including but not limited to, pre- release, work release, probationary programs and juvenile detention centers shall not be eligible for this category.

Residential Care Institution. An institutional facility maintained for the purpose of providing skilled rehabilitative, nursing care, medical care, or other supervisory care at a lower level than that available in a hospital to more than six (6) people. This category also includes halfway houses for persons adjusting to non-prison life or who have demonstrated a tendency toward alcoholism, drug abuse, mental illness (as defined in NCGS 35A-1101, or antisocial or criminal conduct, together with not more than two (2) persons providing supervision and other services to such persons, all of whom live together as a single housekeeping unit.

Residential Development

Buildings for residence such as detached single-family dwellings, two-family dwellings (duplexes), multi-family dwellings (apartments, condominiums, townhouses) their associated accessory structures, and home occupations.

Restaurant

A commercial establishment where food and drink are prepared, served, and consumed primarily within the principal building.

Retail Uses

Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Rezoning

See Amendment, Zoning Map.

Roof Line

The highest point of a flat roof and mansard roof and the lowest point of a pitched roof, excluding any cupolas, chimneys or other minor projections.

Rooming House

See Boarding House.

Screening

A fence, wall, hedge, landscaping, earth berm, buffer area or any combination of these provided to create a visual and/or physical separation between certain land uses. Screening may be located on the property line or elsewhere on the site.

Service Uses

Uses that include the provision of work that does not typically result in ownership of physical goods and that create benefits by facilitating a change in customers, a change in their physical possessions, or a change in their intangible assets. (i.e. beauty shops, dry cleaning, appliance repair, check cashing, etc.) This does not include motor vehicle services.

Setback

A distance measured inward from a property line which shall remain unoccupied by structures and parking areas except as permitted by this Ordinance.

Setback, Front

The required distance from the fronting or primary street right-of-way to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

Setback, Rear

The required distance from the rear property line to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

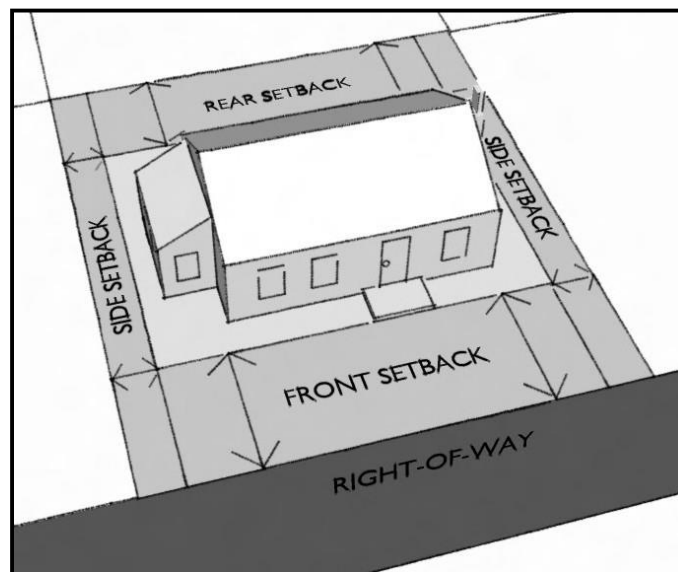
Setback, Side

The required distance from the side property line to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

Setback, Side Corner

The required distance from the non-fronting or non-primary street right of way to a structure or parking area. Driveways may be located in this area unless otherwise specified by this Ordinance.

A.12: SETBACKS



Setback, Sign

The required distance from the property line or right-of-way to the nearest point of the sign or its supporting member.

Sewer, Public

Any package treatment plant or other sewage treatment facility serving two or more sources not connected to individual or public systems and having a design capacity or greater than 3,000 gallons daily and/or a discharge to surface water, as permitted by the State of North Carolina. In addition the definition shall include all connections to such a system.

Shopfront

A business or retail use. The facade of a shopfront is aligned directly on the building line with the entrance at grade. This is typical for sidewalk retail. Shopfronts often have awnings or a colonnade.

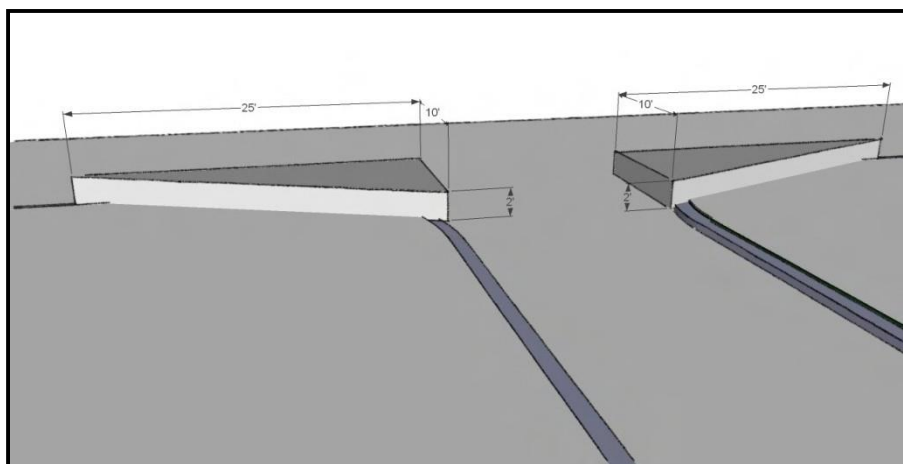
Shopping Center

A group of three (3) or more retail establishments constructed and developed in one (1) or more phases with customer and employee parking and merchandise and other loading facilities provided on-site. A shopping center may be located and developed on one (1) or more lots and may include one (1) or more principal buildings.

Sight Distance Triangle

The triangular area formed by a diagonal line connecting two (2) points located on intersecting property lines (or a property line and the curb or a driveway) within which no planting, structure, sign, fence, wall, or obstruction shall be placed or maintained.

FIG. A-13: SIGHT TRIANGLE



Sign (see Chapter 6 for sign type pictures and illustrations)

Any object, display or structure, or part thereof, situated outdoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projected images. The term sign does not include the flag or emblem

of any nation, organization of nations, state, political subdivision thereof, or any fraternal, religious or civic organization; works of art which in no way identify a product or business; scoreboards located on athletic fields; or religious symbols.

Sign, Advertising

A sign, other than a directional sign which directs attention to or communicates information about a business, commodity, service, or event that exists or is conducted, sold, offered, maintained or provided at a location other than the premises where the sign is located. Any advertising sign allowed under this Ordinance may display either a commercial or noncommercial copy.

Sign Area

The entire face of a sign including the advertising surface and any framing, trim, or molding, but not including the supporting structure. In computing area, only one side of a double-faced sign shall be considered.

Signs, Banner

Temporary signs advertising a special sale, event, or feature that are made of vinyl, fabric, or similar material.

Signs, Billboard

Large off-premises advertising signs.

Signs, Building Marker

A sign etched into masonry, bronze or similar material on a building that identifies the name of the building, designer, year constructed, or provides similar information.

Signs, Canopy and Awning

Signs attached to or painted or printed onto a canopy or awning. For the purposes of the Ordinance, the permitted size of a canopy or awning sign will be calculated on the basis of the size of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

Signs, Civic (off-premises)

Signs which denote the location of religious, charitable, fraternal, military or service organizations.

Signs, Construction/Contractor's or Subdivision Project

Signs that identify future tenants, home builders, contractors, and architectural or engineering designers during the period of construction.

Signs, Directional (on-premises)

Signs that are located on the premise/property to provide directions for entrances and exits to the property. Such signs contain no copy other than directional information.

Sign, Directory

A sign on which the names and locations of occupants or the use of a building or property is identified.

Signs, Flashing

Signs that use an intermittent or flashing light source or windblown and/or mechanical moved reflective material to attract attention.

Signs, Freestanding

Signs that are not affixed to a building and is securely and permanently mounted in the ground.

Signs, Government

Signs posted or authorized by various local, state, and federal agencies in the performance of their duties including providing community information and facilitating economic development. Such signs include regulatory signs, traffic signs, welcome signs, bulletin boards, and wayfinding signs.

Signs, Illuminated

Signs lit from either internal or external light sources.

Signs, Incidental

Signs used in conjunction with equipment or other functional elements for a use or operation that cannot be read from the street right-of-way which inform or instruct customers or visitors on-site (i.e. drive-through menu boards, gas pump signs, bulletin boards).

Signs, Legal and Warning

Signs erected to warn of danger or hazardous conditions such as signs erected by public utility companies or construction companies; signs required for or specifically authorized for a public purpose by any law, statute or ordinance.

Signs, Monument

Free-standing permanent ground signs in which the bottom of the signs are no than three (3) feet from the ground.

Sign, Neighborhood Identification

Signs which display only the name of recognizable communities or subdivisions.

Signs, Occupant/Street Number

Signs affixed to structures, mailboxes, decorative light posts, driveway entrances, etc., which serve to identify the address of the structure or occupant.

Signs, Off-Premises

Signs that draw attention to or communicate information about businesses, services, commodities, that exist or are conducted, sold, offered, maintained or provided at locations other than the premises where the signs are located. This includes billboards.

Signs, On-Premises

Signs that draw attention to or communicate information about businesses, services, commodities, that exist or are conducted, sold, offered, maintained or provided on the premises where the signs are located.

Sign, Placard

A small sign attached to a wall face near the building entrance which displays only the name, address, and/or crest, or insignia, trademark, occupation or profession of the occupant or building.

Sign, Pole

A detached sign erected and maintained on a free-standing frame, mast, or pole and not attached to any building but not including ground-mounted or monument signs. The bottom of such sign is more than three (3) feet from the ground.

Signs, Political

Temporary signs displayed during a period prior to an election, primary, or referendum to advocate or denounce a particular candidate or cause.

Sign, Portable

Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels or signs that stick in the ground on metal frames.

Sign, Principal Use

A sign which constitutes the sole and/or principal use of land.

Sign, Projecting

Any sign other than a wall, awning, canopy, or marquee sign, which is affixed to a building and is supported only by the wall on which the sign is mounted and has two sign faces perpendicular or close to perpendicular to the wall face.

Signs, Real Estate

Temporary signs that advertise the sale or lease of a property. Signs shall be removed within seven (1) days of the sale or lease of the property. Signs advertising lots for sale within an approved subdivision may be posted at the entrance to the subdivision and shall be allowed until 75 percent of the lots are sold within the subdivision.

Sign, Roof

A sign erected or maintained in whole or in part upon or over the roof or parapet of a building.

Signs, Special Event

Temporary signs erected by public or non-profit organizations such as schools and churches for promoting public events such as fund drives, fairs, festivals, sporting events, etc.

Signs, Stadium

Signs located within a stadium intended to be read only by persons seated within the stadium.

Sign, Temporary

A sign not permanently attached to the ground or to a building that is made out of plastic, vinyl, canvas, plywood or other non-permanent material.

Sign, Vehicular

Signs on parked vehicles visible from the public right-of-way where the primary purpose of the vehicle is to advertise a product or to direct people to a business or activity located on the same or nearby property, and said vehicles are not used in the normal day to day operations of said business. For the purposes of this Ordinance vehicular signs shall not include business logos, identification or advertising on vehicles primarily used for other transportation purposes.

Sign, Wall

Any sign directly attached to an exterior wall of a building or dependent upon a building for its support and is parallel to the wall face. Signs directly painted on walls shall be considered wall signs.

Signs, Wayfinding (town-sponsored)

Signs that direct travelers and tourists to points of interest including the Central Business District, government facilities, cultural arts facilities, galleries, accommodations, restaurants, and shops. This shall not include signs installed and maintained by NCDOT.

Signs, Window (temporary)

Signs temporarily attached or temporarily painted to a window or door, announcing sale or special features.

Signs, Yard Sale

Temporary signs displayed for the purpose of advertising yard sales.

Special Use

A use that is permitted in a zoning district subject to the issuance of a Special Use Permit by the Board of Adjustment.

Special Use Permit

A special authorization for special use which may be subject to any specific restrictions or conditions on its size, location, intent, character of use, etc. as determined by the Board of Adjustment.

Stormwater Runoff

Rain which falls onto impervious surfaces and is not absorbed into the ground immediately. Stormwater runoff carries pollutants from paved surfaces into streams and rivers and causes flooding by speeding up the rate of water flow into streams and rivers.

Street, Private

Any right-of-way used for purposes of motor vehicle travel which has not been accepted for maintenance or ownership purposes by a public entity.

Street, Public

A public right-of-way set aside for public travel and either which has been accepted for maintenance by NCDOT or the Town, has been established as a public road prior to the date of adoption of this Ordinance, or which has been dedicated to the NCDOT or the Town for public travel by the recording of a plat of a subdivision with the County Register of Deeds Office.

Highway: A traffic artery designed primarily to carry heavy volumes of through vehicular traffic.

Major Street: A street designed primarily to carry heavy volumes of local vehicular traffic.

Collector Street: A street designed to carry medium volumes of vehicular traffic, provide access to major street system and collect the vehicular traffic from the intersecting minor streets.

Minor Street: A street, the principal purpose of which is to provide vehicular access to the properties abutting it.

Cul-de-Sac: A street permanently terminated by a turn-around.

Marginal Access Street: A minor (service) street which parallels and is immediately adjacent to a major street or highway; and which provides access to abutting property.

Street Orientation

The direction of the architectural front facade of a building in relation to the street.

Street Right-of-Way

An area of land occupied or intended to be occupied by a public street, for such purpose, areas claimed by a municipality or the State of North Carolina for such purposes, or actually used for such purposes.

Structure

A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water. Anything constructed or erected, the use of which requires more or less permanent location on the ground or which is attached to something having a more or less permanent location on the ground.

Subdivision

For the purposes of this Ordinance in accordance with North Carolina General Statute 160D-802, Subdivision shall mean all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when one or more of those divisions are created for the purpose of sale or building development (whether immediate or future) and shall include all divisions of land involving the Dedication of a new Street or a change in existing Streets; but the following shall not be included within this definition nor be 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 no approval required and the signature of the Subdivision Administrator for his designated agent before being presented for certification by the County Review Officer:

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 standards of this Ordinance.
2. The division of land into parcels greater than 10 acres 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 the streets or for public transportation system corridors.

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 or tracts, where no street right-of-way dedication is involved or proposed, and where the resultant lots are equal to or exceed the standards of this Ordinance.

Subdivision Administrator

See *Administrator*.

Temporary Emergency Residence

A temporary dwelling unit used following the destruction or severe damage of a permanent dwelling unit following fire or other natural disaster while the permanent dwelling is being repaired or rebuilt.

Temporary Structures

Buildings placed on a lot for a specific purpose which are to be removed within a specified time period. Examples of temporary structures include monitoring stations, mobile classrooms or office space, construction trailers and guard houses, manufactured housing placed on a lot for temporary housing while principle home renovations are being done, and produce stands. The duration permitted for a temporary structure is established by this Ordinance.

Theater, indoor

An establishment for the viewing of movies or performing arts that is inside a fully-enclosed building.

Theater, outdoor

An establishment for the viewing of movies or performing arts that is not inside a fully-enclosed building.

Townhome (Townhouse)

An individual dwelling unit constructed in a series of attached units separated by property lines that comprise a multi-family dwelling building. (Source: NC Building Code, Vol. 1, Section 201.3)

Tree, Large (canopy)

A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least eight (8) feet and is of a species which, at maturity, can be expected to reach a height of more than 35 feet under normal growing conditions in the local climate. If the tree is single-stemmed, it shall have a caliper of at least two and a half (2-1/2) inches at the time of planting measured six (6) inches up from the highest root of the tree. Also known as a canopy tree.

Tree, Small (ornamental)

A tree, either single or multi-stemmed (i.e., in clump form) which has a height of at least eight (8) feet and is of a species which at maturity, can be expected to reach a height less than 35 feet under normal growing conditions in the local climate. If the tree is single-stemmed, it shall have a caliper at the time of planting of at least two and one-half (2-1/2) inches measured six (6) inches up from the highest root of the tree. Also known as an ornamental or understory tree.

Utility facilities

Publicly or privately owned facilities or systems for the generation or distribution of gas, electricity, or water; the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services.

Variance

Permission granted on the basis of proof of physical hardship by the Board of Adjustment following quasi-judicial proceedings to depart from or relax the literal requirements of this Ordinance relating to dimensional requirements such as setbacks, side yards, street frontage, and lot size that, if applied to a specific lot, would significantly interfere with the use of the property.

Vehicle Storage

The outdoor storage of vehicles for an automobile service use. This does not include inoperable vehicles (junk vehicles) which would constitute a junkyard.

Vested Right

The right to undertake and complete a development or use of property under the terms and conditions of an approved Site Specific Plan currently in effect or as otherwise allowed by law.

Vocational School

A center for higher education that teaches specific job skills.

Warehouse Use

A building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one (1) or more lessees of space in the facility or both, with access to contents only through management personnel. This does not include mini-warehousing or mini-storage.

Wholesale

A place of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers. The majority of all sales of such businesses shall be for resale purposes. Wholesale clubs and similar membership warehouses, where membership is easily available to the consuming public, and similar businesses shall not be deemed wholesale sales operations.

Wind Energy Facility

An electric generating facility, whose main purpose is to supply electricity, consisting of one or more Wind Turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures & facilities. For the purpose of this Ordinance, the term does not apply to roof-mounted or building integrated roof mounting systems.

Wind Energy Facility, (Small)

A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 10 kW or less.

Wind Energy Facility, (Medium)

A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 10 kW but not greater than 50 kW.

Wind Energy Facility, (Large)

A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 50 kW.

Windmill

See Wind Turbine.

Wind Power

The conversion of wind energy into another form of energy.

Section A.4 as amended by: 2014-UDO-01, 2021-UDO-01

APPENDIX B RESOURCES AND RECOMMENDATIONS

B.1	Purpose.....	B-1
B.2	Wildfire Reduction Techniques	B-1
B.3	Low Impact Design	B-2
B.4	Lighting.....	B-2




B.1 Purpose

The purpose of this appendix is to provide additional information, resources, and recommendations related to land development. The recommendations in this appendix are not requirements but are intended to be helpful and encourage sustainable development in and around Marshall.

B.2 Wildfire Reduction Techniques

While the preservation of natural vegetation and trees is encouraged, on slopes of greater than 20 percent, wildfire risk is greatly increased. In order to protect life and property, the following table recommends defensible space distances for different types of vegetation based on slope. Within this defensible space, vegetation should be extensively pruned or cleared in order to minimize loss in the event of wildfire.

RECOMMENDED DEFENSIBLE SPACE DISTANCES

Vegetation Type	No Slope to Moderate Slope (0-19%)	Steep Slope (20%-39%)	Slopes Upon Which Building is Not Recommended (40% or greater)
 Grass	30 feet	40 feet	50 feet
 Shrubs	30 feet	30-60 feet	60-100 feet
 Trees	30 feet	30-100 feet	100-200 feet

Source: Minimizing Wildfire Risk: A Forest Landowner’s Guide. Bardon & Carter, NC Cooperative Extension, 2003.

B.3 Low Impact Design

Low impact design is a comprehensive stormwater management approach intended to maintain and restore a developing watershed's hydrologic functions. Developers interested in using innovative stormwater filtration methods should refer to low impact development design guidelines as set forth in the latest edition of the Low Impact Development Guidebook for North Carolina from NC State University, published by the North Carolina Cooperative Extension.

B.4 Lighting

In an effort to reduce light pollution and excessive glare developers may use and the Town of Marshall may consider adopting the Model Lighting Ordinance (MLO) with User's Guide written by the Illuminating Engineering Society (IES) and the International Dark-Sky Association (IDA).