JACKSON COUNTY

UNIFIED DEVELOPMENT ORDINANCE

DRAFT

Adopted _XX___ 2019

ACKNOWLEDGMENTS

Thank you to the stakeholders, residents, Community Planning Councils and County Municipalities that provided input into the first Unified Development Ordinance for Jackson County.

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Article I. GENERAL PROVISIONS

Section 1.1 Title

This ordinance shall be known as and may be cited as the "Jackson County Unified Development Ordinance" and may be referred to as the "Ordinance", "UDO", or "Jackson County UDO".

Section 1.2 Authority

(a) The Jackson County UDO is hereby adopted under the authority and provisions of North Carolina General Statutes (NCGS) Sections 153A-340 and 153A-210.

(b) Whenever any provision of this UDO refers to or cites a section of the North Carolina General Statutes and that section of the North Carolina General Statutes is later amended or superseded, this UDO shall be deemed amended to refer to the amended section or the sections that most nearly corresponds to the superseded section.

(c) The Mountain Ridge Protection Regulations provided in Section 5.6 are authorized pursuant to Article 14 of Chapter 113A of the North Carolina General Statutes.

(d) The regulations provided in Section 6.4 Industrial Development are authorized by NCGS. 153A-121, Article 6, which stipulates that a County may, by ordinance, define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the County; and may define and abate nuisances.

Section 1.3 Purpose and Intent

(a) The purpose of the regulations set forth in the Jackson County UDO shall be to fulfill the goals, objectives, recommendations, and action items of the Jackson County Land Use Plan 2040, as adopted and as may be amended from time to time.

(b) In order to protect and promote the health, safety, and general welfare of the County, its regulated areas, and the municipalities it serves, the Jackson County UDO is adopted by the Board of Commissioners to regulate and restrict by means of zoning and subdivision regulations the height and size of buildings and other structures; the appearance and design of developments; the percentage of lots that may be covered or occupied; the dimensions of setbacks; the size of open spaces; the density of population; to facilitate the adequate provisions of transportation, water, sewerage, schools, parks, playgrounds, and other public requirements; to control development of flood prone areas and regulate impervious surface areas, to regulate development along Jackson County's mountains, ridges, and hillsides; the size and type of signs; to regulate and to facilitate the further re-subdivision of larger tracts into smaller parcels of land; and the location, use, and design of landscaping, buildings, structures, and land for trade, industry, residence, and other purposes.

Section 1.4 Jurisdiction

(a) Portions of this ordinance shall apply to all areas outside of the incorporated limits and municipal extraterritorial jurisdictions within Jackson County. Portions of the ordinance which specifically address regulated districts shall apply only to those lands within the regulated districts. Property which is used for Bona Fide Farm purposes, as described in NCGS Section 153A-340(b)(2), and has tax deferment on the county tax records, is exempt from the regulations of this UDO.

(b) The planning jurisdiction of the County may be modified from time to time depending on the planning activities of municipalities and regulated districts within the County in accordance with NCGS 160A-360.

(c) Section 5.7 Mountain and Hillside Development Ordinance, enacted in accordance with, and pursuant to the authority granted by NCGS Arts. 6 and 18 of Ch. 153A, and Art. 14 of Ch. 113A, shall only apply to that portion of the County outside the jurisdictions of the various municipalities and the Qualla Boundary.

Section 1.5 Relationship to Existing Ordinances

(a) The reorganization of this Ordinance carries forth by reenactment all of the provisions of the existing Adult Establishments, Environment, Water Pollution, Erosion and Sedimentation Control, Watershed Protection, Water Recharge, Floods, Land Development, Planning, Signs, Outdoor Lighting, Subdivisions, Telecommunications, Cashiers Commercial Area Land Development, Industrial Development, Manufactured Home Parks, Mountain Ridge Protection, Mountain and Hillside Development, Airport Hazard Zoning Regulations, US 441 Development Ordinance, the Cullowhee Community Planning Area Development Standards, and Land Development Ordinances Chapters and Articles of Jackson County.

(b) To the extent that the reorganized provisions of this Ordinance are the same in substance as the previously adopted provisions that they replace, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful non-conforming situation under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this ordinance merely by the repeal of the zoning ordinance.

(c) The ordinance from which this UDO is derived shall be permanently kept on file in the office of the Clerk to the Board of Commissioners.

Section 1.6 North Carolina State Building Code

The current edition of the North Carolina State Building Code, as adopted by the State Building Code Council and the North Carolina Department of Insurance, and as revised, is adopted by reference as fully as though set forth herein as the existing Buildings Code of the County.

Section 1.7 Interpretation and Conflict

When provisions of the Jackson County UDO impose higher standards than are required in any other statute or local ordinance or regulation, provisions of the Jackson County UDO shall govern. When provisions of any other statute or local ordinance or regulation impose higher standards than are required by the provisions of the Jackson County UDO, the provisions of that statute or local ordinance or regulation shall govern.

Section 1.8 Identification of Regulated Districts Maps

(a) Regulated Districts Map. The location and boundaries of the zoning districts established by this ordinance are shown on a geographic coverage layer that is maintained as part of the County's geographic information system (GIS) under the direction of the Planning Director or his/her designee. This geographic coverage layer constitutes Jackson County's Official Regulated Districts

Zoning Map and is hereby incorporated and made part of this ordinance. No unauthorized person may alter or modify the official zoning map. The Planning Director may authorize printed copies of the map to be produced and must maintain digital or printed copies of superseded versions of the official zoning map for historical reference.

(b) Jackson County Airport Hazard Zoning Regulated District. In order to carry out the purposes of this ordinance, there are hereby created and established certain height zones, which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Jackson County Airport. Such hazard zones are shown on the Jackson County Airport Zoning Map on file in the County Planning and Land Records Departments and the Jackson County Airport Authority's office as adopted by the Board of Commissioners.

Section 1.9 Regulated Map Boundaries Interpretation

Whenever there is any uncertainty as to the intended location of any zoning district boundary on any zoning map of any regulated district or airport overlay district, the Planning Director shall make an interpretation of the map upon request of any person. Any person aggrieved by any such interpretation may appeal such interpretation to the Board of Adjustment for the Airport Overlay District or the respective Planning Council for Regulated Districts (Article 3). The Planning Director, the Board of Adjustment, or the respective Planning Council, in interpreting the regulated districts map or deciding any appeal, shall apply the following standards:

(a) Boundaries indicated as approximately following the centerlines of streets; highways or alleys shall be construed as following such centerlines;

(b) Boundaries indicated as approximately following lot lines shall be construed as following such lot lines;

(c) Boundaries indicated as approximately following Town Limits shall be construed as following such Town Limits;

(d) Boundaries indicated as approximately following County lines shall be construed as following such County Lines.

(e) Boundaries indicated as following railroad lines shall be construed to be the center line of the main track;

(f) Boundaries indicated as following shorelines shall be construed to follow such shorelines; in the event of change in the shoreline, the boundary shall be construed as moving with the actual shorelines;

(g) Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed as following such centerlines;

(h) Boundaries shown as approximately following designated flood hazard area limits shall be construed as following such limits;

(i) Boundaries indicated as parallel to or extensions of features indicated in Subsections A through H above shall be so construed. Distances not specifically indicated on the Zoning Atlas shall be determined by reference to the scale of the Regulated Districts Map; and

(j) Where physical or cultural features existing on the ground are at variance with those shown on the Regulated Districts Map, or in other circumstances not covered by Subsections a through h above,

the Planning Director, the Board of Adjustment, or the respective Planning Council shall interpret those boundaries.

Section 1.10 Enforcement and Penalties

Violations of this UDO shall be subject to the enforcement remedies and penalties found in Article X: Violations and Enforcement, and those provided by State law.

Section 1.11 Compliance Required

(a) Unless exempt, no land shall be developed without compliance with this Ordinance and all other applicable County, State, and Federal regulations.

(b) No person shall use, occupy, or divide any land or a building or authorize or permit the use, occupancy, or division of land or a building under their control, except in accordance with this Ordinance.

(c) No building, or portion thereof, shall be erected, used, occupied, maintained, moved, or altered except in conformity with the applicable regulations of this ordinance.

Section 1.12 Severability

If any portion of this ordinance is deemed unconstitutional or unenforceable by a court of competent jurisdiction, the remainder shall remain in full force and effect.

Section 1.13 Fees

(a) Fees are established to allow Jackson County to recover reasonable expenses assumed in the administration of this Ordinance. Any action on an application for development shall be subject to payment of the required fee in the amount established by the fee schedule adopted by the Board of County Commissioners.

(b) Application fees are non-refundable. If an application is returned to the applicant for additional information, the applicant shall have 90 days to comply with the request, otherwise the application shall be considered null and void and withdrawn.

(c) The license fees required for the operation of an adult establishment and to work as an adult entertainer, as defined in Article VI, shall be for a period of 12 months and shall be non-refundable and non-transferrable. Licenses shall be subject to the payment of the requirement fee in the amount established by the fee schedule adopted by the Board of County Commissioners.

Section 1.14 Vested Rights

New or amended zoning regulations shall not apply to a property with an established vested right until the vested right expires or is terminated per NCGS Sections 153A-344.1 and NCGS 160A-385.1.

Section 1.15 Effective Date

Many provisions herein are a restatement of provisions of the Jackson County Code of Ordinances, adopted and revised_____, and are hereby continued without interruption. All other provisions of this Ordinance shall become effective _____.

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Administration

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Article II. ADMINISTRATION

Section 2.1 Administrators

The following Directors are appointed as the administrators of the UDO and the responsibilities of administration or enforcement of this Ordinance are described herein.

Section 2.1.1 County Planning Director

The County Planning Director, or his/her designee, is appointed as the administrator of the UDO and has the primary responsibility for administering this Ordinance unless expressly stated otherwise. Other county staff members may be appointed by the Planning Director to assist him or her in these duties.

(a) POWERS AND DUTIES

The Director shall have the following powers and duties, to be carried out in accordance with the terms of this ordinance:

(i) Make all final decisions as to the interpretation and definitions of this UDO;

(ii) Determine the amount and applicability of administrative and consulting fees;

(iii) Monitor and determine the adequacy of security investments and escrow deposits and issuance of ministerial development approvals;

(iv) Serve as staff for the Board of Commissioners, Planning Board, and Board of Adjustment and other Regulated District Boards;

(v) Review and render interpretations of this UDO and any official regulated district zoning maps;

(vi) Make recommendations to the Board of Commissioners, Planning Board, Regulated District Councils, and Board of Adjustment;

(vii) Accept applications for development approval; certify the completeness of submitted applications with the requirements of these regulations;

(viii) Review and prepare staff reports recommending approval, approval with conditions, or denial of applications for amendments to the text of this UDO and all legislative and quasi-judicial applications;

(ix) Review development applications to ensure that all necessary permits, licenses, franchises and approvals have been obtained from federal, state, and local governmental districts, public and private utilities, and other public agencies.

(b) RULEMAKING

The Director shall have authority to enact such rules as may be necessary to facilitate the administration of this article provided that such rules shall not be contrary to the expressed provisions of the UDO and shall be in harmony with its purposes of promoting the health, safety, and welfare of the County.

Section 2.1.2 Permitting and Code Enforcement Director

(a) POWERS AND DUTIES

The Permitting and Code Enforcement Director shall assist in the enforcement of this Ordinance unless expressly stated otherwise. The Permitting and Code Enforcement Director shall have the following powers and duties, to be carried out in accordance with the terms of this ordinance:

(i) Monitor development projects to ensure compliance with conditions or development approval in conjunction with the County Planning Director;

(ii) Maintain a record of all permits, appeals, variances, certificates, reviews, and other such transactions and correspondence pertaining to the administration of this UDO in conjunction with the County Planning Director;

(iii) Oversee notifications of violations, ordering actions on violations, and keeping records of related activities in conjunction with the County Planning Director.

(iv) Oversee code enforcement and all responsibilities related to ensuring compliance with Erosion and Sedimentation Control, Water Recharge, Floodplain, Land Development, and Building Codes Chapters and Articles of Jackson County.

(v) Act as the Jackson County Floodplain Administrator.

Section 2.2 Jackson County Board of Commissioners

(a) AUTHORITY

The Jackson County Board of Commissioners shall have the following responsibilities in relation to the administration of this ordinance:

(i) Hear and decide applications for amendments to the text, schedules, and map portions of this Ordinance, which shall be processed in accordance with the provisions detailed herein. In exercising this power, the Board of Commissioners is bound by NCGS 153A-323, the terms of this Ordinance, and applicable court decisions in carrying out its legislative function.

(ii) Hear and decide applications for Mountain Ridge Protection Permits, Conditional Use Permits for Wireless Communications, and Manufactured Home Park Variances and Appeals (ref. Art. 3) requiring final approval from the Board of Commissioners.

(iii) Make necessary appointments to the Planning Board, Community Planning Councils, Board of Adjustments, Sedimentation and Erosion Control Board, and Watershed Board.

(iv) Provide, by appropriation, funds for the administration of this Ordinance.

(b) CREATION OF BOARDS AND COUNCILS

The Board of Commissioners pursuant to NCGS 153A-321 created the Boards and Councils delineated in Section 2.3 to perform the following duties:

(i) Make studies of the county and surrounding areas;

(ii) Determine objectives to be sought in the development of the study area;

(iii) Prepare and adopt plans for achieving these objectives;

(iv) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

(v) Advise the Board of Commissioners concerning the use and amendment of means for carrying out plans;

(vi) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Commissioners may direct;

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

(viii) *Members Liability*. The Planning Board and Regulated District Planning Councils identified in Section 2.03 below and the individual members thereof, serving as an advisory board or council to the Board of Commissioners, are protected from liability in so far as their actions are within the scope of their duties and responsibilities, NCGS 153A-11 and 153A-12.

(c) AUTHORITY IN REGULATED DISTRICTS

(i) *Powers and duties*. Without limiting any authority granted to the Jackson County Board of Commissioners by laws and regulations, the Jackson County Board of Commissioners shall have the following powers and duties with respect to the Regulated Districts, to be carried out in accordance with the terms of this ordinance:

1) To adopt new text for and amendments to the text of this ordinance.

2) To adopt new zoning maps and amendments to the zoning maps.

3) Such additional powers and duties as may be set forth for the Jackson County Board of Commissioners elsewhere in this ordinance and in other laws and regulations.

Section 2.3 Planning Board and Planning Councils

Section 2.3.1 Jackson County Planning Board

(a) AUTHORITY

The Board of Commissioners hereby authorizes and establishes the Planning Board under the authority granted by NCGS 153A-321. The Jackson County Planning Board shall constitute, function and may be referred to as the Planning Board.

(b) MEMBERSHIP

(i) The County Planning Board shall consist of 11 members. All members shall be citizens and residents of Jackson County and shall serve on a rotating basis at the pleasure of the Board of Commissioners. Members shall serve a maximum of two consecutive terms. Members shall be selected as follows:

1) Five members to be appointed; one by each Commissioner from his or her district, with the Chairman's appointment to be at-large.

2) Six at-large members, with the titles, at-large one, at-large two, at-large three, at-large four, at-large five, and at-large six, to be appointed by the Board of Commissioners.

3) The chairman and vice-chairman shall be appointed annually by the Board of Commissioners.

4) All terms shall be for a period of two years except that in order to establish a rotating membership, original appointments, reappointments, or appointments made to fill vacancies caused by the expiration of terms or resignation of a member, may be for only one year so that the terms of all members shall not expire at the same time.

5) All terms shall commence on January 1 of the year and vacancies shall be filled for the remainder of the unexpired term of the member.

6) In the event of a vacancy, if the vacancy is one that was originally recommended by a commissioner, then the commissioner serving the district where the vacancy exists shall recommend a replacement member for that district. If the vacancy occurs in the position originally recommended by the Chairman of the Board of Commissioners, then the Board shall recommend the replacement.

7) The Board of Commissioners may select, at their discretion or upon the request of the Chairman of the Planning Board, ad hoc or ex officio members, for the purpose of contributing expertise to specific projects. Ex officio members may be selected from the community at large or may be selected from organizations such as EDC, TWSA, and WCU. Ad hoc or ex officio members shall be non-voting.

(c) POWERS & DUTIES

(i) The Planning Board shall have the power to perform the following duties at the direction of the Board of Commissioners:

1) Make studies of the county and the surrounding areas;

2) Determine objectives to be sought in the development of the study area;

3) Prepare and adopt plans for achieving these objectives;

4) Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;

5) Advise the Board of Commissioners concerning the use and amendment of means for carrying out plans;

6) Exercise any functions in the administration and enforcement of various means for carrying out plans that the Board of Commissioners may direct;

7) Perform any other related duties that the Board of Commissioners may direct.

Section 2.3.2 Community Planning Councils

(a) AUTHORITY

(i) The Board of Commissioners hereby authorizes and establishes the Cashiers Area Community Planning Council, the Cullowhee Community Planning Council, and the US 441 Gateway District Community Planning Council under the authority granted by NCGS 153A-321.

(ii) The Cashiers Area Community Planning Council, the Cullowhee Community Planning Council, and the US 441 Gateway District Community Planning Council may hear and decide special and conditional use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the ordinance per NCGS 153A, Article 18.

(b) POWERS AND DUTIES

The Cashiers Area Community Planning Council, the Cullowhee Community Planning Council, and the US 441 Gateway District Community Planning Council shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:

(i) To review all new text for and proposed amendments to this regulated district, and proposals to zone or change the zoning of all property regulated under in this district and to make recommendations to the Jackson County Planning Board for action thereon;

(ii) To review and decide on approval of requests for conditional use permits in accordance with the procedures set forth in this ordinance.

(iii) To hear and decide applications for approval of variances from the terms of this ordinance, in accordance with the procedures set forth in Article III.

(iv) To hear and decide appeals from any order, requirement, permit, decision, or determination made by an administrative officer of Jackson County in enforcing any provision of this ordinance, in accordance with the procedures set forth in.

(v) To conduct design review of proposed development and redevelopment in the Cashiers Commercial Area, the Cullowhee Community Planning Area, and the US 441 Gateway District Corridor, and make decisions regarding the compliance of proposed development or redevelopment with the provisions of this Ordinance.

Section 2.3.3 Cashiers Area Community Planning Council

(a) MEMBERSHIP

(i) The Cashiers Area Community Planning Council shall consist of seven regular members appointed by the Jackson County Board of Commissioners. All members shall be residents of, own property in, or own a business in the Cashiers Commercial Area.

(b) TERMS

(i) All members shall serve three-year terms. All members shall serve a maximum of two consecutive terms. Terms of initial appointments shall be staggered as set forth in the planning council's rules of procedures.

(ii) Vacancies shall be filled by the Jackson County Board of Commissioners.

(iii) The Board of Commissioners may select, at their discretion or upon the request of the Cashiers Area Community Planning Council, ad hoc or ex officio members for the purposes of contributing expertise to the planning council. Ex officio members may be selected from the community at large or may be selected from organizations or authorities. Ad hoc or ex officio members shall be non-voting.

Section 2.3.4 Cullowhee Community Planning Council

(a) MEMBERSHIP

(i) The Cullowhee Community Planning Council shall consist of seven regular members appointed by the Jackson County Board of Commissioners. All members shall be residents of, own property in, or own a business in the Cullowhee Planning Area.

(b) TERMS

(i) All members shall serve three-year terms. All members shall serve a maximum of two consecutive terms. Terms of initial appointments shall be staggered as set forth in the planning council's rules of procedures.

(ii) Vacancies shall be filled by the Jackson County Board of Commissioners.

(iii) The Board of Commissioners may select, at their discretion or upon the request of the Cullowhee Community Planning Council, ad hoc or ex officio members for the purposes of contributing expertise to the planning council. Ex officio members may be selected from the community at large or may be selected from organizations or authorities. There should be a focus on representation from Western Carolina University. Ad hoc or ex officio members shall be non-voting.

Section 2.3.5 US 441 Gateway District Community Planning Council

(a) MEMBERSHIP

(i) The US 441 Gateway District Community Planning Council shall consist of seven regular members appointed by the Jackson County Board of Commissioners. All members shall reside or own property within the general vicinity of the district. Recommend that at least one of the regular members be selected by the Board of Commissioners from a list presented by the Eastern Band of Cherokee Indians.

(b) TERMS

(i) All members shall serve three-year terms and shall not be term limited. Terms of the initial appointments shall be staggered as set forth in the rules of procedures established for the community planning council.

(ii) Vacancies shall be filled by the Jackson County Board of Commissioners.

(iii) The Board of Commissioners may select, at their discretion or upon the request of the US 441 Gateway District Community Planning Council, ad hoc or ex officio members for the purposes of contributing expertise to the planning council. Ex officio members may be selected from the community at large or may be selected from organizations or authorities. Ad hoc or ex officio members shall be non-voting.

Section 2.4 Board of Adjustment

(a) AUTHORITY

The Jackson County Board of Adjustment (BOA) is established and may exercise those powers granted such boards by North Carolina General Statute Chapter 153A, Article 18 with reference to NCGS 160A-388. The UDO provides that the BOA hear and decide special and conditional use permits, requests for variances, and appeals of decisions of administrative officials charged with enforcement of the ordinance.

(b) JURISDICTION

This Ordinance shall apply to all of Jackson County except for those areas included within the planning jurisdiction of any incorporated municipalities and those areas within the Qualla Boundary, as provided by law.

(c) MEMBERSHIP

(i) The Board of Adjustment shall consist of five members who shall be appointed by the Board of Commissioners. The Board of Adjustment shall include five at-large members, each of whom shall be a resident of the county. Each member shall serve a term of three years; provided, however, initial terms may be adjusted so that terms are staggered. Vacancies shall be filled by the Board of Commissioners to fulfill the unexpired term.

(ii) The Board of Commissioners shall also appoint two alternate members who may be called in by the chairman of the Board of Adjustment, or the Director, serving as clerk for the Board of Adjustment, to serve in the absence of a regular board member. Said alternate members shall also serve a term of three years. Such alternate members, while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member, shall have and exercise all powers and duties of such regular member so absent.

(d) POWERS AND DUTIES

The powers and duties of the Board of Adjustment shall be as stated herein:

(i) Administrative Appeals.

1) The Board of Adjustment is empowered to hear and decide appeals from any order, requirement, decision or determination made by an administrative official charged with enforcing any portion of the Jackson County Code (or any other ordinance) wherein it is provided that appeals may be taken to the Board of Adjustment. The concurring vote of four-fifths (four) of the members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the administrative official.

(ii) Variance.

1) The Board of Adjustment is empowered to grant variances from the terms of any portion of the Jackson County Code (or any other ordinance) wherein it is provided that such remedy is authorized.

(iii) Special/Conditional Use Permits.

1) The Board of Adjustment is empowered to review and decide on approval of requests for conditional use permits in accordance with the procedures set forth in this ordinance.

Section 2.5 Environmental Boards

Section 2.5.1 Watershed Review Board

(a) ESTABLISHMENT

(i) There shall be and hereby is created the Watershed Review Board consisting of five members appointed by the Board of Commissioners.

(b) TERMS

(i) Three members shall be appointed for three-year terms. Two members shall be appointed for two-year terms. Thereafter, all new terms shall be for three years and members may be reappointed for a maximum of two full terms. At least three members shall reside within the designated watersheds.

(ii) Two alternate members who reside in the watershed shall be appointed to serve on the Watershed Review Board in the absence of any regular member and shall be appointed for three-year terms. While attending in the capacity of a regular member, the alternate shall have and exercise all the powers and duties of the absent regular member. Ex officio members (non-voting) may be appointed by the Board of Commissioners at any time.

(c) POWERS AND DUTIES

(i) Administrative Review.

1) The Watershed Review Board shall hear and decide appeals from any decision or determination made by any of the watershed personnel in the enforcement of this article.

(ii) Variances.

1) The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this article as will not be contrary to the public interests where, owing to special conditions, a literal enforcement of this article will result in practical difficulties or unnecessary hardship, so that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done. In addition, the county shall notify and allow a reasonable comment period for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

Section 2.5.2 Sediment Controls Appeal Board

(a) ESTABLISHMENT

The Sediment Control Appeals Board is established to hear appeals on decisions by the Code Enforcement Director and is responsible for making future proposals to the Board of Commissioners for changes to the Ordinance related to the Jackson County Soil Erosion and Sedimentation Control Ordinance.

(b) POWERS AND DUTIES

(i) Pursuant to provisions found in Article III of this Ordinance, the Sediment Control Appeals Board shall conduct hearings within 30 days after the date of the appeal or request for a hearing.

(ii) The Sediment Control Appeals Board shall be responsible for making future proposals to the Board of County Commissioners for any changes that may need to be made to the sediment control ordinance.

(c) MEMBERSHIP

The Sediment Control Appeals Board shall consist of five members appointed by the Board of County Commissioners. A minimum of three members of the Sediment Control Appeals Board shall be present to hear a case.

(d) TERMS

The terms shall be four-year terms except the first terms should be staggered: two appointments would be for four years and two appointments for two years and one appointment for one year. Each appointment can serve two full consecutive terms; they can serve an unexpired term plus two full consecutive terms. After serving two terms they must remain off for a period of 30 days before they can be reappointed into a different seat. To be reappointed to the same seat, they would have to remain off for one full term.

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III

Permits and Procedures

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Article III. PERMITS AND PROCEDURES

Section 3.1 Purpose

In order to establish an orderly process to develop land within the jurisdiction of Jackson County, it is the purpose of this section to provide a clear and comprehensible development process.

Section 3.2 General Provisions and Applicability

(a) The provisions of this article shall be applicable to all development activity under the jurisdiction of Jackson County.

TABLE 3.1: Development Review Procedures identifies the procedures for several processes and permits for Jackson County, the Planning Councils, and several Boards and Commissions for designated development on lands in the County and for the Regulated Districts of the Cashiers Commercial Area, the Cullowhee Community Planning Area, and the US 441 Gateway District.

(a) **Authority and Jurisdiction**

(i) This article, enacted in accordance with the provisions of NCGS 153A, Article 18, parts 2 and 3 shall apply to all of Jackson County not within the jurisdictions of the various municipalities and the Qualla Boundary.

Table 3.1 - Development Review Procedures

Development Permit/Process	Process Type	Review/ Recommendation	Decision/Final Action	Appeal	Public Notice Required (Sec 3.5)	Reference
Administrative Adjustment	Administrative	Planning Director[1]	Planning Director	Board of Adjustment[2]	N/A	Sec. 3.7.1
Administrative Appeal	Quasi-Judicial	Planning Director	Board of Adjustment	Superior Court	1 & 2	Sec. 3.7.2
Administrative Appeal (Regulated District incl Airport)	Quasi-Judicial	Planning Director	Community Planning Council	Superior Court	1 & 2	Sec. 3.7.2 (c)
Administrative Review	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.3
Certificate of Appropriateness	Quasi-Judicial	Planning Director	Historic Preservation Committee	Board of Adjustment	1, 2, & 3	Sec. 3.6
Certificate of Occupancy	Administrative	Planning Director/Permitting & Code Enforcement Director[3]	Planning Director/Permitting & Code Enforcement Director	Board of Adjustment	N/A	N/A
Design Review - Regulated Districts	Administrative/ Quasi-Judicial[4]	Planning Director	Community Planning Council[5]	Community Planning Council[6]	N/A	Sec. 3.7.4
Erosion and Sedimentation Control Plan	Administrative	Permitting & Code Enforcement Director	Permitting & Code Enforcement Director	Sediment & Erosion Control Appeals Board	N/A	Sec. 3.7.5

Development Permit/Process	Process Type	Review/ Recommendation	Decision/ Final Action	Appeal	Public Notice Required (Sec. 3.5)	Reference
Floodplain Development Permit	Administrative	Floodplain Administrator[7]	Floodplain Administrator	Board of Adjustment	N/A	Sec. 3.7.6
Floodplain Variance	Quasi-Judicial	Floodplain Administrator	Board of Adjustment	Superior Court	1	Sec 3.7.20
Impervious Surface Area Modifications – Water Recharge	Legislative	Planning Director	Planning Board	Board of Adjustment	1	Sec. 3.4 Sec. 5.5
Industrial Permit	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.7
Land Development Compliance Permit	Administrative	Permitting & Code Enforcement Director	Permitting & Code Enforcement Director	Board of Adjustment	N/A	Sec. 3.7.8
Manufactured Home Park Construction Permit	Administrative	Permitting & Code Enforcement Director	Permitting & Code Enforcement Director	Board of Commissioners	N/A	Sec. 3.7.9
Map Amendment/Rezoning	Legislative	Planning Director	Board of Commissioners	Superior Court	1,2 & 3	Sec. 3.7.12
Mountain & Hillside Development Permit	Administrative	Planning Director	Planning Board	Board of Adjustment	N/A	Sec. 3.7.10 Sec. 5.8
Mountain Ridge Protection Permit	Legislative	Planning Board	Board of Commissioners	Superior Court	1 & 2	Sec. 3.7.11 Sec. 5.7
Sign Permit	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.13
Site Development Plan Permit (Regulated Districts)	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.14
Special Use Permit	Quasi-Judicial	Planning Director	Multiple Boards and Entities[8]	Superior Court	1, 2 & 3	Sec. 3.7.15
Stormwater Permit - Regulated Districts	Administrative	Permitting & Code Enforcement Director	Planning Director	Planning Council	N/A	Sec. 3.4
Subdivision, Major Preliminary Plat	Legislative	Planning Director	Planning Board	Board of Adjustment	1	Sec. 3.7.16
Subdivision, Major, Final Plat	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.16
Subdivision, Minor Plat	Administrative	Planning Director	Planning Director	Board of Adjustment	N/A	Sec. 3.7.17

Development Permit/Process	Process Type	Review/ Recommendation	Decision/ Final Action	Appeal	Public Notice Required (Sec. 3.5)	Reference
Temporary Use Permit	Administrative	Planning Director	Planning Director, Planning Council	Community Planning Council	N/A	Sec. 3.7.18
Text Amendment	Legislative	Planning Director	Board of Commissioners	Superior Court	1 & 2	Sec. 3.7.19
Variance	Quasi-Judicial	Planning Director	Multiple Boards & Entities[8]	Superior Court	1, 2 & 3	Sec. 3.7.20
Vested Rights	Administrative	Planning Director	Planning Director	Planning Board/ Superior Court	N/A	Sec. 1.14 Sec. 3.7.2
Wireless Communications Permit	Quasi-Judicial	Planning Director	Board of Commissioners	Superior Court	1, 2 & 3	Sec. 3.7.15 Sec. 6.3
Zoning Permit - Regulated Districts	Administrative	Planning Director	Planning Director	Community Planning Council	N/A	Sec. 3.7.21

1. Planning Director and/or his/her designee.
2. For the purposes of this article, Board of Adjustment may mean any appeal body (Planning Council, etc.) other than the Superior Court.
3. Permitting & Code Enforcement Director and/or his/her designee.
4. If a Special Use Permit is required, the Design Review Committee makes findings of facts regarding the design standards.
5. The Community Planning Council serves as the Design Review Committee for all regulated districts.
6. The Planning Council is authorized by the Board of Commissioners to make final decision per Section 2.2(b).
7. The Permitting & Code Enforcement Director is also designated as the Floodplain Administrator.
8. Variances may be heard by Board of Adjustment, Planning Board, Regulated District Community Planning Councils, Watershed Review Board, Sediment Control Appeals Board.

Section 3.3 Public Meetings

All meetings of elected or appointed bodies under this Ordinance shall be open to the public in accordance with NCGS 143-318.12 and shall be conducted in accordance with the procedures set forth in these regulations and rules of procedure adopted by the respective bodies and approved by the Board of Commissioners.

Section 3.4 Common Review Procedures

(a) **Overview**

(i) This section describes the standard procedural steps and rules generally applicable to development applications reviewed under this Ordinance, except where specified otherwise in this chapter.

(ii) The flow charts adjacent to the procedures indicate the steps for the specific application or review.

(b) **Purpose and Intent**

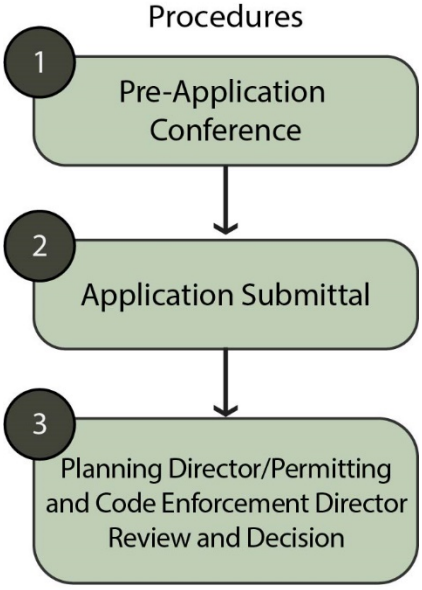
(i) This common review procedures section establishes the procedures used by the County and its Regulated Districts for the processing of applications for a development permits or approvals. It is the intent of this section to establish a uniform set of processes to foster greater efficiency and predictability for applicants, residents, staff, and elected and appointed officials during the review of development applications. Decisions on development applications may be administrative, legislative or quasi-judicial.

(c) **Pre-Application Conference**

(i) Purpose

1) The purpose of a pre-application meeting is an opportunity in an informal setting for the applicant to learn about the submittal requirements, procedures, and standards applicable to a particular development application. A pre-application meeting is also an opportunity for County staff to become familiar with the proposed development and offer comments as it relates to the standards set forth in this Ordinance.

FIG. 3.1 Common Review Procedures



(ii) Pre-Application Conference

1) A pre-application conference between the applicant and County staff is required. This requirement may be waived at the discretion of the Planning Director, Permitting and Code Enforcement Director, and/or his/her designee(s).

(iii) Discussions at a pre-application conference are not binding on the County and do not constitute submittal for formal review of an application.

1) Applicants shall contact the appropriate department as listed in Table 3.1: Development Review Procedures, to schedule a pre-application conference.

(d) **Application Submittal and Acceptance**

(i) All applications for development approval shall be submitted in accordance with the requirements of this UDO and shall be filed with the Planning or Permitting and Code Enforcement Department as appropriate.

(ii) Applications required under this UDO shall be submitted, fully complete, on forms and in such numbers as required by the County. Required application forms may be found in the office of the Planning Department or the County's website. The County's official application checklists are intended to provide further guidance to applicants as to the necessary level of detail for certain permit/process types.

(iii) Fees Schedule

1) Filing fees have been established to help defray the cost of processing applications. The fee schedule may be found in the office of the Planning Department, Permitting and Code Enforcement, or on the County's website.

2) Before review of an application, including applications for re-hearings, all filing fees must be paid in full. No refund of the fee or any part of the fee shall be made unless the application is withdrawn prior to a hearing.

(iv) Completeness Determination

1) On receiving a development application, the Planning Director/ Permitting and Code Enforcement Director shall determine, in a reasonable period of time, whether the application is complete or incomplete. A complete application is one that:

a) Contains all information and materials identified in the Section as required for submittal of the particular type of application.

b) Is in the form and number of copies required by this Section.

c) Is legible and printed to scale (where appropriate).

d) Is signed by the person with the authority to file the application.

e) Includes information in sufficient detail to evaluate whether or not the application complies with the applicable review standards in this Ordinance.

f) Is accompanied by the fee established for the particular type of application.

g) Includes material associated with a pre-application conference; if applicable.

(v) Application Incomplete

1) If the application is incomplete, the Planning Director or Permitting and Code Enforcement Director shall notify the applicant of the deficiencies. The applicant may correct the deficiencies and resubmit the application for completeness determination. The Planning Director or Permitting and Code Enforcement Director may agree to process an application without all required information at the risk to the Applicant as the decision-making body may later require the information prior to acting on the application.

(vi) Application Complete

1) On determining that the application is complete, it shall be considered as submitted, and the County shall commence review in accordance with the procedures and standards of this Ordinance.

(e) **Staff Review and Action**

(i) Review times for specific permits and procedures shall be listed on the application forms available from the Planning Department, Permitting and Code Enforcement, or County's website.

(ii) Applications shall be reviewed during the review cycle in place when the application is determined to be complete.

(iii) When an application is determined to be complete, it shall be distributed by the Planning Director to all appropriate staff and review agencies for review and comment, and the preparation of a staff report, if appropriate.

(iv) In considering the application, the Planning Director, Permitting and Code Enforcement Director, or other County staff (as appropriate) shall review the application, relevant support material, and any comments or recommendations from other staff and review agencies to which the application was referred.

(v) In cases where a development application is decided by the Planning Director, Permitting and Code Enforcement Director, or other County staff (as designated), the appropriate County staff member(s) shall approve, approve with conditions, or disapprove the application based on the review standards set forth in this Section.

(vi) Conditions of approval shall be limited to those deemed necessary to ensure compliance with the standards of this Ordinance and be related in both type and amount to the anticipated

impacts of the proposal on the public and surrounding development. All conditions of approval shall be included in the development permit or approval.

(vii) If deficiencies in complying with applicable standards of this Ordinance are identified, the Planning Director or Permitting and Code Enforcement Director shall notify the applicant of such deficiencies and provide the applicant a reasonable opportunity to discuss them and revise the application accordingly.

Section 3.5 Public Notification

(a) Before enacting any amendment to this Ordinance or the district maps, the Board of Commissioners or Community Planning Council shall hold a public hearing. Public notification of such hearing shall comply with the provisions of NCGS 153A-323 and 153A-343, as amended. Table 3.1, Development Review Procedures, identifies the appropriate notice for specific procedures. The Jackson County Planning Board shall provide review and recommendation of the amendment.

(b) Level 1- Published Notice

(i) In accordance with NCGS 153A-323, a notice of such public hearing shall be published in a newspaper of general circulation in Jackson County once a week for two successive weeks, the first publication of which shall not appear less than ten days or more than 25 days prior to the date fixed for the public hearing. The notice shall include the time, place and date of the hearing and include a description of the property or the nature of the change or amendment to the ordinance and/or map.

(c) Level 2- Mailed Notice

(i) In accordance with NCGS 153A-343, whenever there is an amendment to the district map, the owner of that parcel of land as shown on the county tax listing and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing shall be mailed a notice of a public hearing on the proposed amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least ten but not more than 25 days prior to the date of the public hearing. The person(s) mailing such notices shall certify to the Board of Commissioners that fact, and such certificate shall be deemed conclusive in the absence of fraud.

(ii) As an alternative to the mailed notice requirements above, the County may elect to serve notice through a full community notification for pending actions that affect at least fifty (50) properties with at least fifty (50) different property owners. The county shall publish notice of the hearing/meeting in a newspaper of general circulation. Two advertisements shall be published in separate calendar weeks. Each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice.

(d) Level 3- Posted Notice

(i) For a proposed amendment to the district map (rezoning), the Planning Department shall post a notice of public hearing sign on the site affected or the adjacent street/highway right of way. In the event that more than one parcel is involved in a particular hearing, at least one sign shall be posted in a central location; however, the Planning Department may post multiple signs. Said sign(s) shall be posted at least ten days prior to the public hearing date. The County may choose to use this method to notice other legislative and quasi-judicial hearings.

Section 3.6 Quasi-Judicial Public Hearing Procedures

(a) **Overview**

(i) A quasi-judicial decision is a process that involves the finding of facts regarding a specific application of an ordinance and the exercise of discretion when applying the standards of the ordinance. Quasi-judicial decisions include decisions involving variances per Section 3.6.18, special use permits per Section 3.6.14, and appeals of administrative decisions per Section 3.6.3. In accordance with NCGS 160A-393, decisions on the approval of major site plans and major subdivision preliminary plats are quasi-judicial in nature if the ordinance authorizes a decision-making board to approve or deny the application based on one or more generally stated standards requiring a discretionary decision on the findings of fact. A list of decision-making boards for quasi-judicial decisions may be found in Table 3.1: Development Review Procedures. As a result, the following standard procedures shall be incorporated as appropriate:

(b) **Decision Standards**

(i) In accordance with NCGS 160A-393(k), each decision-making board under the provisions of this ordinance shall ensure that the rights of petitioners have not been prejudiced because of the decision-making body's findings, inferences, or conclusions. Standards for quasi-judicial decision-making are located in Sec 3.7.2(c)(iv-vii).

(c) **Decision Records**

(i) In accordance with NCGS 160A-393(l), the decision-making board may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings.

Section 3.7 Procedures for Specific Applications

(a) **Purpose and Intent**

(i) This section sets out supplemental procedures, standards, and related information for each of the specific applications in which the County staff, appointed boards or commissions, or the Board of Commissioners must either review, forward a recommendation, or decide. These procedures apply in addition to the common procedures set forth in Section 3.4 Common Review Procedures, unless otherwise specified in this ordinance.

(b) **Overview**

(i) Structure of Procedures

1) For each type of development application reviewed under this Ordinance, the following sections state the purpose of the development permit or approval, the steps in the review process, the review standards for the application, and the provisions addressing expiration and amendment, if applicable.

2) Development application provisions in this section are organized in **alphabetical order** in accordance with the sequence of procedures in Table 3.1.

(ii) Procedural Flowchart Legend

1) Each development application review procedure in this section includes a procedural flowchart that depicts the numbered steps in the review process. The numerical value represents the order in which each step of the procedure shall be completed.

Section 3.7.1 Administrative Adjustment

(a) **Purpose and Intent**

(i) This section provides an administrative mechanism for allowing certain numeric standards (e.g., setbacks) in this Ordinance, based on specific review criteria, with the intent of providing relief where the strict application of the Ordinance creates practical difficulties in allowing development that otherwise advances the purposes served by this Ordinance and where the adjustment is compatible with the surrounding development. Administrative adjustments are reviewed and approved administratively based upon a set of clear and measurable criteria. They are accomplished outside of the variance process, and as such do not rely on demonstration of a "hardship".

(ii) Applicability

1) Except where otherwise prohibited, an administrative adjustment may be requested for a modification or deviation to any of the following:

a) A zoning district dimensional standard in Article IX: Regulated District Standards.

b) A numeric use-specific standard in Article IX: Regulated District Standards.

c) A numeric requirement in Article VI: Development Standards.

d) A numeric requirement in Article IV: Subdivisions.

e) In no instance shall an administrative adjustment application seek to reduce the required minimum lot area in a zoning district, the maximum allowable residential density on a lot, the minimum required separation distance between two uses, or the numeric standards in Article V: Environmental Regulations.

(iii) Administrative Adjustment Amount

1) An administrative adjustment may allow a deviation from a numeric standard by up to ten (10) percent. In no event shall a variance be granted that would permit the creation of a nonconforming lot that shall conflict with the state building code or any other state code unless otherwise authorized by law or regulation.

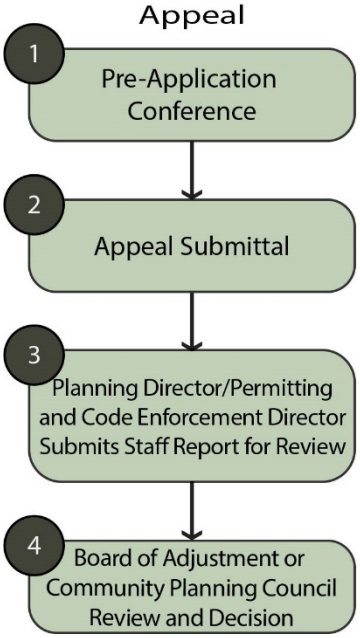
(iv) Timing of Review

1) An administrative adjustment may be requested either as a stand-alone application, or in combination with another application for development review.

2) In cases when submitted concurrently with another application, the administrative adjustment portion of the application shall be reviewed and decided prior to the other portion(s) of the application.

Section 3.7.2 Administrative Appeal

FIG 3.2 Administrative Appeal



(a) **Purpose and Intent**

(i) Unless otherwise provided by statute or this Ordinance, this section sets out the procedure and standards for appealing any decision, determination, or interpretation by the Planning Director or the Permitting and Code Enforcement Director made pursuant to this Ordinance.

(b) **Initiation**

(i) An administrative appeal shall be initiated by any person aggrieved by a decision in writing of any administrative official charged with enforcement of regulations, by filing a written notice of appeal with the Planning Director or Permitting and Code Enforcement Director within 30-calendar days of the date the written determination or decision being appealed is made (except where otherwise specified in this Ordinance).

(c) **Appeal Procedure**

(i) Application Submittal and Acceptance

1) Applicable (See Section 3.4(d), Application Submittal and Acceptance).

2) The written notice of appeal shall include a statement of the error or improper decision or determination, the date of the decision or determination, the grounds for the appeal, and all related support materials.

(ii) Staff Review

1) Applicable (see Section 3.4(e) Staff Review and Action).

2) On accepting a notice of appeal, the Planning Director or Permitting and Code Enforcement Director shall transmit to the Board of Adjustment or Community Planning Council the appeal and the record of material considered by the decision-maker in making the decision or determination (including but not limited to, the application and support materials, staff report, other plans, documents, reports, and studies considered in making the decision, and any minutes, transcripts, or record of the meetings held to consider and make the decision).

3) The Planning Director or Permitting and Code Enforcement Director shall, as appropriate, review and comment on appeals of their decisions related to the aspects of this Ordinance for which they are responsible for administering.

(iii) Public Notification

1) Applicable (see Section 3.5 Public Notification)

(iv) BOA Review and Decision

1) Applicable (see Section 3.7.2 (4) and Section 3.6, Quasi-Judicial Public Hearing Procedures).

2) The BOA, at the conclusion of a quasi-judicial public hearing, shall decide the application for appeal.

3) The decision shall be based on the competent, material, and substantial evidence in the record of the appeal, as supplemented by arguments presented at the quasi-judicial hearing, and the standards in Section 3.7.2 (vi), Appeal Review Standards.

4) The decision shall be one of the following:

   a) Affirmation of the decision or determination (in whole or in part).

   b) Modification of the decision or determination (in whole or in part).

   c) Reversal of the decision or determination (in whole or in part).

5) A vote to reverse or modify a decision or determination shall require approval of a majority of a quorum present at the hearing.

6) Each decision shall be made in writing and reflect the decision-making body's (e.g. BOA and other entities as shown in Table 3.1: Development Review Procedures and as described in the procedures in this Section) determination of contested facts and their application to the standards in this Ordinance.

7) The written decision shall be signed by the Chair or other duly authorized member of the BOA.

8) The decision of the BOA shall be effective upon the filing of the written decision.

(v) Notification of Decision

1) The decision of the BOA shall be delivered by personal service, electronic mail, or by first-class mail to the applicant, the landowner, and to any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person providing notification of decision shall certify that proper notification has been made.

(vi) Appeal Review Standards

1) The BOA is limited to the following determinations in considering the appeal:

   a) Whether the decision-maker erred in the interpretation of the standards of this Ordinance.

   b) Whether the decision-maker erred in determining whether a standard of this Ordinance was met.

2) The BOA shall not hear any evidence or make any decision based on hardships or special conditions. (Such matters may only be considered in the context of an application for a variance per Section 3.7.20.)

(vii) Appeal

1) Any decision by the BOA shall be subject to Superior Court review by proceedings in the nature of certiorari.

Section 3.7.3 Administrative Review

(a) **Administrative Review Procedure**

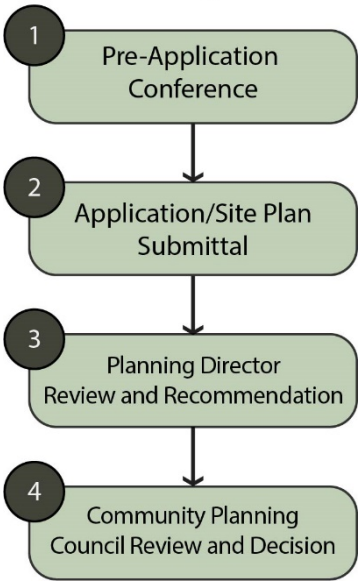
Administrative review is performed by staff, refer to Section 3.4 for Common Review Procedures.

Section 3.7.4 Design Review (Regulated Districts)

(a) **Purpose and Intent**

(i) Design review is required for those projects within the Cashiers Commercial Area, the Cullowhee Community Planning Area, and the US 441 Gateway District that involve a substantial change in the appearance of a building or landscape. The review procedure seeks to encourage rehabilitation and new construction that enhances and preserves the character of the Regulated Districts, promotes visual harmony, and develops creative design solutions.

FIG 3.3 Design Review



(b) **Applicability**

(i) Design review shall be required for all new construction; rehabilitation projects where the existing building will be substantially altered; conditional use permit applications, site plans, signage, landscaping, and exterior illumination. The relocation of a building shall also require design review.

(ii) The design review process is a mandatory review compliance program.

(iii) Design review shall be conducted by the Design Review Committee with assistance and recommendations provided by the Jackson County Planning Department.

(iv) Applicants are encouraged to implement their development plans in accordance with the design standards set forth in Article IX: Regulated Districts of this Ordinance. Projects for which design review is required will be evaluated for their compliance with said design standards.

(c) **Design Review Procedure**

(i) Pre-application Conference.

1) A meeting with the Jackson County Planning Department staff is recommended prior to the submittal of an application for design review. Advice regarding the information required for submittal and the review schedule can be provided in the pre-application conference.

(d) **Application Submittal**

(i) Filing of application. An application for design review shall be filed by the owner of the property or a duly authorized representative of the owner. The application shall be filed with the Jackson County Planning Department on a form provided by the Department.

(ii) Fees. Any application fee, as designated by the Jackson County Board of Commissioners, shall be due and payable upon submission of the application.

(iii) Information Required. Each application for design review shall contain a site plan prepared in accordance with the site plan requirements within Article IX (Regulated Districts), building elevations, and additional information regarding the design and materials of the proposed project.

(iv) Staff Review. The Jackson County Planning Department shall review the application and related information for compliance with the design standards set forth in Article IX (Regulated Districts) of this ordinance within 15 working days of the submittal of the application. The Planning Department staff shall meet with the applicant upon completion of the review to discuss the

review findings. Immediately following the completion of the staff review, the Jackson County Planning Department shall schedule the application for review by the Community Planning Council at their next available regular meeting.

(v) Formal Review.

1) For design review applications associated with projects requiring a zoning permit issued by the Planning Department, the Planning Council will review the application and related information for compliance with the design standards set forth in Article IX (Regulated Districts) of this Ordinance. This review by the Planning Council may approve proposed project if it complies with the design guidelines, may approve with conditions or recommendations, or may find the proposed project is not in compliance with the design guidelines.

2) For design review applications associated with projects that require a special use permit, the Planning Council will review the design guidelines set forth in Article IX (Regulated Districts) as a standard for the granting of a special use permit. The Planning Council may approve proposed project if it complies with design guidelines, may approve with conditions or recommendations, or may find the proposed project is not in compliance with the design guidelines.

Section 3.7.5 Erosion and Sedimentation Control Plan

(a) **Purpose and Intent**

(i) The purpose of this section is to establish procedures for certain land disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution and degradation of water and other damage to lakes, watercourses, and other public and private property by sedimentation.

(b) **Applicability**

(i) This section shall apply to all land disturbing activities, as defined, within the territorial jurisdiction of the County and to the municipalities including extraterritorial jurisdiction of the municipalities as allowed by the agreement between the local governments or other appropriate legal instrument or law.

(c) **Procedures**

(i) Refer to erosion and sedimentation control procedures in Section 5.3.

(d) **Exceptions**

(i) This section shall not apply to the following land disturbing activities:

1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

a) Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.

b) Dairy animals and dairy products.

c) Poultry and poultry products.

d) Livestock, including beef cattle, sheep, swine, horses, ponies, mules, and goats.

e) Bees and apiary products.

f) Fur-producing animals.

g) mulch, ornamental plants, and other horticultural products. For purposes of this section, " mulch" means substances composed primarily of plant remains or mixtures of such substances.h) Trout production and other aquaculture activities.

1) An Activity undertaken on forestland for the production and harvesting of timber

2) and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality (Best Management Practices), as adopted by the North Carolina Department of Agriculture and Consumer Services. If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this ordinance shall apply to such activity and any related land-disturbing activity on the tract.Activities for which a permit is required under the Mining Act of 1971, NCGS 74-7;

3) Land disturbing activity over which the state has exclusive regulatory jurisdiction as provided in NCGS 113A-56(a).

4) For the duration of an emergency, activities essential to protect human life.

5) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.

6) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2

Section 3.7.6 Floodplain Development Permit

(a) **Purpose and Intent**

(i) The purpose of this section is to ensure that proposed development activities within the County's special flood hazard areas comply with all standards set forth in this Ordinance.

(b) **Applicability**

(i) This section shall apply to all special flood hazard areas within the County, including the municipal jurisdictions, including extra-territorial jurisdictions of Sylva, Dillsboro, Webster, and Forest Hills.

(c) **Floodplain Development Permit Procedure**

(i) Floodplain development permit review is performed by staff, refer to Section 3.4 for Common Review Procedures.

(d) **Application Requirements**

(i) Application for a floodplain development permit shall be made to the Permitting and Code Enforcement Director prior to any development activities located within special flood hazard areas. The following items shall be presented to the Permitting and Code Enforcement Director to apply for a floodplain development permit:

1) A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development:
    a) The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
    b) The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in subsection 5.6.1 (f), or a statement that the entire lot is within the special flood hazard area;
    c) Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in subsection 5.6.1 (f);
    d) The boundary of the floodway(s) or non-encroachment area(s) as determined in subsection 5.6.1 (f);
    e) The base flood elevation (BFE) where provided as set forth in subsection 5.6.1 (f), subsection 5.6.1 (b) or 5.6.3 (d);
    f) The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
    g) The certification of the plot plan by a registered land surveyor or professional engineer may be required.
2) Proposed elevation, and method thereof, of all development within a special flood hazard area including but not limited to:
    a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
    b) Elevation in relation to mean sea level to which any nonresidential structure in Zone AE, A or AO will be floodproofed; and
    c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
3) 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.
4) A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this chapter are met. These details include but are not limited to:
    a) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
    b) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with subsection 5.6.3 (b)(ii). when solid foundation perimeter walls are used in zones A, AO, AE, and A1-30.
5) Usage details of any enclosed areas below the lowest floor.

6) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

7) Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.

8) Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of subsections 5.6.3 (b)(iv) and (v) of this Ordinance are met.

9) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.

(e) **Permit Requirements**

(i) The floodplain development permit shall include, but not be limited to:

1) A description of the development to be permitted under the floodplain development permit.

2) The special flood hazard area determination for the proposed development in accordance with available data specified in subsection 5.6.1 (f).

3) The regulatory flood protection elevation required for the reference level and all attendant utilities.

4) The regulatory flood protection elevation required for the protection of all public utilities.

5) All certification submittal requirements with timelines.

6) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

7) The flood openings requirements, if in Zones A, AO, AE or A1-30.

(f) **Certification Requirements**

(i) Elevation certificates

1) 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.

2) An elevation certificate (FEMA Form 81-31) is required after the reference level is established. Within seven calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder

immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.

3) 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.

(ii) Floodproofing certificate. If nonresidential 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.

(iii) 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 5.6.3 (b)(iii)(b).

(iv) 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.

(v) 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 (1) and (2) of this subsection:

1) Recreational vehicles meeting requirements of subsection 5.6.3 (b)(iv)

2) Temporary structures meeting requirements of subsection 5.6.3 (b)(v)

3) Accessory structures less than 150 square feet meeting requirements of subsection 5.6.3 (b)(vi).

Section 3.7.7 Industrial Development Permit

(a) Industrial Development Permit Procedure

(i) Industrial development permits are reviewed by staff, refer to Section 3.4 for Common Review Procedures.

Section 3.7.8 Land Development Permit

(b) **Purpose and Intent**

(i) The purpose of this section is to ensure that proposed development activities comply with all standards set forth in this Ordinance.

(c) **Applicability**

(i) This section shall apply to all the County except for those areas included within the planning jurisdiction of any incorporated municipalities and those areas within the Qualla Boundary, as provided by law. No person shall undertake any land disturbing activity subject to this section without first obtaining a land development permit and/or soil and erosion control permit from the County, except that no permit shall be required for any land disturbing activity as outlined in Section 3.7.8(e).

(d) **Land Development Permit Procedure**

(i) Pre-Application Conference

1) Optional (see Section 3.4(c) Pre-Application Conference).

(ii) Application Submittal and Acceptance

1) Applicable (see Section 3.4(d) Application and Submittal Acceptance).

2) From and after the effective date of the Ordinance from which this section is derived, it shall be unlawful for any person or entity to undertake development, as defined herein, without first obtaining a land development compliance permit from the Permitting and Code Enforcement Director.

3) Requests for a permit to conduct land disturbing activities shall contain a sediment control plan. Requests for a permit to conduct land disturbing activities exceeding three acres shall require the developer or property owner to provide a sediment control plan drawn by an appropriately licensed or certified design professional and if that same permit disturbs five or more acres, an appropriately licensed or design professional shall conduct timely inspections.

(iii) Staff Review and Action

1) The Permitting and Code Enforcement Director shall issue a land development compliance permit only upon determining that the development activity complies with all ordinances and regulations of the County and all other applicable requirements.

2) The Permitting and Code Enforcement Director shall review the application and accompanying plan for completeness and compliance with this section. If the submitted plan is approved by the Code Enforcement Director, a permit to conduct land disturbing activities shall be issued in the name of the applicant. Permits are valid for three years after they are issued; construction shall begin within the three-year time period or the permit shall expire and a new permit shall be required.

3) Permits shall be prominently displayed on the site until the project is certified complete by the erosion control officer. In addition, a copy of the approved sediment control plan shall be kept on hand at the job site at all times for inspection.

(e) **Appeals**

(i) Applicable (see Section 3.7.2 Administrative Appeal)

(f) **Exceptions**

(i) Land Development Permit

1) Bona Fide Farms

a) This section shall not apply to property used for bona fide farm operations except as provided by NCGS 153A-340(b).

(ii) Soil and Erosion Control Permit

1) This section shall not apply to any land disturbance activity undertaken for the purpose of fighting fires;

2) For the stockpiling of raw or processed sand, stone, or gravel in material processing plants and storage yards, provided that sediment control measures have been utilized to protect against off-site damage; or

3) That does not exceed 21,780 square feet (one-half acre) in surface area. In determining the area, lands under one or diverse ownership being developed as a unit will be aggregated.

Section 3.7.9 Manufactured Home Park Permit

(a) Manufactured Home Park Permit Procedure

(i) Manufactured home park permits are reviewed by staff, refer to Section 3.7.3 for Common Review Procedures.

Section 3.7.10 Mountain and Hillside Development Permit

(a) Mountain and Hillside Development Permit Procedure

(i) Mountain and Hillside development permits are reviewed by staff per Section 3.4 Common Review Procedures.

Section 3.7.11 Mountain Ridge Protection Permit

(a) Mountain Ridge Protection Permit Procedure

(i) Mountain Ridge Protection Permits are reviewed by staff per Section 3.4 Administrative Review Procedures.

(ii) Refer to 5.7.1 (c-d) for application submittal and approval procedures.

Section 3.7.12 Map Amendment/Rezoning

(a) **Purpose and Intent**

(i) This section provides a uniform means for reviewing and deciding proposed amendments to the Official Zoning Maps of Cashiers Commercial Area, Cullowhee Community Planning Area, and US 441 Gateway District, the Airport Hazard District, as well as the Mountain and Hillside District Map.

(b) **Applicability**

(i) Proposed zoning map amendments may be initiated by the Jackson County Board of Commissioners, the Jackson County Planning Board, Community Planning Council, the Jackson County Planning Department, or any owner of an equitable or legal interest in the property for which the map amendment is requested.

(c) **Rezoning Procedure**

(i) Pre-Application Conference

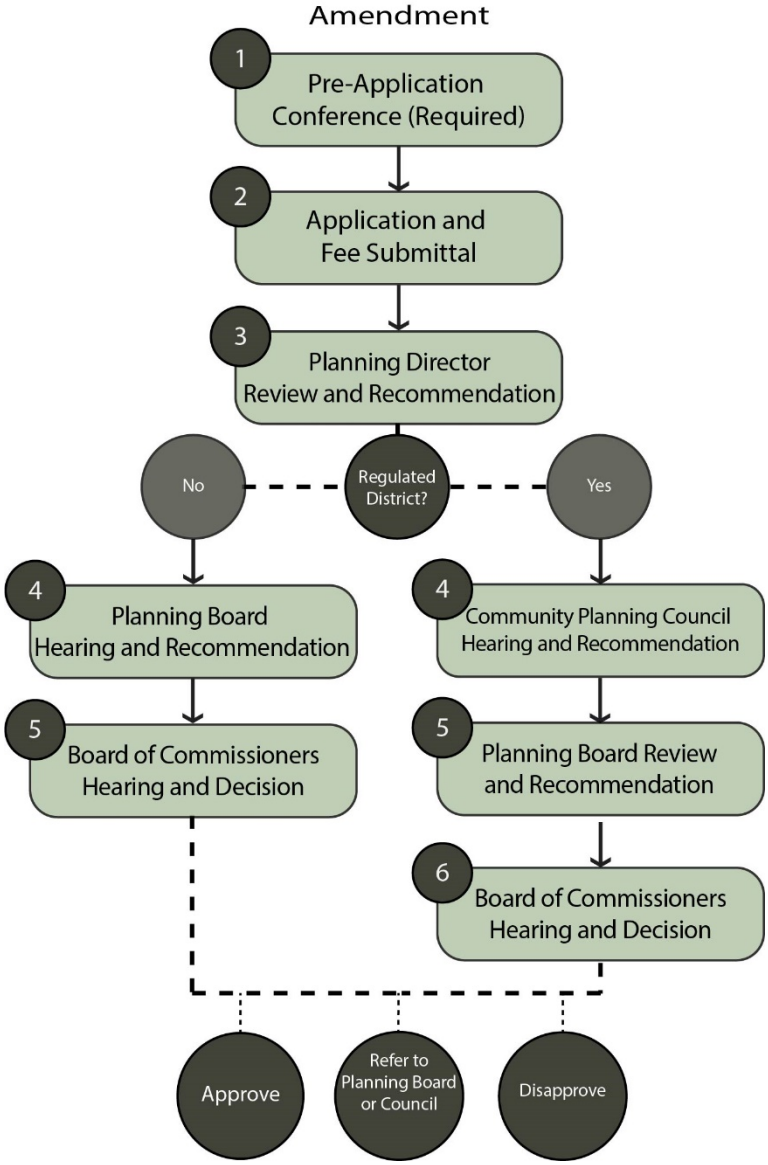
1) Before submitting an application for an amendment, the applicant shall meet with the Jackson County Planning Department to discuss the proposed amendment and to receive information regarding the approval requirements and procedures.

(ii) Application Submittal and Acceptance

1) Application for an amendment shall be filed with the Jackson County Planning Department on a form provided by the Department. Any fees, as designated by the Board of Commissioners, shall be due and payable at the time the application is submitted.

2) All information required on the application form shall be contained on or accompany the application. Every application for a change in the zoning district boundary (zoning map amendments) shall be accompanied by metes and bounds description of the property, a survey of the property, or reference to existing lots sufficient to identify the property on the official zoning or district maps of any Regulated District or the Mountain and Hillside Development District.

FIG 3.4 Map and Text Amendment



(iii) Staff Review

1) The Planning Director or Designee shall review the application, prepare a staff report, and provide a recommendation to the Planning Council per Section 3.7.12(c)*(iv)* or the Planning Board per Section 3.7.12(c)*(v)* below. The Board of Commissioners makes final decision in both processes.

(iv) Community Planning Council Review and Recommendation

1) The Community Planning Council shall hold a public hearing to consider proposed amendments.

2) A recommendation by the Community Planning Council shall include the adoption of a statement describing how the Planning Council considers the action taken to be consistent with the Comprehensive Plan, reasonable and in the public interest.

3) The Community Planning Council shall make its recommendation in writing to the Planning Board for review per Section 3.7.12(c)*(v)* below. The Community Planning Council shall recommend that the request be approved, approved with conditions, or denied.

(v) Planning Board Review and Recommendation

1) Following the receipt of the report regarding the Planning Director's recommendation on a proposed amendment when not in a regulated district, the Jackson County Planning Board shall hold a hearing to review and consider the proposed amendment. The hearing shall be scheduled as provided by the Planning Board's rules of procedure. Notice of the hearing shall be provided as required by Section 3.5.

2) Following receipt of the recommendation of the Planning Council on a proposed amendment, the Planning Board shall review and make a recommendation to the Board of Commissioners which will hold a public hearing per Section 3 below. A public hearing of the Planning Board is not required for amendments within regulated districts.

3) Recommendations of the Jackson County Planning Board shall be reported to the Jackson County Board of Commissioners for a public hearing and final action according to the process set forth in Section 3.7.12*(vi)*. The Jackson County Board of Commissioners shall schedule the public hearing at their next regularly scheduled meeting after receiving the report.

4) A recommendation by the Planning Board shall include the adoption of a statement describing how the Planning Board considers the action taken to be consistent with the Comprehensive Plan, reasonable and in the public interest.

5) If the Jackson County Planning Board has made no recommendation on a proposed amendment within 90 days of first considering it, the proposed amendment shall be forwarded to the Jackson County Board of Commissioners for consideration. A record of the Planning Board's comments regarding the proposed amendment shall accompany the proposed amendment.

(vi) Board of Commissioners Review and Decision

1) Following the receipt of the report regarding the Community Planning Council's action on a proposed amendment, the Jackson County Board of Commissioners shall hold a public hearing to consider the proposed amendment. The public hearing shall be scheduled as provided by the Board of Commissioner's rules of procedures. Notice of the public hearing shall be provided as required by statute.

2) Before acting on any proposed amendment, the Board of Commissioners shall consider any recommendations made by the Community Planning Council and/or the Jackson County Planning Department, the comments made at the public hearing, and other relevant information.

3) Upon reviewing all pertinent information, the Board of Commissioners may adopt the proposed amendment, reject the proposed amendment, refer the proposed amendment back to the Jackson County Planning Board for further consideration or hearing, or modify the proposed amendment.

4) In accordance with NCGS 160A-383, approval by the Board of Commissioners or other decision-making body, shall include adoption of a statement describing how the Board of

Commissioners considers the action taken to be consistent with the Comprehensive Plan, reasonable and in the public interest.

5) All amendments and changes must be in the form of an ordinance. Copies of adopted ordinances shall be kept on file at the office of the Clerk to the Board of Commissioners.

(d) **Appeals**

(i) An appeal from the decision of the Board of Commissioners regarding a map amendment/rezoning may be made by an aggrieved party and shall be made to the Jackson County Superior Court in the nature of certiorari. Any such petition shall be filed with the Clerk of the Superior Court within 30 days after the decision of the Board of Commissioners is filed with the County Clerk, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Board of Commissioners at the time of its hearing of the case, whichever is later. The decision of the Board of Commissioners may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

(e) **Waiting Period for Subsequent Applications**

(i) When an application for a zoning map amendment has been approved or denied by the Jackson County Board of Commissioners, no rezoning application covering the same property shall be accepted or considered within 12 months after the date of the approval or denial. This restriction shall apply whether or not the new application is for a zoning classification different from the original application.

(ii) The waiting period required by this section may be waived by a three-quarter (¾) vote of the Jackson County Board of Commissioners if it determines that there have been substantial changes in conditions or circumstances that relate to the request.

(f) **Conditional Rezoning**

(i) See Section 9.4.3(j) Conditional Zoning Districts (applicable to Cullowhee).

Section 3.7.13 Sign Permit

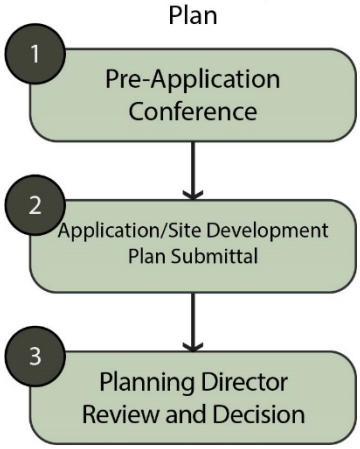
(a) Sign Permit Procedure

(i) Sign permits are reviewed by staff. Refer to Section 3.4 for Common Review Procedures.

(ii) See also Article IX: Regulated Districts, for additional sign procedures.

Section 3.7.14 Site Development Plan (Regulated Districts)

FIG 3.5 Site Development Plan



(a) **Purpose and Intent**

(i) It is the purpose of this section to establish a procedure which will enable the County to consider site plan applications for improvements to land within the County's Regulated Districts.

(b) **Applicability**

(i) Site development plan review is applicable to any development activity or subdivision of land within any regulated district. See also Article IX: Regulated Districts for individual district standards and requirements.

(ii) Cashiers Commercial Area Regulated District requires a Special Use Permit for all development. See also Section 3.7.15 below.

(c) **Site Development Plan Procedure**

(i) Pre-Application Conference

1) It is recommended that a pre-application conference be scheduled with the Planning Director prior to application submittal. Preliminary plans may be shown at this conference in order to receive general guidance.

(ii) Application Submittal and Acceptance

1) Each application for a site development plan shall contain the information required on the application form and a site plan meeting the requirements set forth on the site plan checklist.

(iii) Staff Review and Decision

1) Following submittal of the application and site plan, they shall be reviewed by the staff of the Jackson County Planning Department for compliance. The Planning Department staff may request input from other local, regional, and/or state agencies to assist in the thorough review of the site construction plan.

2) The Planning Director shall approve the site development plan if staff finds the application and site plan in compliance with the requirements of this Ordinance.

(d) **Appeal**

(i) Reference Section 3.7.2, Administrative Appeals.

Section 3.7.15 Special Use Permit

(a) **Purpose and Intent**

(i) The special use permit review process is established to provide for the adequate review and consideration of those uses which, because of their unique characteristics and impacts upon the community, require individual consideration of their location, design, configuration, and/or operation in the community. The individual consideration may also call for the imposition of individualized conditions in order to ensure that the use, including Wireless Communication Facilities, is appropriate in the community. Any use identified as a special use in the Permitted Uses Section of the Regulated Districts in Article IX, shall not be permitted without the approval

of the appropriate Community Planning Council in accordance with the requirements and procedures set forth in that section.

(b) **Applicability**

(i) Uses identified in the Table of Permitted Uses in the Regulated Districts, shall be approved as a special/conditional use in accordance with the procedures and standards of this section, prior to development. This procedure shall also be followed for wireless telecommunications permits.

(c) **Wireless Telecommunications Permits**

(i) A wireless communication facilities permit shall be considered a special use permit and shall be subject to the review procedures mandated for such permits.

(d) **Special Use Permit Procedure**

(i) Pre-Application Conference

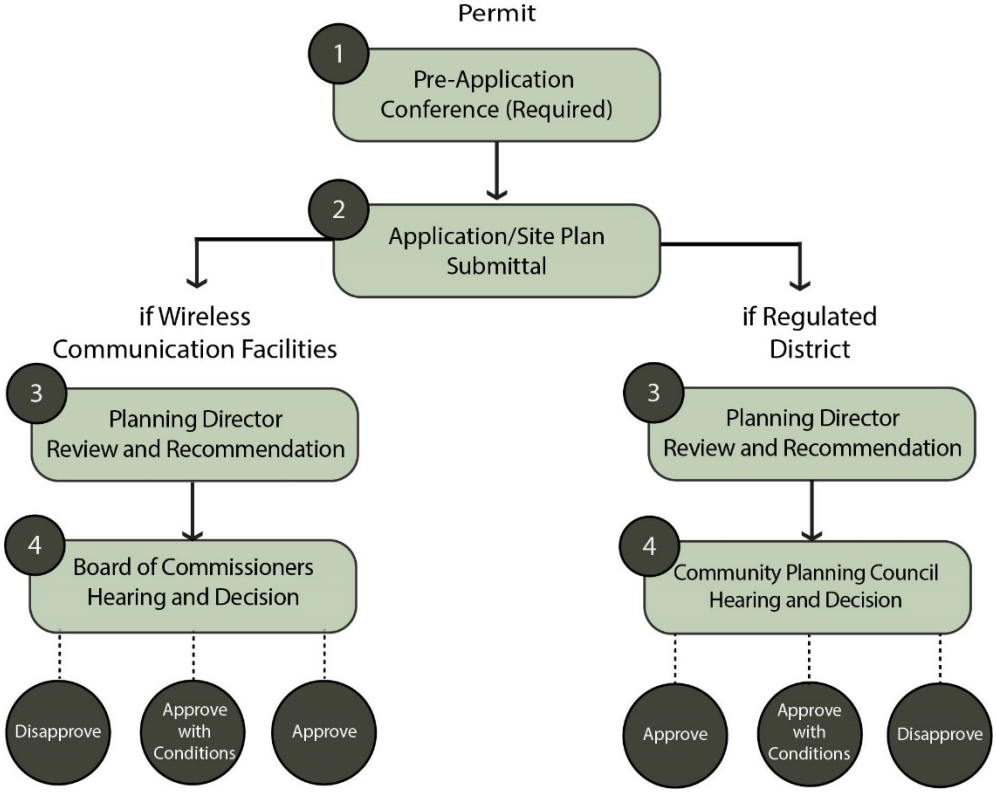
1) Every applicant for a special use permit is required to meet with the Jackson County Planning Department in a pre-application conference prior to the submittal of a special use application. The purposes of the conference are to provide additional information regarding the review process and assistance in the preparation of the application.

(ii) Application Submittal and Acceptance

1) An application for a special use permit may be filed by the owner of the property or by an agent specifically authorized to submit the application. The application for a special use permit shall be filed with the Jackson County Planning Department on a form provided by the Planning Department or on the County Website.
2) Each application for a special use permit shall contain the information required on the application form and a site plan meeting the requirements set forth on the site plan checklist.

(iii) Staff Review and Recommendation

FIG 3.6 Special Use Permit



1) Following submittal of the application and site plan for the special use permit, they shall be reviewed by the staff of the Jackson County Planning Department for compliance with the requirements of this section. The Planning Director may request input from other local, regional, and/or state agencies, such as the Jackson County Health Department and the North Carolina Department of Transportation, to assist in the thorough review of the special use permit application and site plan. The Planning Director shall review the special use permit application and site plan within 15 working days of its submittal.

2) Upon review of a complete application and site plan for a special use permit, the Director may make one of the following recommendations:

   a) Approval. If the Planning Director finds the application and site plan to be in compliance with the requirements of this Ordinance, they shall forward the recommendation and the special use permit application and site plan to the appropriate Community Planning Council for review and final action (Section 3.7.15 (v)), Community Planning Council Review and Decision). If the application is for a Wireless Communications facilities permit, the permit application shall be forwarded to the Board of Commissioners (Section 3.7.15 (vii)), Board of Commissioners Review and Decision).

   b) Approval with Conditions. If the Planning Director staff recommends approval with conditions, the applicant may revise the plans to address the conditions of the approval and resubmit it. The revised plan shall be reviewed by the Planning Director and, if the identified conditions are adequately addressed, the special use permit application and site plan shall be forwarded to the Community Planning Council or Board of Commissioners for review and final action. If the plan is not revised to meet the conditions within 30 days after the decision by the Planning Director, the request shall be deemed withdrawn and the applicant must resubmit the application with all required information and payment of fees.

   c) Denial. If the Planning Director recommends denial of the request, the reasons for denial shall be provided in writing to the applicant. The special use permit may be revised to address the reasons for denial and resubmitted in accordance with the provisions of this ordinance. A recommendation for denial by the Planning Director shall be considered final action on the request unless, within 30 days of receiving the written recommendation, the applicant provides a written request for review by the appropriate Community Planning Council or the Board of Commissioners.

(iv) Public Notification

1) Applicable (refer to Table 3.1: Development Review Procedures).

(v) Community Planning Council Review and Decision (Regulated Districts)

1) The Community Planning Council shall consider he special use permit request, at a public hearing, within 35 days of receiving the recommendation regarding the special use permit application and site plan from the Jackson County Planning Director.

2) The Community Planning Council, after conducting the public hearing may, in accordance with Section 3.7.15 (vi), Special Use Review Standards, deny approval; table the request pending submittal of additional information; or approve the special use permit. The minutes of the Community Planning Council shall state whether the proposed special use does or does not meet each of the standards set forth in Section *(vi)* of this Ordinance and all other requirements set forth in this Ordinance for the proposed special use. The decision on the

special use permit shall be by a simple majority vote of those members of the Community Planning Council present at the meeting at which the action is taken.

3) A Design Review Committee, as appointed by and composed of members of the applicable Community Planning Council, shall review all special use permit applications and site plans for compliance with the design standards set forth in Section 3.7.4 of this Ordinance and in accordance with the special use review standards (vi) below.

(vi) Special Use Permit Review Standards (Regulated Districts)

1) The Community Planning Council shall not approve the special use permit application and site plan unless and until it makes the following findings, based on the evidence and testimony presented at the public hearing or otherwise appearing in the record of the case:

   a) That the proposed use or development of the land will not materially endanger the public health or safety.

   b) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.

   c) That the proposed use or development of the land will not substantially injure the value of adjoining or abutting properties.

   d) That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the community.

   e) That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.

   f) That the proposed use will not cause undue traffic congestion or create a traffic hazard.

(vii) Board of Commissioners Review and Decision (Wireless Communication Facilities)

1) Quasi-judicial hearing. Upon receipt of a report from the Planning Department requesting a quasi-judicial hearing on the application for a wireless communication facility permit, a hearing shall be scheduled by the Jackson County Board of Commissioners on the application. Notice of all quasi-judicial hearings shall be in accordance with the North Carolina General Statutes. In addition, owners of all adjoining properties and all properties abutting any private road to be used to access the proposed site of the proposed facility shall be notified of the hearing by first class mail. Such notice shall be provided as required by law prior to the hearing. The quasi-judicial hearing on the application shall be scheduled by the Jackson County Board of Commissioners and shall meet all requirements for such a hearing.

(viii) Action by the Jackson County Board of Commissioners

1) Designation of approval body. The Jackson County Board of Commissioners is hereby designated as the approval body for wireless communication facilities permits required by this section and is granted all necessary authority to carry out this responsibility.

2) Review of the wireless communication facilities permit request. In order to preserve the integrity of the quasi-judicial hearing and at the same time comply with NCGS. 153A-323, the Jackson County Board of Commissioners shall consider the wireless communication facilities permit request, at a quasi-judicial hearing.

3) Conditional use standards. The Jackson County Board of Commissioners shall not approve the wireless communication facilities permit application unless and until it finds that the application meets all requirements set forth in this section and makes the following findings, based on the evidence and testimony presented at the public hearing or otherwise appearing in the record of the case:

   a) That the proposed use or development of the land will not materially endanger the public health or safety.

   b) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed facility, site and access road design and any mitigation techniques or measures proposed by the applicant.

   c) That adjacent/adjoining property owners have not demonstrated that proposed use or development of the land will substantially injure the value of adjoining or abutting properties.

   d) That the site can be accessed by service and emergency vehicles.

   e) That the application, site and proposed improvements comply with all provisions of this Section.

(ix) Decision by the Jackson County Board of Commissioners. The Jackson County Board of Commissioners, after conducting the quasi-judicial hearing, may: deny approval; table the request pending submittal of additional information; or approve the wireless communications permit with or without additional conditions. The minutes of the Jackson County Board of Commissioners shall state whether the proposed use does or does not meet the requirements set forth in this Section for the proposed use, and if the permit request is approved, the findings required by this Section for such approval shall be stated within the minutes. The decision on the permit application shall be by a simple majority vote of those members of the Jackson County Board of Commissioners present at the meeting at which the action is taken. Any action taken by the Jackson County Board of Commissioners shall be given to applicant and property owner in writing within 30 days of the date the action is taken. If the application is denied, the Jackson County Board of Commissioners shall state the reason(s) for said denial in its notification to the applicant.

(x) Transfer of approval

1) A special use permit approval may be transferred to a subsequent owner of the property for which the permit was issued but may not be transferred to another property.

(xi) Resubmission of denied applications

1) No application for approval of a special use permit shall be filed with or accepted by the Jackson County Planning Department that is identical or substantially similar to an application that has been denied by a Community Planning Council.

2) No application for approval of a wireless communication permit shall be filed with or accepted by the Planning Department that is identical or substantially similar to an application that has been denied by the Jackson County Board of Commissioners.

(xii) Project phasing

1) If a project approved as a special use is to be developed in phases, a master plan for the entire development must be approved by the Community Planning Council at the same time and in the same manner the special use permit application is considered. Final plans for phases of the special use may be submitted in stages and approved by the Jackson County Planning Department provided that the following requirements are met:

   a) All phases must be shown with precise boundaries on the master plan and numbered in the expected order of development.

   b) Each phase must be able to exist independently of subsequent phases by meeting all applicable standards as if the phase were a separate project.

   c) All the data required for the project as a whole must be given for each phase shown on the plan.

   d) A proportionate share of the common facilities must be included in each phase of the development.

   e) The phasing must be consistent with the traffic circulation, drainage, and utilities plan for the entire master plan, with the infrastructure provided for the phase submitted for approval.

   f) Each phase of the special use must comply with any and all conditions attached to the approval of the special use permit. No certificate of occupancy will be issued for the project phase until a site inspection has confirmed that all conditions and requirements are met.

(e) **Variances**

(i) Variances from the use standards established by this Ordinance for special uses shall not be permitted.

(f) **Appeal**

(i) An appeal from the decision of the Community Planning Council or Board of Commissioners regarding a special use permit application and site plan may be made by an aggrieved party and shall be made to the Superior Court of Jackson County in the nature of certiorari. Any petition to the Superior Court shall be filed with the Court no later than 30 days after a written copy of the decision of the Community Planning Council is received by the applicant.

(g) **Expiration**

(i) Approval of a special use permit shall be valid for one year from the date of approval by the Community Planning Council or Board of Commissioners. Failure to obtain a building permit, or otherwise initiate the permitted use, within this time shall render the special use permit approval void. The Jackson County Planning Department may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension. Permits for the phased development of a special use project shall remain valid for the time approved by the Cullowhee Community Planning Council as part of the special use approval of the master plan for the special use.

Section 3.7.16 Subdivision, Major - Preliminary Plat

(a) **Purpose and Intent**

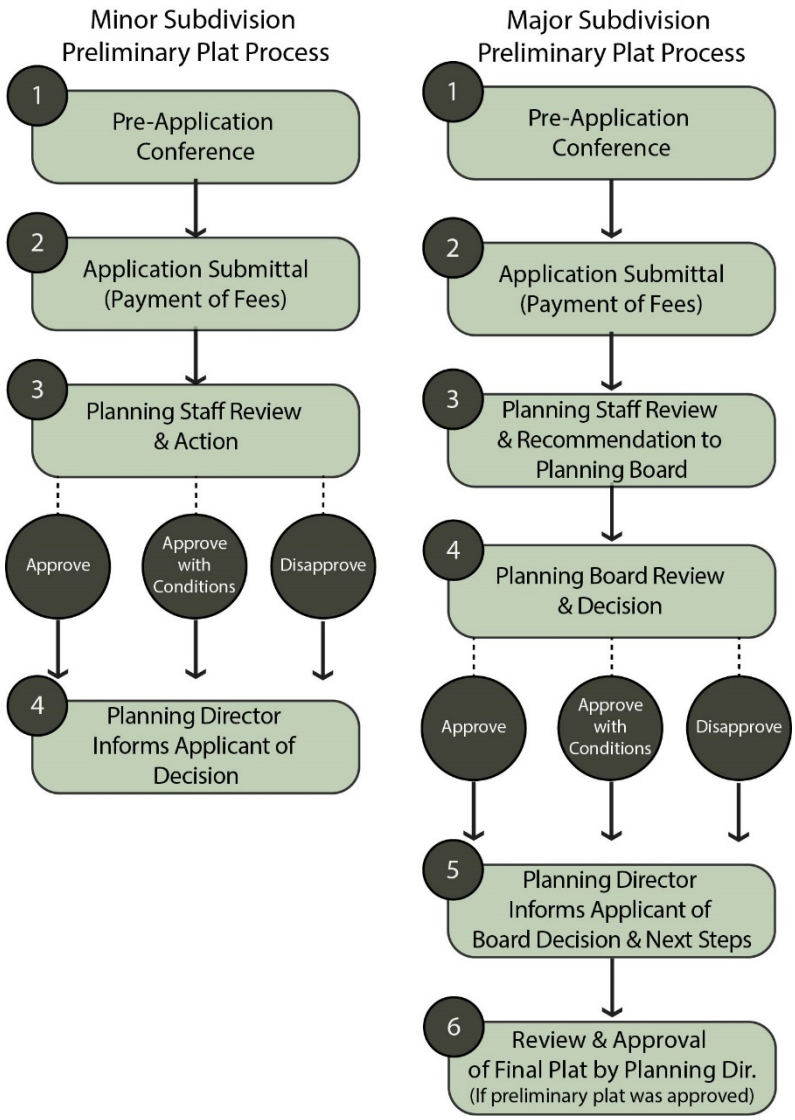
(i) It is the purpose of this section to establish a procedure for the subdivision of land into more than eight lots along with construction of public streets or public infrastructure, in accordance with State and County law.

(b) **Major Preliminary Plat Procedure**

(i) Pre-Application Conference

1) Optional (see Section 3.4 (c), Pre-Application Conference).

FIG 3.7 SUBDIVISION



(ii) Application Submittal and Acceptance

1) Applications for approval of preliminary plats shall be filed with the Jackson County Planning Department in such form and manner as the administrator shall direct. The application shall be accompanied by applicable fees as approved by the Board of Commissioners.

2) Applications for major subdivision- preliminary plat shall contain the information required on the application and application checklist.

(iii) Staff Review and Action

1) Jackson County Planning staff shall review the applications and make recommendations to the Planning Board, including the recommendations of other affected agencies of government. The Planning Board shall take action as provided in this section.

(iv) Planning Board Action and Decision

1) Pursuant to NCGS 153A-332, The Planning Board is authorized to review and approve, approve with modifications, or disapprove applications for approval of preliminary major plats and to take other actions as required by this Section.

2) Powers and Duties of Planning Board

a) The Planning Board, in relation to this section, shall have the following powers and duties:

i) Receive applications for approval of preliminary major plats.

ii) Take action under this section to approve, approve with conditions, or disapprove applications for approval of preliminary major plats.

iii) Take action on requests for extensions of preliminary plat approvals.

iv) Establish, approve, and publish rules of procedure for the conduct of its affairs.

v) Maintain a record of its actions, including the votes of its members, attendance, and a summary of the information submitted to it.

3) Timing of Actions

a) The Planning Board shall take action upon an application for approval of a preliminary major plat within 90 calendar days after acceptance and review of the application by the Planning Director unless the applicant consents in writing to an extension of this time limit.

b) If the Planning Board or the Planning Director determines that there are errors or omissions in the application, plat or related materials during the processing period, unless such errors or omissions are minor and promptly correctable, the application and related materials shall be returned to the applicant with written findings as to required corrections and/or completions necessary prior to resubmission. A new 90-day limitation shall begin as of the date of acceptance of such resubmission.

c) Where applications are approved without conditions, the Planning Director shall notify the applicant of the approval date.

d) Where applications are approved with conditions, the Planning Director shall notify the applicant in writing of the conditions and the reasons.

e) Where applications are denied, the Planning Director shall notify the applicant of the reasons.

f) All such notices shall be in writing and dispatched by first class mail to the address required by Section 3.5 within ten working days of the date of decision by the Planning Board.

g) Approvals of major plats or disapprovals and grounds therefore shall be recorded in the minutes of the Planning Board action.

(b) **Administrative Approval of all Final Major Plats.**

(i) If the final major plat conforms to the approved preliminary plat, requirements lawfully established under this section, and all preliminary conditions of approval, the Planning Director shall approve the final major plat within ten working days from receipt of a complete final subdivision submittal. All required improvements shall be complete, or a performance guarantee package shall be submitted in accordance with Section 4.9 and subsequently approved by the Planning Director.

(c) **Effect**

(i) When the Planning Board fails to approve, conditionally approve, or disapprove plats within 90 calendar days from the date of acceptance of the application, except where applications have been returned for correction of errors or omissions and resubmittal or applicants have extended time limitations, as provided in Section 3.7.16 (b)(iv)(2), a major plat shall be deemed to have been approved without conditions.

Section 3.7.17 Subdivision, Minor

(a) **Purpose and Intent**

(i) This section establishes a procedure for the subdivision of land into eight lots or fewer in accordance with State and County law.

(b) **Applicability**

(i) Unless exempted in accordance with Section 160A-376 of the North Carolina General Statutes, all divisions of land including five or fewer individual lots with no construction of public streets or installation of public infrastructure, shall comply with the provisions of this section.

(c) **Minor Plat Procedure**

(i) Pre-Application Conference

1) Optional (see Section 3.4 (c), Pre-Application Conference).

(ii) Plat Submittal and Acceptance

1) Minor subdivision plats and family subdivision plats shall be submitted to the Planning Director for review and processing. The Planning Director shall have up to ten working days to review such plat and make the following findings:

a) The application and plat qualify as a minor subdivision or family subdivision, as the case may be, as defined in this chapter.

b) Other applicable subdivision, land development, and other ordinance requirements are met.

(iii) Staff Review and Action

1) The Planning Director shall review and decide the application in accordance with Section (d), Minor Plat Review Standards below.

(d) **Minor Plat Review Procedures**

(i) The Planning Director shall establish procedures for handling applications for approval of minor subdivisions and family subdivisions intended to simplify processing of routine small subdivisions with due regard to protection of the public interest. Some flexibility shall be allowed as to submissions and processing. The main difference in processing shall be the ability of an applicant to avoid the need to seek approval of a preliminary plat. The applicant may apply directly for approval of a final plat. The following general approval process shall apply to minor and family subdivisions:

1) If the Planning Director determines there are errors or omissions in the application, plat, or related materials during the review period indicated, unless such errors or omissions are minor and promptly correctable, the application and related materials shall be returned to the applicant with written findings as to required corrections and/or completions necessary prior to resubmission. A new review time limitation shall begin as of the date of acceptance of such resubmission.

2) Where applications are approved without conditions, the Planning Director shall notify the applicant in writing for a preliminary plat or by notation on the final plat, which is then to be recorded at the office of the Register of Deeds.

3) Where applications are approved with conditions, the Planning Director shall notify the applicant in writing of the conditions and the reasons.

4) Where applications are denied, the Planning Director shall notify the applicant of the reasons. All such notices shall be in writing and dispatched by first class mail to the address submitted with the required application information. However, upon request of the applicant, such notice may be verbally presented.

(ii) No person shall utilize the procedures contained herein or claim status as a minor or family subdivision for the purposes of evading any of the applicable provisions of Article IV: Subdivisions. In the event a person is found to have utilized this section for purposes other than a bona fide family or minor subdivision, then such person may be required to comply with any and all requirements of a Major Subdivision (Section 3.7.16). In addition, such action shall be deemed a violation of this section and may subject the violator to any and all applicable penalties.

(e) **Recordation**

(i) Once a minor plat is approved, a signed statement by the Planning Director shall be entered on the face of the plat. The minor plat may not be recorded without this and all other required certifications.

(f) **Appeal**

(i) An applicant or other party aggrieved by a decision of the Planning Director in the administration, interpretation, or enforcement of this chapter may appeal said decision to the Board of Adjustment by filing a written appeal application with the Planning Director. Said application for appeal shall be filed within 30 days of receipt of the order of denial. The decision

of the Planning Director may be overturned only by vote of four-fifths of the members of the Board of Adjustment entitled to vote upon the matter. The decision of the Board of Adjustment shall be final, subject, however, to any subsequent action in the County Superior Court or other court of competent jurisdiction.

Section 3.7.18 Temporary Use Permit

(a) **Purpose and Intent**

(i) This section allows for the establishment of specific temporary uses of limited duration, provided that such temporary uses are discontinued upon the expiration of a set time period. Temporary uses shall not involve the construction or alteration of any permanent building or structure.

(b) **Applicability**

(i) The standards in this section apply to non-permanent uses that take place on a temporary basis whether on the same site or in different locations in the regulated districts.

(c) **Temporary Use Permit Procedures**

(i) Pre-Application Conference

1) Optional (see Section 3.4(c) Pre-Application Conference).

(ii) Application Submittal and Action

1) An application for a Temporary Use Permit may be filed by the owner of the property or by a duly authorized agent of the property owner. The application shall be filed with the Jackson County Planning Department.

2) The application for a Temporary Use Permit shall contain the information required on the application form and a site plan meeting the requirements for such as identified by the Jackson County Planning Department.

(iii) Staff Review and Action

1) The Planning Director shall review and decide the application in accordance with Section 3.4(e) Common Review Standards.

2) The Jackson County Planning Department shall review the application and determine if it is complete within five working days of its submittal. If the application is found to be incomplete, the applicant shall be notified of any deficiencies. The applicant may address the deficiencies and resubmit the application. If the application is complete, it will be reviewed for compliance with the requirements of this ordinance. A Temporary Use Permit shall be issued only upon finding that the proposed temporary use meets all the requirements of this ordinance.

3) The Planning Department may attach any conditions to the Temporary Use Permit needed to protect the public health, safety, and welfare.

(iv) Community Planning Council Authorization

1) The Community Planning Council may authorize the Jackson County Planning Department to issue a permit for any temporary use not listed in the permitted use sections of the Regulated Districts in Article IX, provided that the use is clearly of a temporary nature, the

use is limited to a period not to exceed 60 days, and the use is in keeping with the intend and requirements of the standards.

2) The Planning Council and/or Planning Director may attach any conditions to the temporary use permit needed to protect the public health, safety, and welfare.

(v) Temporary Use Review Standards

1) A Temporary Use Permit shall be issued only if the proposed temporary use meets the following requirements:

a) The property contains sufficient space to accommodate the temporary use.

b) The temporary use will be located no closer than 100 feet to a dwelling.

c) Parking is adequate to meet the needs of the temporary use.

d) Restroom facilities, if needed, are provided.

e) All inspections and permits required by applicable construction codes have been made and approved.

f) That temporary school facilities, model sales homes, and temporary real estate sales offices shall provide landscaping as required by Landscape Section of the Regulated Districts in Article IX of this Ordinance.

(d) **Variances**

(i) Requests for variances from the requirements for temporary uses set forth in this Ordinance shall be heard by the Community Planning Council if the subject property is located within a Regulated District, or the Board of Adjustments outside a Regulated District, as set forth in Section 3.7.20 of this Ordinance.

(e) **Appeals**

(i) Appeals of the decision of the Planning Director regarding the issuance of Temporary Use Permits within Regulated Districts, shall be heard by the Community Planning Council per Section 2.3.2 or the Board of Adjustment outside a Regulated District, in accordance with procedures established in Section 3.7.2 Administrative Appeal.

(f) **Permit Validity**

(i) The Temporary Use Permit shall be valid only for the period stated on the permit, which in no event shall exceed 45 days except for temporary school facilities, model sales homes, and temporary real estate sales offices, as noted above.

(g) **Violations**

(i) Violations of the conditions of the Temporary Use Permit, or the failure to obtain a permit for a temporary use, shall be considered a violation of this ordinance and shall be subject to the Article X: Violations and Enforcement of this Ordinance.

(h) **Public Emergencies**

(i) In the event of a natural disaster, catastrophic event, or public emergency, the County Manager or his/her designee may waive any Temporary Use Permit requirements and authorize the placement of temporary use facilities that are deemed necessary or desirable in conjunction with the management of the emergency.

Section 3.7.19 Text Amendment

(a) **Purpose and Intent**

(i) This section provides a uniform means for amending the text of this Ordinance wherever the public necessity, changed conditions, convenience, general welfare, or appropriate land use practices require doing so. A text amendment may be initiated by Jackson County or an applicant.

(b) **Text Amendment Procedure**

(i) Pre-Application Conference

1) Before submitting an application for an amendment, the applicant shall meet with the Jackson County Planning Department to discuss the proposed amendment and to receive information regarding the approval requirements and procedures.

(ii) Application Submittal and Acceptance

1) An application for an amendment shall be filed with the Jackson County Planning Department on a form provided by the Department or found on the County Website. Any fees, as designated by the Jackson County Board of Commissioners, shall be due and payable at the time the application is submitted.

2) All information required on the application form shall be contained on or accompany the application.

(iii) Staff Review

1) The Planning Director shall review the application, prepare a staff report, and provide a recommendation to the Planning Council per Section 3.7.19(b)(iv) or the Planning Board per Section 3.7.19 (b)(v) below. The Board of Commissioners makes final decision in both processes.

(iv) Community Planning Council Review and Recommendation

1) The Community Planning Council shall hold a public hearing to consider proposed amendments relevant to the specific Regulated District.

2) A recommendation by the Community Planning Council shall include the adoption of a statement describing how the Planning Council considers the action taken to be consistent with the Comprehensive Plan, reasonable and in the public interest.

3) The Community Planning Council shall make its recommendation in writing to the Planning Board for review per Section (v) below. The Community Planning Council shall recommend that the request be approved, approved with conditions, or denied.

(v) Planning Board Review and Recommendation

1) Following the receipt of the report regarding the Planning Director's recommendation on a proposed amendment, the Jackson County Planning Board shall hold a hearing to consider the proposed amendment. The hearing shall be scheduled as provided by the Planning Board's rules of procedures.

2) Following receipt of the recommendation of a Community Planning Council on a proposed amendment, the Planning Board shall review and make a recommendation to the Board of

Commissioners. Per Table 3.1: Development Review Procedures, a public hearing shall not be required for amendments proposed within a Regulated District.

3) Recommendations of the Jackson County Planning Board shall be reported to the Jackson County Board of Commissioners for a public hearing and final action according to the process set forth in Section 3.7.19 *(vi)*. The Jackson County Board of Commissioners shall schedule the public hearing at their next regularly scheduled meeting after receiving the report.

4) A recommendation by the Planning Board shall include the adoption of a statement describing how the Planning Board considers the action taken to be consistent with the Comprehensive Plan, reasonable and in the public interest.

5) If the Jackson County Planning Board has made no recommendation on a proposed amendment within 90 days of first considering it, the proposed amendment shall be forwarded to the Jackson County Board of Commissioners for consideration. A record of the Planning Board's comments regarding the proposed amendment shall accompany the proposed amendment.

(vi) Board of Commissioners Review and Decision

1) Following the receipt of the Jackson County Planning Board's action on a proposed amendment, the Jackson County Board of Commissioners shall hold a public hearing to consider the proposed amendment. The public hearing shall be scheduled as provided by the Board of Commissioner's rules of procedures. Notice of the public hearing shall be provided as required by statute.

2) Before acting on any proposed amendment, the Board of Commissioners shall consider any recommendations made by the Jackson County Planning Board, the Community Planning Council and/or the Jackson County Planning Department, the comments made at the public hearing, and other relevant information.

3) Upon reviewing all pertinent information, the Board of Commissioners may adopt the proposed amendment, reject the proposed amendment, refer the proposed amendment back to the Jackson County Planning Board for further consideration or hearing, or modify the proposed amendment.

4) Approval by the Board of Commissioners shall include adoption of a statement describing how the Board of Commissioners considers the action taken to be consistent with the Comprehensive Plan, reasonable and in the public interest.

5) All amendments and changes must be in the form of an ordinance. Copies of adopted ordinances shall be kept on file at the office of the Clerk of the Board of Commissioners.

Section 3.7.20 Variance

(a) **Purpose and Intent**

(i) The variance process is intended to provide limited relief from the requirements of this Ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this Ordinance. Variances may be heard by the Board of Adjustment, Planning Board, Regulated District Community Planning Councils, the Watershed Review Board,

and the Sediment Control Appeals Board as referenced in Table 3.1: Development Review Procedures. Refer to Section 5.6.1 (m) for variance procedures for development in flood hazard areas (floodplain).

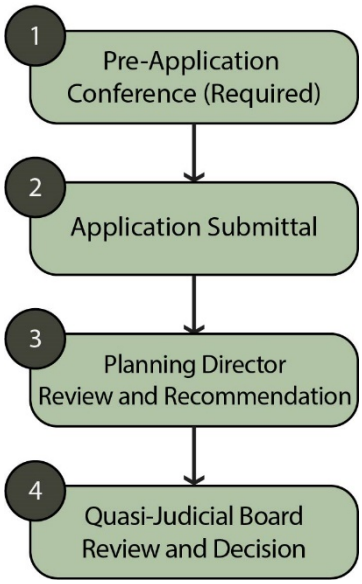
(b) **Applicability**

(i) Development that would otherwise be subject to undue and unique hardship from the application of the standards of this Ordinance may seek relief in accordance with this section.

(ii) In no event shall a quasi-judicial board issue a variance which would allow the establishment of a use which is not otherwise allowed in a zoning district or which would change the district classification or the district boundary of the property in question.

(iii) In no event shall a quasi-judicial board grant a variance which would conflict with any State code unless otherwise authorized by laws and regulations.

FIG 3.8 Variance



(c) **Variance Procedure**

(i) Pre-Application Conference

1) Required (see Section 3.4(c) Pre-Application Conference).

(ii) Application Submittal and Acceptance

1) An application for a variance may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application.

2) The application shall contain relevant information to allow the applicable quasi-judicial board to understand the proposed need for the variance.

(iii) **Staff Review and Recommendation**

1) The Planning Director or Permitting and Code Enforcement Director shall review the application to ensure that it is complete and shall prepare a staff report detailing the regulations and interpretation behind the matter being appealed along with their recommendation.

(iv) **Quasi-Judicial Board Review and Decision**

1) Upon receiving the application, the quasi-judicial board shall conduct a quasi-judicial hearing on the variance.

2) After conducting the hearing, the quasi-judicial board may: deny the application; conduct an additional public hearing on the application; approve the application; or approve the application with additional conditions. A concurring vote of four-fifths of the members of the quasi-judicial board shall be necessary to grant a variance.

3) A decision by the applicable quasi-judicial board shall be made within 45 days of the date of the hearing.

4) Any approval or denial of the request shall be accompanied by written findings of fact supporting the conclusion that the variance meets or does not meet each of the standards set forth in Section (5) below.

5) The quasi-judicial board shall not grant a variance unless and until it makes all of the following findings:

   a) Carrying out the strict letter of the Ordinance would result in an unnecessary hardship. 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 the public safety is secured, and substantial justice is achieved.

(d) **Additional Conditions**

(i) In granting any variance, the quasi-judicial board may attach such conditions to the approval as it deems necessary and appropriate to satisfy the purposes and objectives of this Ordinance. The Board of Adjustment may also attach conditions in order to reduce or minimize any injurious effect of such variance upon other property in the neighborhood and to ensure compliance with other terms of this ordinance. Such conditions and safeguards must be reasonably related to the condition or circumstance that gives rise to the need for a variance.

(e) **Appeals**

(i) Any appeal from a decision of the quasi-judicial board may be made by an aggrieved party and shall be made to the Jackson County Superior Court. Any such petition shall be filed with the Clerk of the Superior Court within 30 days after the decision of the Board is filed with the Clerk, or after a written copy thereof is delivered to every aggrieved party who has filed a written request for such copy with the Secretary or Chairman of the Board at the time of its hearing of the case, whichever is later. The decision of the Board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail return receipt requested.

Section 3.7.21 Zoning Permit (Regulated Districts)

(a) **Purpose and Intent**

(i) This section sets out the procedure for consideration of zoning permit applications in Jackson County's Regulated Districts.

(b) **Applicability**

(i) A Zoning Permit shall be required for the construction or development of any new use, other than single family dwellings, located within the County's Regulated Districts. In addition to new uses, a Zoning Permit shall be required for:

1) The renovation and/or remodeling of existing structures, other than detached single family dwellings when the cost of the renovation/remodeling exceeds 50 percent of the assessed value (as identified by the Jackson County Tax Office) of the building/structure being

renovated/remodeled; or when the renovation/remodeling increases the footprint or any change to the exterior of the structure.

2) Expansions of existing uses, other than detached single family dwellings.

3) Changes of use, other than detached single family dwellings, including an increase in intensity of use or demolition.

(c) **Zoning Permit Procedure**

(i) Pre-Application Conference

1) Optional (see Section 3.4(c) Pre-Application Conference).

(ii) Application Submittal and Acceptance

1) Application for all permits required by this Ordinance may be made at the Jackson County Planning Department. All required permits may be applied for simultaneously. Any required fees may be paid at the time of permit application. The review procedures set forth in this section are those required by the Jackson County Planning Department. Other agencies, such as the Jackson County Health Department, have separate review and approval procedures. These agencies must be contacted to obtain information regarding the approval procedure for permits required by them.

2) Simultaneous Processing of Applications

a) The simultaneous processing of applications for different permits and approvals that may be required for a development or redevelopment project will be accommodated where possible by the review procedures set forth in this section.

b) No application for the rezoning of property shall be accepted or processed while an application for any of the approvals or permits required by this section is pending for the same property or vice versa.

3) Each application for a Zoning Permit shall contain the information required on the application form and a site plan meeting the requirements set forth in in the site plan checklist.

(d) **Staff Review and Action**

(i) The Planning Director shall review and decide the application in accordance with Section 3.7.21 (e), Zoning Permit Review Standards.

(ii) The Jackson County Planning Department staff shall review the application and site plan for compliance with the requirements of this ordinance. Provided the application and site plan are complete, the Jackson County Planning Department shall take action on the request within ten working days of receipt of the application. If the application and/or site plan are found to be incomplete, the Planning Department staff shall notify the applicant of the deficiencies. If the application and site plan are found to be in compliance with the requirements of this Ordinance, the applicant shall be notified by the Planning Department that the application is approved, and a Zoning Permit shall be issued for the proposed project. If the application and site plan are found not to be in compliance with the requirements of this Ordinance, the applicant shall be notified in writing by the Planning Department of the denial. The notification shall list the reasons for denial. Upon notification of denial, the applicant may revise the application and/or site plan to address the reasons for denial and resubmit it for review or appeal the denial in accordance with the provisions of this Section.

(iii) All development and redevelopment projects exceeding 1,000 square feet in gross floor area for nonresidential projects and 12 dwelling units or 20 bedrooms for multi-family residential projects and requiring a Zoning Permit are also subject to design review, as set forth in Section 3.7.4 of this Ordinance.

(e) **Zoning Permit Review Standards**

(i) A zoning permit shall be approved on a decision when the application complies with:

1) The standards in Section (d) above Zoning Requirements.
2) The State Building Code.
3) All standards or conditions of any prior applicable permits and development approvals.
4) All other applicable requirements of this Ordinance and in the Jackson County Code of Ordinances.

(f) **Permit Validity**

(i) Upon approval of a Zoning Permit, the applicant shall have one year to apply for the required building permit(s) for the project. Failure to apply for the building permit(s) within this time shall render the Zoning Permit void. The Jackson County Planning Department may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension. Upon issuance of the building permit(s), the Zoning Permit shall remain valid as long as a valid building permit exists for the project. Any unapproved change in the approved plans, or failure to construct the project in accordance with the approved plans, shall render the Zoning Permit invalid.

IV

Subdivisions

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Article IV. SUBDIVISIONS

Section 4.1 General Provisions

(a) **Authority and Jurisdiction**

(i) This section, enacted in accordance with the provisions of NCGS 153A, Article 18, parts 2 and 3 shall apply to all of Jackson County not within the jurisdictions of the various municipalities and the Qualla Boundary.

(ii) For the purposes of this section, the term "Director" shall refer to the Planning Director unless otherwise stated.

(iii) Public health, safety, economy, good order, appearance, convenience, morals, and the general welfare require the harmonious, orderly, and progressive development of land within the jurisdiction of the County. In furtherance of this intent, regulation of land subdivision by the County has the purposes, among others, to:

1) Encourage economically sound and stable development in the County;
2) Ensure the timely provision and coordination of required streets and highways, utilities, and other facilities and services to new land developments;
3) Ensure adequate provision of safe and convenient traffic access and circulation;
4) Ensure provision of needed community open spaces in new land developments through the dedication or reservation of land for recreational, educational, and other public purposes or the provision of funds in lieu of dedication;
5) Ensure, in general, the wise and timely development of new areas, in harmony with the land development plan and other official plans of the County; and
6) Ensure accurate public records of land ownership, to facilitate land ownership transfer, the effective conduct of public and private business, and the protection of private property rights.

(b) **Improvements (Sec. 28-61) –** for the purposes of this draft the current Ordinance sections are cited

(i) Before final plat approval, each subdivision shall either contain the improvements specified in this section which apply to the classification of the subdivision submitted and all conditions of approval or a satisfactory performance guarantee shall have been posted with the County pursuant to Section 4.9, Completion and Maintenance Guarantees. The improvements shall be installed in accordance with the requirements of this section and paid for by the subdivider, unless other means of financing are specifically allowed within the requirements of this article and paid for by the subdivider. Land shall be dedicated and reserved in each subdivision as specified in this article. Each subdivision shall adhere to the minimum standards of design established by this section.

(c) **Intent**

(i) This section is intended to provide for the harmonious development of the County jurisdiction and in particular for the following:

1) The coordination of streets within subdivisions with other existing or planned streets or official map streets;
2) Appropriate shapes and sizes of lots;
3) The provision of land and of easements for utilities and other public facilities and services; and
4) A distribution of population and traffic which will tend to create conditions favorable to health, safety, convenience, prosperity, and general welfare.

(ii) Regulations set forth in this section are part of a system of regulations governing land subdivision, development and use and construction and improvements on land, supplementing and supplemented by health, drainage improvement, steep slope, flood hazard, and other land use regulations and controls.

(iii) Applications for subdivision approval shall be considered in relation to all such regulations applicable in the particular case and not only in relation to the subdivision regulations set forth in this section. Where there are conflicts between the regulations in this section and other lawfully adopted regulations involved in such considerations, those which establish the highest requirements or most stringent limitations shall govern except where specific exceptions are set forth in such regulations.

(d) **Applicability**

(i) Unless stated otherwise, the standards contained in this section apply to all subdivisions of land, including family, minor and major subdivisions.

(ii) Compliance required. Within the jurisdiction of this UDO, no subdivision shall be made, platted, or recorded for any purpose, nor shall parcels resulting from such subdivision be sold or offered for sale unless such subdivision meets all the requirements of this section and applicable related regulations of the UDO.

(iii) No lot shall be approved unless an adequate portion thereof is suitable for a use permitted by land development regulations or other applicable regulations of the County. In particular, no lot shall be platted for building purposes unless it contains an adequate building site, under applicable regulations.

(iv) Plat approval required. No plat of any subdivision within such jurisdiction shall be filed or recorded by the County Register of Deeds until it shall have been submitted to and approved by the appropriate authority and such approval entered in writing on the plat per Section 3.7.16-17 of this ordinance.

(e) **Exemptions**

(i) Any plat of property exempt from the regulations of this section shall be certified as exempt by the Director or, in the limited circumstances specified in NCGS 47-30(f) (11), a professional land surveyor prior to such plat being recorded. Such plat is not exempt from any zoning, water supply, watershed, or other local ordinances. Any exemption from the regulations of this UDO shall not be deemed an exemption from any other applicable ordinance.

(ii) The following divisions of land shall also be exempt from the standards of this section.

1) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the County as shown in this section.
2) The division of land into parcels greater than ten acres where no street right-of-way dedication is involved.
3) The public acquisition by purchase of strips of land for widening or opening of streets.
4) The division of a tract in single ownership, the entire area of which is no greater than two acres, into not more than three lots, if no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the County, as shown in this article.
5) A re-subdivision which involves only the removal of interior lot lines, with the outside perimeter of the property remaining unchanged, resulting in fewer parcels than were contained in the original parcel.
6) A re-subdivision which involves only the removal or relocation of easements on the property.

7) A re-subdivision which involves only the changing of notations written on the plat or correction of errors in an existing legal description, provided that no additional building lots are created.
8) A division of land pursuant to an allocation of land by court decree.
9) The division of land into cemetery plots.
10) A division of land involving no more than two (2) parcels for the sale, gift, or exchange of tracts between adjoining land owners, provided that no additional building sites are created.
11) A division of a building site containing an existing dwelling which has been located on an agriculturally used site for at least ten (10) years.
12) A division or re-subdivision of land for the acquisition by the public or by a utility for street right-of-way or easement.
13) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the NCGS.

(f) **Phasing**

(i) A subdivision may be developed in phases, in accordance with the provisions of this section.

(ii) Each phase shall contain at least six lots, unless shown on a phasing plan approved by the Director as part of the preliminary subdivision plan review after expressly determining that the proposed phasing makes it unlikely that a subdivider could abandon a final phase that contains a required extension of a road or other infrastructure.

(iii) A phasing plan shall be submitted showing the phases of development and the requirements of this section that will be satisfied in each phase which is approved by the Planning Board as part of the preliminary plan.

(iv) Open space, if required by Section 4.3.2, 4.3.3 or 4.3.4, shall be measured cumulatively in all approved phases and shall meet the requirements for open space for each phase of the subdivision.

(v) The degree and extent of roads, water supply, sewage disposal, stormwater management, erosion and sedimentation control, and other required improvements in the phase and previously approved phases is sufficient to serve or handle all development within the phase. Roads constructed in an earlier phase shall be designed and constructed to accommodate the total number of homes and/or lots, including those proposed for later phases, that will be served by the road(s). Lots may be recorded, and public improvements may be constructed in phases, unless set forth as part of the preliminary subdivision plan.

(vi) The Planning Board may not approve a phasing plan when in its opinion such phasing will not provide for adequate public facilities to support any such phase independent of the overall development plan. In approving phasing plans, the Planning Board may require that additional streets, water and sewer facilities or other required public facilities be constructed as part of the phase in order to ensure that sufficient public facilities will be in place to support such phase independent of any future development.

(vii) The Planning Board may approve a time line of up to ten years for the development of the subdivision. A single two-year extension of time for development of the subdivision may be granted by the Planning Board provided justification is given for the request and the request is submitted prior to the expiration of the initial ten-year period. If the final plat for any phase of the subdivision is not submitted in accordance with the approved schedule, the preliminary plat shall be resubmitted to the Director for review and approval. Such resubmittal shall be in accordance with the requirements of Article III: Permits and Procedures.

(g) **Acceptance**

(i) Effect of plat approval on status of dedication, acceptance. The effect of plat approval on the status of dedications is as follows:

1) The approval of a plat shall not be deemed to constitute or effect an acceptance by the public for maintenance purposes of the dedication of any road, ground, or other improvements shown upon the plat.
2) Acceptance of such dedications shall be only by resolution of the Board of Commissioners or appropriate action by the State Department of Transportation. The Board of Commissioners shall consider such resolutions only on determination that any required improvements have been properly installed and all applicable conditions met, as set out in Article III: Permits and Procedures and Article IV: Subdivisions of this UDO.

(h) **Non-applicability**

(i) The enactment of this section shall in no way affect the running of any amortization provisions or enforcement actions, or otherwise cure any existing land use violations.

(i) **Aggregation**

(i) For any tract of land, no more than eight lots may be created by means of the family and/or minor subdivision review process. It is the intent of this section to preclude any attempt to avoid the major subdivision review process by the sequential subdivision of land into two or more family or minor subdivisions. To that end, two or more subdivisions shall be aggregated and treated as a single subdivision under this section when they are either contiguous to one another or contiguous to property owned or controlled by person owning or controlling the land to be subdivided.

Section 4.2 SUBDIVISION CLASSIFICATIONS

(a) **Subdivision**

(i) A subdivision includes all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building development, whether immediate or future, and includes all divisions of land involving the dedication of a new street or a change in existing streets. See Major and Minor Subdivisions below.

(b) **Major Subdivision**

1) A major subdivision represents the division of property into more than eight lots. The map for the major subdivision shall include the design, improvements, as well as the existing conditions in and around, the location, subdivision name, acreage, owner and more as detailed in the Section 3.7.16.

(c) **Minor Subdivision (Sec. 28-64)**

(i) A minor subdivision refers to the creation of eight lots or less with:

1) Adequate access to an existing state-maintained road or non-state-maintained road which is constructed to minimum state standards as verified by the state department of transportation; and
2) No new public or community wastewater is proposed.

(ii) There shall be no requirement to establish a property owners' association for a minor subdivision unless required by law; however, adequate provisions shall be made for the maintenance and repair of roads and other community facilities and property, if any.

(iii) When subdividing a single lot into two lots, the Planning Director may provide exceptions in accordance with Section 3.7.1, Administrative Adjustment, from one or more of such standards where strict compliance would constitute a practical difficulty or unnecessary hardship, and where such exception would not contravene the general intent and purpose of this section or be a detriment to the public safety and welfare.

(d) **Family Subdivision (Sec. 28-63)**

(i) Family subdivisions shall comply with the standards of general applicability contained in subsection 4.1 (d) above, except as provided herein.

(ii) The standards relating to easements contained in Section 4.6, preservation of water areas contained in Section 4.10, and public access contained in Section 4.3.5 (g) shall not apply to family subdivisions.

(iii) The standards relating to stormwater drainage contained in Section 4.4 shall not apply to family subdivisions provided such subdivision shall comply with the provisions of the County sediment control provisions, if applicable, and provided further that such subdivisions shall comply with the provisions of Section 3.7.8 if land-disturbing activities equal or exceed one acre.

(iv) Family subdivisions shall comply with the standards relating to roads contained in Section 4.3.5 with one exception: access to the state highway system may be by means of a minimum 14-foot roadway if compliance with the private roadway standards is unfeasible and a hardship.

(v) There shall be no requirement to establish a property owners' association for a family subdivision unless regulated by other law; however, adequate provisions shall be made for the maintenance and repair of roads and other community facilities and property, if any.

(e) **Estate Lot Subdivision (Sec. 28-67)**

(i) Estate lot subdivisions may be developed as an alternative to the open space requirements as established by Section 4.3 In addition to other applicable standards of this UDO and other applicable regulations, estate lot subdivisions shall comply with the standards contained in this section.

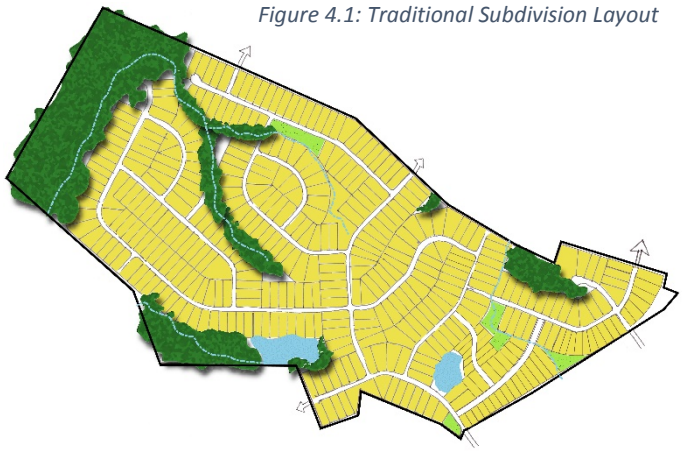
1) Minimum lot size. Each lot within an estate lot subdivision shall contain at least three acres of land area.
2) Maximum disturbed area. No more than 33 percent of the area of a lot within an estate lot subdivision may be permanently cleared of natural vegetation or otherwise disturbed. A greater area may be cleared of natural vegetation provided that any portion greater than 33 percent of the lot area is revegetated in accordance with a landscape plan approved by the Director. Vegetation shall not be removed from those areas identified in Section 4.9 (e) *(i)* unless approved by the Planning Board.
3) Maximum impervious surface. No more than 15 percent of the area of a lot within an estate lot subdivision may be covered with impervious surfaces.
4) Protection of primary conservation areas. Optimal open space areas, as specified in Section 4.9 (e) *(i)* shall be protected in accordance with the standards of this section with the exception that such areas need not be included within the open space of the subdivision and may be included within the boundaries of an estate lot.
5) Plats and restrictive covenants. The plat of an estate lot subdivision shall bear a notation concerning the maximum disturbed area, the maximum impervious surface and the protection of primary conservation areas, and restrictive covenants so limiting the use and/or development of any such lot shall be recorded in the County office of the Register of Deeds. The restrictive covenants shall be reviewed and approved by the Planning Board prior to recordation.

(f) **Cluster Development (Sec. 10-591)**

(i) Cluster development is allowed in all districts and watershed areas with exception to WS-I watershed areas under the following conditions:

1) Minimum lot sizes are not applicable to single-family cluster development projects. Density limits shall not exceed the most restrictive limits found in Section 5.7.2 (b) *(vii)* (Mountain and Hillside Development), Section 5.4.4 (a) *(ii)* (Watershed Areas), and Article IX (Regulated Districts).

Figure 4.1: Traditional Subdivision Layout



Source: Stewart

2) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow. See also Section 4.3.4 for open space requirements and design for cluster developments.
3) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to a property owner's association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property owner's association is not incorporated, a maintenance agreement shall be filed with the property deeds and a copy submitted to the division of environmental management.

(g) **Conservation Design (Major Subdivision Type Sec. 28-68)**

(i) Purpose and Requirements. The requirements in this section are intended to provide for a major subdivision design that is better suited to the natural features of the land or would blend into the character of a rural area. See also Section 4.3.3 Conservation Subdivision Open Space.

(ii) Protect Assets. It is required that part of the subdivision site which is not devoted to lots and associated roads and utilities be set aside as usable open space. Conservation subdivisions shall be designed with development areas situated on those parts of the subdivision site best suited to accommodate development with the least adverse impact. Conservation design allows smaller and less costly networks of roads and utilities, encourages closer-knit and potentially safer neighborhoods, preserves sensitive farmland, woodlands, scenic views and open space, and reduces the amount of impervious surface and resulting stormwater runoff. The open space provided by conservation design can be used to provide recreational opportunities for the subdivision's residents or employees, to conserve and protect significant natural areas and environmentally sensitive areas, to conserve important historic resources, and/or to conserve productive farming and forestry uses.

Figure 4.2: Example of Conservation Subdivision /Cluster Development

Source: Stewart

(iii) Required Open Space. Land within the subdivision site that is not contained in lots or in rights-of-way or parcels devoted to accommodating necessary roads and utilities shall be in one or

more connected parcels dedicated or reserved as permanent open space. Lands identified as optimal conservation areas pursuant to Section 4.3.2 (e) shall be deemed permanent open space in accordance with this section. When optimal conservation areas do not equal or exceed 20 percent of the land area of the subdivision, additional open space shall be designated so that at least 20 percent of the area of the subdivision is made permanent open space.

(iv) Subdivisions within the Cashiers Commercial Area intended for commercial uses shall be exempt from the open space requirement contained herein but shall comply with the requirements for preservation of water areas contained in Section 4.10.

Section 4.3 SUBDIVISION DESIGN

Section 4.3.1 Lots

(a) **General Design Criteria (Sec. 28-62)**

(i) Adequate Space. Lot size, width, depth, shape and orientation shall be appropriate for location within the subdivision and location of the subdivision, and for the type of development and use contemplated. All lots shall provide adequate building space in accordance with the development standards contained in Subsection 4.1(c) of this article. Lots which are smaller than the minimum required for residential lots shall be identified on the plat as: "Not for a residential building site. No residential building permit shall be issued, nor shall any residential building be erected on this lot."

(b) **Lots. (Sec. 28-62 (6))**

(i) Minimum Dimensions.

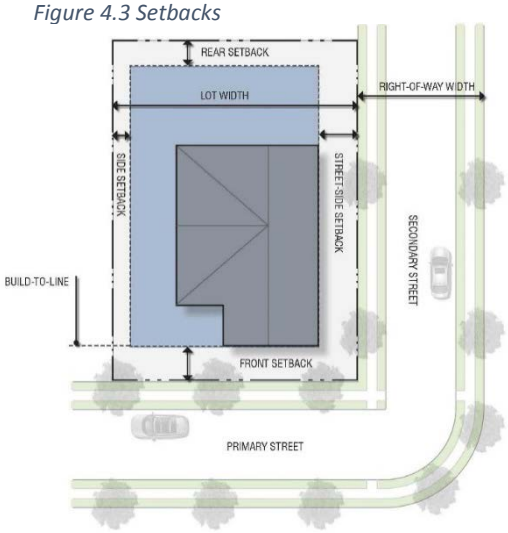
1) Minimum lot dimensions shall be as specified in any regulations applicable to the area in which the proposed subdivision is located, subject to increases as required by the County Public Health Department's Division of Environmental Health for residential lots not served by public water supply and public sanitary sewerage. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

2) Depth and width of lots subdivided for nonresidential purposes shall be adequate for off-street parking and service facilities required by the type of use and development anticipated. Where such lots are to be used for purposes requiring water for domestic use and sanitary sewage disposal and where public water and/or sanitary sewerage is not provided, they shall also conform to the minimum area requirements set by the County Public Health Department's Division of Environmental Health.

(ii) Setbacks. Minimum building setback lines are regulated by the zoning district in which the property is located or State Building Code.

(iii) Double Frontage (Through and Reversed Frontage Lots). In general, double frontage and reverse frontage lots shall be avoided except where essential to provide residential separation from traffic arteries or to overcome other

Figure 4.3 Setbacks



Source: Stewart

disadvantages of orientation or topography or to provide protection for adjacent uses.

1) A planting screen easement of at least ten feet shall be provided along the line of lots abutting traffic arteries or other disadvantageous uses, across which there shall be no right of access unless specifically authorized by the Planning Director. The screening shall be installed by the subdivider and maintained by his successors in title utilizing only those species designated in the species list contained in the list in the respective Appendices for each Regulated District in Article IX.

(iv) Side Lot Lines. Side lot lines shall be substantially perpendicular or radial to street lines unless a satisfactory lot pattern, easement pattern and area for access can otherwise be provided.

(v) Lot Lines and Utility Easements. Lot lines shall be so arranged with respect to utility easements as to permit efficient installation of utilities without unnecessary irregularities in alignment.

(vi) Suitable Building Sites; Identification of Lots Not for Building. Lots for building shall contain suitable building sites, and lots not to be built upon shall be identified in accordance with the following:

1) No subdivision shall be approved unless it has been determined that each lot or parcel intended for building contains a building site:
   a) Determined by licensed professional engineer, landscape architect, or other qualified professional, to be free from inundation and safely accessible from an approved street during rainfall of ten-year return frequency.
   b) Of configuration reasonably adapted to building.
   c) Suitable for potential building use as permitted by any regulations applicable to the area in which the proposed subdivision is located and any other applicable ordinances, including, without limitation, the County flood damage prevention ordinance and mountain and hillside development ordinance.
   d) Without danger from subsidence, heaving, erosion or slippage of soils; from hazards or nuisances incidental to airports as related to potential uses of such lots; or from other menaces to health, safety or the general welfare.
2) As guides for such determinations, the applicable approval authority shall give due consideration to limitations, standards and requirements established in ordinances and regulations adopted in conformance with the national flood insurance program, provision of water and sewerage, proposed drainage and potential types of occupancy and the like.
3) Where a lot or parcel is not intended for building, such requirements shall not apply, but such lot or parcel, which might be for utility substations, rights-of-way, and the like, shall be identified on the plat and the limitation noted thus: "Not for a residential building site. No residential building permit shall be issued, nor shall any residential building be erected on this lot."

4.3.2 Open Space - Major Subdivisions **(Sec. 28-66)**

(a) **Purpose**

(i) The standards in this section seek to achieve the goals of preserving land for recreational opportunities, preferably in a natural or semi-natural state, in perpetuity. Objectives of the open space standards in this section are primarily related to the provision of recreational opportunities, but open space can also serve environmental, scenic, and agricultural purposes and provide habitat for wildlife

(b) **Applicability**

(i) Open space standards are applicable to **major** subdivisions.

(c) **Flexibility**

(i) Recognizing that one approach does not work for all situations, the open space features and standards set forth in Section 4.3.2 (e) provide open space options in major subdivisions. Persons wishing to subdivide property should determine which option will work best for them and prepare their subdivision plat in compliance with the requirements of that option.

(d) **Designation of Land for Open Space**

(i) Open space areas as required by the Table 4.1 below must be identified on subdivision plats. Areas designated as open space shall be maintained as open space and shall not be developed for purposes other than for recreation.

(ii) Maintenance of the open space shall be the responsibility of the homeowner's association or other entity created for this purpose. See also Section 4.8.

(iii) A percentage of the lot area shall be designated as open space as required by Table 4.1. In determining the amount of open space required the acreage of all lots, excluding road rights-of-way, and easements, shall be totaled. The required open space shall be a percentage of this total as required by Table 4.1 below.

(iv) Individual areas designated as open space areas shall not contain less than 2,500 square feet, although smaller areas may be approved by the Planning Board if the intent of this section is determined to be met. The Planning Board, in their review of the preliminary plat, shall assure that open space areas are conveniently located and accessible to all lots. Open space areas shall have connections to subdivision roads and/or trail systems that will permit access by all subdivision residents.

(v) Except in a family subdivision, no lot shall contain any areas protected as water areas as defined herein. No lot in a major subdivision shall contain areas identified as open space.

(vi) Land to be designated as open space shall meet the standards set forth in Section 4.3.2 (e). In addition to these standards, any land designated as a future greenway on any official plan adopted by the County shall be designated as open space. The land to be designated as open space must be approved by the County Planning Board as part of the subdivision preliminary plat approval process.

Table 4.1: Open Space Requirements

Number of lots	Open Space Requirement
Less than 8	None
8 -20	10% of total lot area[1]
21-50	15% of total lot area
More than 51	20% of total lot area

[1] Total lot area = area of all lots excluding road rights-of-way, easements, etc.

(e) **Open Space Use Standards (Sec. 28-66(b)(1))**

(i) The following areas within the proposed subdivision are considered optimal for preservation as open space and shall be given highest priority for designation as open space on the plat of any major subdivision:

1) Designated floodways and special flood hazard areas identified on the flood insurance rate maps for the County prepared by the Federal Emergency Management Agency (FEMA).
2) Natural watercourses and any adjoining areas required to be maintained in a natural vegetated and unaltered state by the County watershed protection regulations.
3) Steep slopes as defined by the County mountain and hillside development provisions.
4) Areas adjacent to rivers, creeks, streams, and other water bodies that may serve as buffers for the water bodies.

5) Any environmentally sensitive areas where development might threaten water quality or ecosystems (e.g., watershed buffers, groundwater recharge areas).
6) Any identified important historic resources (e.g., homesteads, mills, barns, archeological sites) identified from a local archeological or architectural survey or an individual site survey.
7) Productive farmland or forest land intended for continued agricultural and/or forestry use and placed in the County's farmland preservation program and/or covered by a forestry management plan.

(f) **Limitations (Table 3-2, p139-40)**

(i) No more than 50 percent of the area(s) designated as open space may have the natural ground cover substantially altered or converted to a recreational use.

(ii) No more than 50 percent of the net open space shall be covered by permanent water bodies or streams; their buffers shall not be included in the calculation of this 50 percent restriction.

(iii) Impervious surfaces shall not exceed 12 percent of open space areas.

(iv) On golf courses, natural areas that are a part of the course are considered open space. Unnatural streams, ponds, or water hazards are not considered open space.

(v) A developer or landowner may submit a written request for a waiver from these rules. The request shall come before the Planning Board and be decided upon with a simple majority vote.

(vi) Open space may be used to provide active and/or passive outdoor recreation opportunities, either for the general public or for the subdivision's residents or employees and their guests provided that all standards as set forth in applicable local, State, and Federal ordinances and regulations for use of these areas are followed.

(g) **Allowable / Qualified Open Space (Table 3-2 p.139-40)**

(i) Wooded, uncleared, and undeveloped areas in a natural state that may provide wildlife habitat.

(ii) Recreation areas including those that alter the natural ground cover, such as swimming pools, tennis courts, basketball courts, shuffleboard courts, batting cages, and other uses befitting the intent of this article.

(iii) Water bodies and streams and their buffers, including trout stream buffers.

(iv) Greenways dedicated to environmental, scenic, or recreational purposes.

(v) Lands for passive, non-motorized recreation, including activities such as running/walking, hiking, biking, primitive camping, disc (Frisbee) golf, and similar low-impact outdoor activities.

(vi) Active recreational facilities including volleyball courts, playing fields, and playgrounds provided they have pervious surfaces.

(vii) Community and private gardens.

(viii) Farmland for crop and livestock fields including horse pastures, but not including structures or homes on farm properties.

(ix) In the community open space, community amenities such as public decks, plazas, picnic shelters, gazebos, outdoor stages, or similar accessory structures.

Figure 4.4: Community gardens qualify as open space

Source: cityofpowell.us

(h) **Areas Not Allowed as Open Space**

(i) Public or private sheds, open or enclosed storage facilities, barns, or similar accessory structures.

(ii) Areas for motorized recreational use such as boat ramps and off-road/four-wheeling trails.

(iii) Any public or private road, driveway, or parking area, regardless of whether it is paved, unpaved, gravel, tile, brick, or pervious pavers. Rights-of-way and areas reserved for any existing or future road are also excluded.

(iv) Solid waste disposal areas (including dumpster location sites).

(v) Areas for aboveground utility structures as well as cleared areas for solar panels or telecommunications installations (such as satellite dishes), whether for public or private use.

(vi) Land that is contaminated with hazardous or toxic waste or materials as defined by state or federal regulations (except land covered by an approved mitigation plan and deemed acceptable to the County).

(vii) All other impervious or unnatural ground covers or land uses.

(i) **Location and Design**

(i) The location, size and character of required open space shall be appropriate to its intended use (e.g., open space proposed to be used for recreation, particularly active recreation, shall be located and designed so as to be conveniently and safely reached and used by those persons it is intended to serve, and open space proposed to be used for ball fields, playing fields, or other extensive active recreational facilities should be located on land that is relatively flat and dry.

(ii) Open space shall be spatially arranged to provide connections among open space areas. Connected open space provides channels for stormwater flow and infiltration, useable recreation areas, and wildlife corridors. When possible, open space shall be arranged so as to connect across property lines. Natural areas in conservation subdivisions should connect to adjacent areas of open space and existing habitat on surrounding properties. Open space areas should maintain a minimum 50-foot width for the entire extent of the open space, except for trails or other connections between open space areas.

(iii) Sidewalks may be provided per Section 4.3.5 (j).

(iv) The State requires a riparian protection zone (minimum 30-foot buffer from top of bank) on both sides of named trout waters and their tributaries. The protection of stream banks provides many benefits, including providing natural habitat corridors for native species and protecting the quality and integrity of streams and their banks. Additionally, it limits development in areas prone to flooding and actually helps decrease the volume of stormwater runoff, particulate matter, and contaminates entering the streams. The mandated stream buffers shall be incorporated into open space requirements.

(j) **Open Space Dedication or Reservation (Sec. 28-66(b)(2))**

(i) Open space shall be dedicated or reserved in accordance with the standards contained herein.

1) Land designated as open space to meet the requirements of this section shall be conveyed to a property owners' association or similar legal entity or to a public agency or nonprofit organization that is organized for, capable of, and willing to accept responsibility for managing the open space for its intended purpose and that will ensure subdivision property owners access to and use of the open space.

2) Each dedicated or reserved open space parcel shall be shown on all subdivision plans and on a record plat recorded with the County Register of Deeds, with a notation of its area and its intended open space use. The owner of an open space parcel may rededicate or re-reserve the parcel for another open space use allowed under this section by recording a record plat showing the parcel and its new intended open space use.

3) Open space area, with the prior written consent of the County, shall be designated prior to, or concurrent with, the recording of the final subdivision plat. The method of conservation shall be stated on the submitted subdivision plat(s) and shall be approved by the County planning department. Open space shall be dedicated to, owned, and maintained in perpetuity by any of the following:
   a) A homeowners' association, having acquired fee simple title to the open space from the developer, in which membership is mandatory for all homeowners within the development.
      i) Any conveyance to a homeowners' association shall be subject to restrictive covenants and easements reviewed by the Director and recorded and filed at the time the subdivision plat for the project area is recorded.
      ii) The covenants and easements shall provide for the establishment of a homeowner's association before any homes are sold, where membership is mandatory for the initial home buyer and any successive buyer, the association is responsible for liability insurance and local taxes on common open space and recreational facilities owned by it, and any fees levied by the association that remain unpaid will become a lien on the individual property in accordance with procedures established under the dedication or organization document.
   b) A perpetual conservation easement on the open space held and enforced by an established land trust or conservation organization;
      i) With its prior express written consent, a governmental body (e.g., the County Department of Parks and Recreation, State of North Carolina, United States government); or
      ii) Any other structure or entity designed to afford such perpetual maintenance for the open space as same may be approved in advance by the County Planning Board.

(k) **Open Space Maintenance**

(i) The owner of the open space shall be responsible for maintaining the open space so that it continues to effectively function for its intended use, and any dedication or conveyance of an open space parcel shall provide for such responsibility. Where the subdivision is located within a Watershed Protection District, retention of undeveloped open space in a vegetated or natural state shall be ensured by maintenance provisions filed with the County Planning Department, either as part of recorded documentation providing for establishment of a property owners' association or similar legal entity that is to be responsible for maintenance and control of open space or in a maintenance agreement recorded with the property deeds.

(l) **Fee-In-Lieu**

(i) For all open space requirements not involving property designated as a greenway on any official plan adopted by the County, a property owner may elect to pay a fee-in-lieu of open space instead of providing the required open space provided that the Planning Board finds during the preliminary plat review that there is reasonable existing or future open space proximate to the subject parcel available for use by the future residents of the proposed subdivision.

(ii) This fee shall be calculated by using the pro rata value of the designated property relative to the value of the entire site to be developed using tax appraisal data; for properties covered by agricultural or other exemptions, the County may utilize a separate appraisal method in its sole discretion. Funds collected in this manner shall be maintained in a separate account and shall be used to purchase property, or to enhance recreational use of property, or to implement projects identified in the Greenway Master Plan and/or the County parks and recreation master plan provided such features are reasonably proximate to the site(s) from

which the funds are collected (located in the same County commissioner district as the subdivision providing the fee in lieu). Where practical, the collected fees for each project shall be designated for specific parks and recreation acquisitions and/or enhancements by the County.

(iii) For developments and subdivisions containing more than 50 residential units, the fee-in-lieu option may only be used for up to 50 percent of the open space requirements in order to ensure that these larger projects provide on-site open space for their residents.

(m) **Mitigation Program**

(i) For all open space requirements not involving property designated as a greenway on any official plan adopted by the County, a property owner may elect to donate property of equal value located in any area of the County to a program that would preserve it as public open space accessible to all residents of and visitors to the County in lieu of providing open space within the proposed development. The value of the property required for open space shall be calculated by using the pro rata value of the designated property relative to the value of the entire site to be developed using tax appraisal data. The value of the property to be donated shall be calculated in the same way. The value of properties covered by agricultural or other exemptions may be calculated by the County using a separate appraisal method in its sole discretion.

(ii) **Standards for Property to Be Donated**

1) Property to be donated to the County in lieu of dedicating open space within a subdivision shall meet the following standards:
   a) The property shall be maintained as public open space, with a written agreement guaranteeing the preservation of the open space.
   b) The property must be donated to a unit of government, public agency, or nonprofit organization that is organized for, capable of, and willing to accept responsibility for managing the property for its intended purpose as open space and that will ensure County residents and visitors direct access to and use of the property as public open space.
   c) Direct access to the property by the public must be maintained in perpetuity, with a written agreement guaranteeing direct access by the public.
   d) Donation of the property as mitigation in lieu of providing all or any portion of the required open space within the subdivision must be approved by the Planning Board.
   e) The property to be donated as mitigation must be identified in an official plan adopted by the County as suitable (desirable) for public open space.

2) Standards for Dedication of Land

   a) Property to be provided as mitigation in lieu of providing open space within a subdivision shall be donated to a public agency or nonprofit organization. Said public agency shall be organized for, capable of, and willing to accept responsibility for managing the property for open space purposes. The final recorded plat for subdivisions that donate land as mitigation in lieu of providing open space in the subdivision shall have a note stating that land has been donated as mitigation and providing the acreage, location, and deed reference of the property donated. The standards set forth in Section 4.3.2(d) above for dedication of open space shall be met when donating land as mitigation in lieu of providing open space within a subdivision.

4.3.3 Open Space - Conservation Subdivisions

(a) **Required Open Space**

(i) The open space provided by conservation design can be used to provide recreational opportunities for the subdivision's residents or employees, to conserve and protect significant natural areas and environmentally sensitive areas, to conserve important historic resources, and/or to conserve productive farming and forestry uses.

1) Land within the subdivision site that is not contained in lots or in rights-of-way or parcels devoted to accommodating necessary roads and utilities shall be in one or more connected parcels dedicated or reserved as permanent open space.
2) Lands identified as optimal conservation areas pursuant to subsection (b) of this section shall be deemed permanent open space in accordance with this section. When optimal conservation areas do not equal or exceed 20 percent of the land area of the subdivision, additional open space shall be designated so that at least 20 percent of the area of the subdivision is made permanent open space.

(ii) Subdivisions within the Cashiers Commercial Area intended for commercial uses shall be exempt from the open space requirement contained herein but shall comply with the requirements for preservation of water areas contained in Section 4.10.

(b) **Open Space Use, Location and Design (Sec. 28-68(a))**

(i) The following areas are considered optimal conservation areas and shall be designated as open space on the plat of any conservation subdivision as necessary to meet the required 20 percent of land area:

1) Designated floodways and special flood hazard areas identified as part of a flood insurance study prepared by FEMA.
2) Natural watercourses and any adjoining areas required to be maintained in a natural vegetated and unaltered state by this article or other applicable regulations.
3) Any environmentally sensitive areas where development might threaten water quality or ecosystems (e.g., watershed buffers, groundwater recharge areas).
4) Any identified important historic resources (e.g., homesteads, mills, barns, archeological sites) identified from a local archeological or architectural survey or an individual site survey.
5) Productive farmland or forest land intended for continued agricultural and/or forestry use.
6) Steep slopes (those exceeding 35 percent).
7) Any identified sensitive natural area as defined herein.

(ii) Open space may be used to provide active and/or passive outdoor recreation opportunities, either for the general public or for the subdivision's residents or employees and their guests provided that all standards as set forth in applicable local, state, and federal ordinances and regulations for use of these areas are followed. Impervious surfaces in required open space are limited to ten percent of the open space not contained within the optimal conservation area. Note: This does not preclude a membership requirement or monetary charge for use of recreation facilities, such as a golf, swim, or tennis club, as long as subdivision residents have an opportunity to join the club or pay to use club facilities;

(iii) Sidewalks may be provided by the developer, if approved by the Planning Board, to access a pedestrian destination point, such as a school, park, etc., and may constitute part of the open space requirements.

(iv) The location, size, character, and shape of required open space shall be appropriate to its intended use (e.g., open space proposed to be used for recreation, particularly active recreation), shall be located and designed so as to be conveniently and safely reached and used

by those persons it is intended to serve, and open space proposed to be used for ball fields, playing fields, or other extensive active recreational facilities should be located on land that is relatively flat and dry).

(c) **Design Procedure (Sec. 28-68(d))**

(i) The following conservation design procedures shall be used in evaluating major subdivision applications:

1) Existing features/site analysis. An existing features/site analysis map shall be submitted to the Planning Department. The map shall indicate all features that exist on the subject site as described in this section.
2) Identification of open space conservation areas. Open space areas shall be identified. Guidance as to which parts to classify as open space areas shall be based upon three factors:
   a) On-site visits by the Director, the subdivider and the site designer.
   b) The open space standards described in Section 4.3.3(b).
   c) The evaluation criteria as shown in Section 4.3.3(d).
3) Principal structure setback from open spaces. Any principal structures must be set back a minimum of 30 feet from all open space lot lines. Provided, however, the Director may reduce this setback requirement when, due to soil types, topography or other site considerations, strict compliance would result in practical difficulty or unnecessary hardship and when adequate assurances have been given for the protection of the open space.
4) Street, trail, and sidewalk locations and alignments. All streets, sidewalks, and trails shall be located and aligned on the site in the most reasonable and economical manner. Trails shall be provided from housing clusters to the designated open space.

(d) **Evaluation Criteria (Sec. 28-68(e))**

(i) For any given site, resources may vary widely by importance. Likewise, for each type of resource, there should be examples of greater or lesser significance. In evaluating the layout of a site, the following evaluation criteria will be considered in determining the site's features and allowing for site design flexibility:

1) The open space shall be reasonably contiguous and shall abut existing open space on adjacent sites.
2) Wetlands, flood hazard areas and natural watercourses with associated buffers shall not be cleared, filled or graded except as authorized by State, Federal and other applicable regulations and as may be approved by the Planning Director. Water features shall constitute no more than 50 percent of the open space area.
3) Dwellings shall be located in unwooded parts of the site to prevent unnecessary clearing practices. Exceptions may be made when a site investigation by County staff reveals all or part of wooded areas are not worth saving due to tree decay/disease or unsightly overgrowth.
4) The impacts on larger woodlands over five acres shall be minimized as much as practical.
5) Where farmland preservation is the goal of a site design, dwellings shall be located away from active farming areas, as is practical.
6) Where preserving scenic views is the goal of a site design, such scenic views should remain unblocked and uninterrupted. In wooded areas, where enclosure (i.e., a tree canopy) is a feature to be maintained, a no-cut and no-build buffer shall be considered along the public roadway.
7) Where historic or archeological preservation is the goal of a site design, new streets, driveways, fences and/or utilities shall not interfere with the historic site. Building designs of the new homes shall reflect the qualities and designs of the historic buildings, as much as is practical.

8) Where power line rights-of-way are proposed to be included as part of the open space, the right-of-way shall not exceed 50 percent of the required permanent open space.

4.3.4 Open Space - Cluster Development

(a) **Open Space Use, Location and Design (Sec. 10-591)**

(i) All built-upon area shall be designed and located to minimize stormwater runoff impact to the receiving waters and minimize concentrated stormwater flow.

(ii) The remainder of the tract shall remain in a vegetated or natural state. The title to the open space area shall be conveyed to a property owners' association for management; to a local government for preservation as a park or open space; or to a conservation organization for preservation in a permanent easement. Where a property owners' association is not incorporated, a maintenance agreement shall be filed with the property deeds and a copy submitted to the division of environmental management.

(iii) A minimum 30-foot vegetative buffer for development activities is required along all perennial waters defined as:

1) Streams and impoundments indicated on the most recent versions of United States Geological Survey (USGS) 1:24,000 (7.5 minute) scale topographic maps.
2) Streams and impoundments, including natural or manmade surface channels in which water flows most of the year.
3) Streams and impoundments as determined by local government studies.

(iv) No new development is allowed in the buffer except for water-dependent structures. Other structures (not to include slated decks) such as flag poles, signs and security lights which result in only minor increases in impervious area, and public projects such as road crossings and greenways where no practical alternative exists would be allowed. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater best management practices. Additional development that would reduce the area of vegetative buffer shall be prohibited.

(v) Development projects permitted under the Special Intensity Allocation (SIA) shall provide a minimum 50-foot vegetative buffer. Desirable artificial stream bank or shoreline stabilization is permitted.

Section 4.3.5 Street Standards

(a) **Relation to Transportation and Land Development Plans**

(i) Arrangement, character, extent, width, grade, and location of all roads shall conform to the officially adopted Thoroughfare Plan or Comprehensive Transportation Plan, the adopted County Land Development Plan or elements thereof and any other adopted plan and shall be considered in relation to the following:

1) Existing and proposed transportation patterns.
2) Topographic and other natural features.
3) Public convenience and safety.
4) Appropriate relation to proposed uses of land to be served by such streets and existing or potential land uses in adjoining areas.

(ii) The subdivider shall dedicate lands and fund necessary road improvements in conformity with adopted transportation or land use plans to the extent that such are adequately related to the traffic expected to be generated by the subdivision.

(b) **Public Roads (Sec. 28-62)**

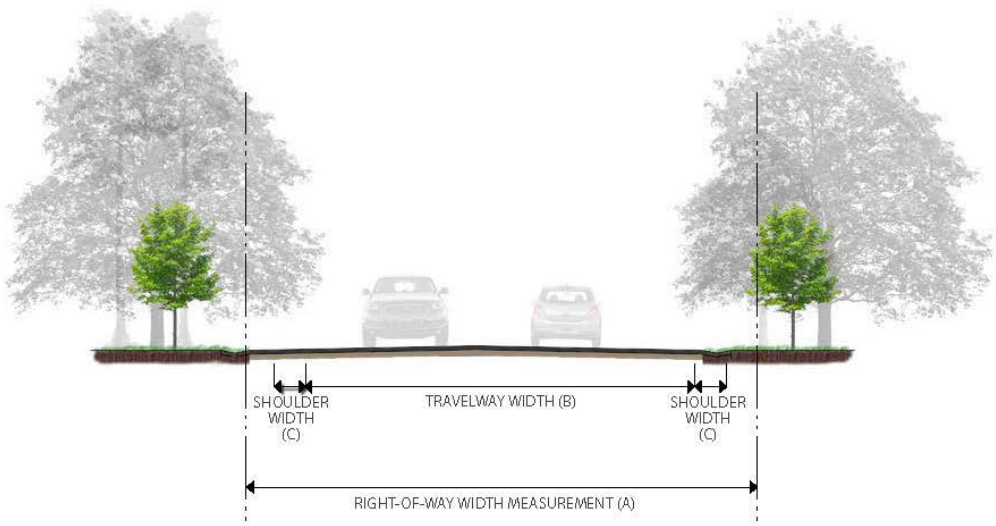
(i) All subdivision lots shall abut a public or private road for a distance of at least 30 feet. Public subdivision roads shall be designed and built according to the standards in the North Carolina Department of Transportation's *Subdivision Roads Minimum Construction Standards*. These roads shall be maintained by the developer/owner until the North Carolina Department of Transportation assumes responsibility for maintenance. Roads which are not eligible to be put on the State Transportation system because there are too few residences shall nevertheless be dedicated for public use and shall be built in accordance with State Department of Transportation Standards. Where a road has been offered for public dedication, that offer may not be withdrawn without prior approval from the Director.

(c) **Private Roads (Sec. 28-190)**

(i) Design Criteria

1) Private subdivision roads shall connect to an existing state-maintained road and shall be constructed in accordance with the standards contained in the North Carolina Department of Transportation's most recent version of *Subdivision Roads Minimum Construction Standards.*
2) Roads that are not required to be constructed to state standards will be privately maintained, and maintenance responsibilities shall be noted on the final plat. Regardless of the designation of the road, every lot shall have access to a road that is sufficient to provide a means of ingress and egress for emergency vehicles as well as all those likely to need or desire access to the property for its intended use. (**Sec. 28-62.1. B)**
3) Roads shall be designed by a registered professional engineer or professional land surveyor licensed to work in North Carolina, as provided for by NCGS 89C-3. Prior to approval of a final plat for a subdivision the engineer or land surveyor who designed the roads shall certify that the roads have been constructed in accordance with the approved plans. If a surety bond or other financial guarantee is provided in lieu of constructing roads prior to approval of the final plat, the financial guarantee shall not be considered to be satisfied until the engineer or land surveyor who designed the roads has certified that the roads have been constructed in accordance with the approved plans.
4) Minimum Private roads proposed to serve lots and/or home sites in subdivisions shall comply with the following minimum design standards in Table 4.2.

Figure 4.5: Typical Street Cross-Section



Source: Stewart

TABLE 4.2: Subdivision Road Requirements

ROAD TYPE	MIN. ROW WIDTH (A)	TRAVELWAY WIDTH (B)	SHOULDER WIDTH (C)
SHARED DRIVE (UP TO 8 UNITS SERVED)	30’	10’	2’
MINOR RESIDENTIAL (9-12 UNITS SERVED)	35’	14’	2’
RESIDENTIAL (13-20 UNITS SERVED)	45’	16’	2’
MAJOR RESIDENTIAL (21-50 UNITS SERVED)	45’	18’	3’
COLLECTOR (OVER 50 UNITS SERVED)	45’	20’	3’

Notes:

- The minimum road right-of-way width shall be increased to the extent necessary to keep all grading and land disturbing activity within the road right-of-way.
- Traffic generated by amenities such as golf courses, restaurants, etc. located within the proposed subdivision shall be considered in determining the appropriate standards for the road(s) serving the development and/or providing access to the amenity. This shall be done by identifying the vehicle trips estimated to be generated by the proposed amenity and relating these vehicle trips to those generated by a single-family dwelling. It shall be assumed that a single-family dwelling generates eight vehicle trips per day. Estimated traffic generation shall be as set forth in the NCDOT Traffic Engineering Manual.
- If the shared drive or minor residential road is more than 500 feet long, a turnout must be provided as set forth in Section 4.3.5 (c)(i)5) below.

5) Turnouts. The turnouts must be a minimum of 50 feet long and provide for a total travelway width of 18 feet with an additional three feet width cleared of trees, brush, and undergrowth. If the turnout is located on the fill side of the road, it shall have a total travelway width of 20 feet with an additional three feet width cleared of trees, brush, and undergrowth. The location of turnouts on shared drives and minor residential roads shall be

approved by the Planning Board. Items to be considered in the review of turnout locations shall include the road grade, slope of the bank (if turnout to be located on fill side of the road), width of the turnout, vertical and horizontal curves, and compaction of the subsoil and base as set forth in Table 4.3.

Table 4.3: Grades, Centerline Radius, and Turnouts

Road Section Grade	Road Centerline Radius	Turnout Spacing
≤ 12%	> 90 Feet	700 Feet
≤ 12%	90—70 Feet	600 Feet
≤ 12%	69—60 Feet	500 Feet
≤ 12%	59—50 Feet	400 Feet
≤ 12%	< 50 Feet	300 Feet
> 12%	> 90 Feet	350 Feet
> 12%	90—70 Feet	300 Feet
> 12%	69—60 Feet	250 Feet
> 12%	59—50 Feet	200 Feet
> 12%	< 50 Feet	150 Feet

6) The maximum length for road types shall be as follows:

Table 4.4: Road Length Standards[1]

Shared Drive	2,650 feet (approximately ½ mile)
Minor Residential	5,300 feet (approximately 1 mile)
Residential	10,600 feet (approximately 2 miles)

[1] If the road length exceeds the maximum for that road type, the road shall be constructed to the standards of the next type regardless of the number of homes/lots served.

7) Maximum cut slope: 1:1; maximum fill slope: 1½:1. Steeper slopes may be permitted if certified by a professional engineer and approved by the Subdivision Ordinance Enforcement Officer. A bench with a minimum width of 5 feet shall be provided at the toe of all fill slopes greater than 10 feet in vertical height. All cut and fill slopes greater than 20 feet in vertical height shall have a bench with a minimum width of 5 feet for every 10 feet in vertical height. An illustration depicting the benching of cut and fill slopes is available on the County Planning Department website http://www.jacksonnc.org/planning.html and from the Planning Department office.

8) Development access roads in subdivisions with more than 100 lots and/or dwelling units proposed and sections of roads within a subdivision providing access to more than 100 lots shall be constructed to NC DOT subdivision roads minimum construction standards.

9) All lots in a residential subdivision shall abut an access road meeting one of the classifications identified in the Table 4.2: Subdivision Road Requirements.

10) Subdivisions shall abut and be accessed from a public road or have a deeded right-of-way (minimum width of 45 feet) to a public road. If access is provided by a deeded right-of-way, an access road meeting the road construction standards for the number of lots served shall be constructed within the deeded right-of-way.

11) Sections of road, including shared drives, with a grade in excess of 15 percent shall be paved, with the pavement extending 100 feet from the section of road with a grade in excess of 15 percent. The length of road sections with a grade greater than 15 percent shall not exceed 300 feet in length, and a leveling area shall be provided at each end of the road segment with a grade exceeding 15 percent. The grade of the leveling area shall not exceed 12 percent and shall be at least 100 feet in length.

12) The grade of residential roads and major residential roads may be increased up to a grade of 20 percent upon approval of the Planning Board in order to minimize grading and/or vegetation removal. The section of road with a grade in excess of 15 percent shall be paved, shall not exceed 300 feet in length, and a leveling area shall be provided at each end of the road segment with a grade exceeding 15 percent. The grade of the leveling area shall not exceed 12 percent and it shall be at least 100 feet in length.

13) The grade of collector roads may be increased up to a grade of 18 percent upon approval of the Planning Board in order to minimize grading and/or vegetation removal. The section of road with a grade in excess of 15 percent shall be paved, shall not exceed 300 feet in length, and a leveling area shall be provided at each end of the road segment with a grade exceeding 15 percent. The grade of the leveling area shall not exceed 12 percent and it shall be at least 100 feet in length.

14) A two-foot wide shoulder shall be provided on each side of shared driveways, minor residential, and residential roads. A three-foot-wide shoulder shall be provided on each side of major residential and collector roads. The shoulder shall be at approximately the same finish grade as the road bed and shall be compacted to a minimum compaction rating of 95 proctor. Shoulders may be grassed, graveled, or paved.

15) The travelway width for all roads except collector and development access roads may be reduced to one lane (minimum width nine feet) in areas with steep slopes to reduce grading and preserve existing vegetation upon approval of the Planning Board. The maximum length of the one lane segment shall be 1,000 feet and a pull out(s) meeting the standards set forth above shall be provided. A road shoulder with a minimum width of two feet shall be maintained on each side of the one lane road segments.

16) Leveling areas must be provided for all roads at all intersections. The leveling area shall have a maximum grade of five percent extending 50 feet from the intersection.

17) The travelway width shall be increased when the road centerline radius is less than 90 feet. For centerline radii between 90 feet and 70 feet, the travelway width shall be increased 25 percent; for centerline radii between 70 feet and 60 feet, increase the travelway width 35 percent; for centerline radii between 60 feet and 50 feet, increase the travelway width 45 percent; and for centerline radii less than 50 feet, increase the travelway width 50 percent.

18) The width of the corridor cleared/graded for road construction shall not exceed 90 feet for 80 percent of the length of the road. For 20 percent of the length of the road, the corridor may be cleared/graded to a maximum width of 135 feet for the road construction. The maximum height of the corridor (combined cut and fill slopes) shall be 60 feet.

19) An overhead clearance of 14 feet shall be provided on all roads.

20) Alternatives and modifications to these standards that reduce land disturbance and vegetation removal, such as one-way roads and loop roads, and/or that are necessitated by the natural physical features of the property and not otherwise provided for in these

standards may be approved by the Planning Board. The request for such alternative or modification shall be submitted by the property owner/developer to the planning department for review and conveyance to the Planning Board.

21) Vertical Curves. Formula for determination of length of vertical curve required to provide minimum sight distances shall be as follows:

a) [L = KA]

L = Length of vertical curve in feet
K = Rate of vertical curvature in feet per percent of A
A = Algebraic difference in grades in percent

Table 4.5: Vertical Curvature Standards

Crest	10
Sag	10
Stop	5

22) Minimum private roads proposed to serve lots and/or home sites in subdivisions shall comply with the following minimum construction standards:

Table 4.6: Private and Subdivision Road Construction Standards

Road Type	Base Course	Pavement Surface
Shared Drive	4" ABC[1] or STBC[2]	Not required unless grade > 15%
Minor Residential	6" ABC or STBC	AST[3]
Residential	6" ABC or STBC	1 ½" SF9.5A[4] or S9.5B[5]
Major Residential	8" ABC or STBC	1 ½" SF9.5A or S9.5B
	Or 6" ABC or STBC	2" SF9.5 or S9.5B
Collector	8" ABC or STBC	2" SF9.5A or S9.5B

[1] ABC Aggregate Base Course
[2] STBC Soil Type Base Course
[3] AST Asphalt Surface Treatment, Mix design to be approved by Planning Board
[4] SF9.5A Asphalt Concrete Surface Treatment, Type SF9.5A
[5] S9.5B Asphalt Concrete Surface Course, Type S9.5B

23) Approved pervious paving materials are encouraged to be used in lieu of the paving materials listed above. Pervious paving materials shall be approved by the Planning Board.
24) The right-of-way widths and construction standards specified above are for private roads. NCDOT will not assume maintenance of these roads. In order for NCDOT to assume maintenance of roads, they must meet NCDOT standards as set forth in the publication "NCDOT Subdivision Roads Minimum Construction Standards."

Base and subsoil shall be compacted to a minimum rating of 95 proctor.

(d) **Dead-End Roads (Sec. 28-192)**

(i) Dead end roads shall provide a turnaround at the end of the road to permit general traffic, emergency vehicles, and general service vehicles to turn. If a bulb turnaround is provided, the turnaround shall meet the following standards:

1) Minimum ROW radius: 45 feet.
2) Minimum pavement radius: 30 feet.

3) T-turnarounds and hammerhead turnarounds may be used in lieu of a bulb turnaround on dead end roads. The minimum length of the maneuvering segment shall be 45 feet and the minimum width shall be 18 feet.

(e) **Driveways (Sec. 28-62)**

(i) Curb cuts, where provided in the subdivision, shall begin not less than three feet from lot lines as projected to meet the line of the pavement edge. Design and construction of portions of driveways within rights-of-way shall be constructed in accordance with the requirements of the NCDOT. The approving authority may permit the establishment of shared driveways on property lines provided that mutual access easements are delineated upon the subdivision plat and all relevant deeds.

(ii) If extraordinary surface or subsurface conditions, terrain, the general drainage pattern in the area, existing or probable development in the vicinity, or other circumstances exist or occur, the Planning Director, upon making supporting written findings, may establish greater requirements in particular cases.

(f) **Access to Public Lands (Sec. 28-62)**

(i) Cemeteries and gravesites shall be identified during the application process and protected during development of subdivisions by a 20-foot buffer, and family members shall be assured reasonable access thereto during development and thereafter. Anyone subdividing properties containing roads, trails and other travel ways which have historically provided public access to national forests and other public lands is encouraged to provide for continued public access thereto.

(g) **Traffic Control (Sec. 28-192)**

(i) All subdivision road intersections including those with existing state-maintained roadways shall be constructed using traffic control standards as designated in the "Manual on Uniform Traffic Control Devices" (MUTCD), "North Carolina Supplement to the Manual on Uniform Traffic Control Devices." All signage shall meet the requirements of the MUTCD.

(h) **Intersections (Sec. 28-192)**

(i) The most desirable intersections are those with angles of 75 to 90 degrees. Intersections with angles from 60 to 75 degrees are acceptable under extreme conditions as determined by the Planning Director.

(ii) Minimum sight distance triangle for stop condition when connecting new local residential roads or residential collector roads to existing state-maintained roads is 70 feet along the existing road right-of-way and 10 feet along the new road right-of-way.

(iii) All internal intersections shall have minimum 20 feet radius.

(i) **Sidewalks and Ramps (Sec. 28-66; 28-192)**

(i) **General**. Sidewalks may be provided for all major subdivisions to access a pedestrian destination point, such as a school, park, etc., and may constitute part of the open space requirements.

(ii) **ADA Compliance**. All sidewalks shall meet requirements of the "Americans With Disabilities Act." In accordance with NCGS 136-44.14, all street curbs in the State of North Carolina being constructed or reconstructed for maintenance procedures, traffic operations, repairs, correction of utilities or altered for any reason after September 1, 1973, shall provide wheel chair ramps for the physically handicapped at all intersections where curb and gutter is provided and at other major points of pedestrian flow. Wheel chair ramps and depressed curbs shall be constructed in accordance with details contained in NCDOT's, Division of Highways publication entitled, "*Guidelines, Curb Cuts and Ramps for Handicapped Persons*."

(j) **Street Names and Signage**

(i) In accordance with Chapter 26, Article II of the Jackson County Code of Ordinances, street names, prefixes, suffixes and addresses shall conform to the guidelines and policies set forth by Jackson County. Appropriate street name signs which meet standard County specifications shall be placed at all street intersections. The developer shall bear the expense.

(ii) Proposed street names shall be submitted and subject to the approval of the Jackson County, as appropriate. New names shall not duplicate or be similar to existing street names. Existing street names, however, shall be extended where appropriate.

Section 4.4 STORMWATER DRAINAGE STANDARDS (Sec. 28-62(4))

(a) **General Requirements**

(i) Drainage systems shall be designed utilizing low-impact design to limit disruption of natural water flows by eliminating stormwater runoff, increasing on-site infiltration and eliminating contaminants.

(ii) This system design shall be rendered in a drainage plan, which is a written or graphic concept plan of the proposed post-development stormwater management system. The drainage plan shall, at a minimum, include the following: preliminary selection and location of proposed structural stormwater controls; low impact design elements; location of existing and proposed conveyance systems such as grass channels, swales, and storm drains; flow paths; location of flood plain/floodway limits; relationship of site to upstream and downstream properties and drainages; and preliminary location of proposed stream channel modifications, such as bridge or culvert crossings.

(iii) The approval of the drainage plan of any subdivision shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

(iv) Where major new drainage ways are required in a subdivision, they shall be coordinated with existing and proposed general drainage systems and designed with due regard for safety, appearance and geological effects.

Figure 4.8: Examples of Stormwater Control Measures

Source: Stewart

(v) Aboveground drainage ways shall be:

1) Located and constructed to maintain a natural appearance;
2) Limited to safe water depths in easily accessible areas; and

3) Designed to avoid excessive rates of flow, erosion, or overflow into developed areas subject to damage.

(vi) Watercourses and natural water areas 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 County sediment control provision. In circumstances where the impact of new drainage would be likely to damage or destroy significant existing natural water areas, such drainage shall not be discharged through or into such areas.

(vii) The development area of any lot shall conform with subsection (iii) of this section.

(b) **Development Standards for Low Density Projects (Sec. 28-62(4) c.)**

(i) Stormwater runoff from the development area shall be transported from the development by vegetated conveyances to the maximum extent practicable.

(c) **Development Standards for High Density Projects**

(i) The measures shall control and treat the difference in stormwater runoff volume leaving the development area between the pre- and post-development conditions for, at a minimum, the ten-year, 24-hour storm. This standard refers to the surface runoff resulting from a 24-hour rainfall of an intensity expected to be equaled or exceeded, on average, once in ten years. Runoff volume drawdown time shall be a minimum of 24 hours, but not more than 120 hours.

(ii) All structural stormwater treatment systems used to meet the requirements of this section shall be designed to have a minimum of 85 percent average annual removal for total suspended solids (TSS).

(d) **Stormwater Drainage Facilities (Sec. 10-569)**

(i) The application shall be accompanied by a description of the proposed method of providing stormwater drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporates best management practices to minimize water quality impacts. Consistent with Section 5.3.9 (Stormwater Provisions), subdivisions qualifying for the special intensity allocation shall provide non-structural methods of managing stormwater runoff.

(e) **Erosion and Sedimentation Control (Sec. 10-569)**

(i) The application shall, where required, be accompanied by a written statement that a sedimentation and erosion control plan has been submitted to and approved by the State Division of Land Quality.

(f) **Roads Constructed in Critical Areas and Watershed Buffer Areas (Sec. 10-569)**

(i) Where possible, roads should be located outside of critical areas and watershed buffer areas. Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

(g) **Erosion Protection; Preservation of Topsoil and Vegetation (Sec. 28-62 (12))**

(i) In general, during the preparation of the subdivision and installation of improvements, appropriate measures shall be taken to prevent erosion and damaging siltation on the property and on adjoining land or water areas in accord with the Article V, Section 5.3, Erosion and Sedimentation Control.

(ii) In any grading or filling operations, desirable topsoil shall be conserved and redistributed as such, particularly to cover exposed subsoils.

(iii) Trees, shrubs and ground cover existing at the beginning of development operations shall be preserved to the maximum extent reasonably feasible where they are of species and in locations likely to add amenity to the completed development.

(iv) Ground cover. All land within the subdivision right-of-way which is not used for structures, vehicular or pedestrian traffic, or for other approved landscaping shall be provided with grass or other ground cover, appropriately installed, and consistent with the requirements of the County sediment control regulations. Ground cover may include appropriate plant materials preserved in place.

(v) The Planning Director may require preservation of specified trees or other vegetation in connection with a particular development, except upon findings that such preservation is not feasible in view of the requirements for the installation of public utilities and facilities.

(vi) The Planning Director may grant a conditional approval of a preliminary subdivision plat, provided that an erosion control plan approval letter is submitted to the Planning Department within 90 days and prior to commencement of site preparation or other land-disturbing activities.

(h) **Adequacy (Sec. 28-192)**

(i) All storm drainage shall be adequate so that the road may be maintained without excessive cost, and not cause flooding on private property from storm runoff of the design frequency. The minimum design frequency shall be as follows:

1) Storm sewer collector and lateral ditches: ten years.
2) Cross drainage: 25 years.
3) Minimum cross pipe diameter is 18 inches; minimum driveway pipe diameter is 15 inches.
4) All drainage shall be consistent with criteria found in NCDOT Guidelines for Drainage Studies and Hydraulic Design.
5) In areas where ditch grades or quantities of flow make it impracticable to establish and maintain vegetation, an erosive resistant lining such as paving, matting or rip rap shall be required. Subsurface drainage shall be adequate to maintain a stable subgrade.

(i) **Structures (Culverts, Dams, Retaining Walls, and Bridges) (Sec. 28-192)**

(i) Design, construction, and installation of culverts, dams, and retaining walls shall comply with NCDOT standards as set forth in NCDOT Subdivision Roads Minimum Construction Standards, unless other standards are approved by the Planning Board. Bridges shall have a travelway width equal to that required for the road type (including required shoulder width) and shall comply with the requirements of the U.S. Army Corps of Engineers and other permitting agencies. All bridge designs shall be prepared and/or approved by a licensed professional engineer registered in North Carolina. The Planning Director shall review permit documentation for bridges to assure that all required approvals have been obtained prior to construction.

Section 4.5 UTILITY AND INFRASTRUCTURE STANDARDS

(a) **General (Sec. 28-191)**

(i) Subdivision development shall comply with the standards established by the utility company or agency providing the utility service and with the standards of the NCDOT as set forth in NCDOT's Subdivision Roads Minimum Construction Standards (latest edition).

(b) **Above Ground Utilities**

(i) Poles and other above-ground utilities which are to remain inside the right-of-way shall be located at or as near as practical to the right-of-way line. As a minimum, above-ground utilities shall be located outside the shoulder/ditch for the road section involved.

(ii) Where there are curbed sections, above-ground utilities should be located as far as practical behind sidewalks. There is no single minimum dimension for setback of poles, fire hydrants,

etc., behind curbs; however, where there are curbed sections and no sidewalks, six feet will be used as a design safety concept guide. Where dimensional or other characteristics of such land are such that they could not be used for other purposes under the zoning applying in the district, the plan shall indicate and restrict use to easement or substation purposes, and requirements generally applicable to access, dimensions or other characteristics of that land shall not apply. Departmental reports in such cases shall include findings as to the effect of the proposed location in adjacent uses, preservation of areas of major ecological importance, and as to whether sites for substations, if involved, are adequate to provide required screening.

(c) **Public Water Supply (Sec. 28-62 (11))**

(i) Public water supply is required in a subdivision as follows:

1) Any subdivision, including estate, family, minor and major, which has public water system lines available shall be required to extend the public water system throughout the subdivision to each lot located therein.
2) All required water line extensions shall include appropriate valves, hydrants, taps and service to the property line of each lot as required by the standards of the provider of the service.
3) For subdivisions located within the jurisdiction of this section, the term "available" shall mean that there is an existing water line of adequate size and water flow and/or pressure, as determined by the water provider, abutting the property and/or right-of-way, provided there are no legal or documented topographic constraints which prevent the subdivider from connecting onto and extending the existing system to the subdivision.
4) Every lot in a major subdivision shall be served by a permitted public or community water system or served by individual wells approved by the County division of environmental health.

(d) **Public Sanitary Sewer (Sec. 28-62 (11))**

(i) Public sanitary sewer is required as follows:

1) Any subdivision, including estate, family, minor and major subdivisions, which has public sewer system lines available shall be required to extend the public sewer system throughout the subdivision to each lot located therein.
2) All required sewer line extensions shall include appropriate manholes, lift stations, pumps, cleanouts, taps and service to the property line of each lot as required by the standards of the provider of the service.
3) For subdivisions located within the jurisdiction of this section, the term "available" shall mean that there is an existing sewer line of adequate size and flow, as determined by the utility provider, abutting the property and/or right-of-way, provided there are no legal or topographic constraints which prevent the subdivider from connection onto and extending the existing system to the subdivision.

(ii) Every lot in a major subdivision shall be served by a public sewer or, where public sewer is not required, by a permitted community sewer system or an individual on-site septic system approved by the County Public Health Department.

(e) **Exceptions**

(i) Where subdivisions are proposed, and no public or community sewer is available, the applicant should review a soils map of the property and be knowledgeable of the suitability of ground absorption systems for the development.

(f) **Fire Protection (Sec. 28-62 (13))**

(i) All lots served by a municipal public water supply system in a subdivision shall also be afforded fire protection by means of hydrants, installed under uniform standards and specifications.

Final plats shall indicate that any qualified water ponds shall be made available to emergency personnel for the purpose of pumping water.

Section 4.6 EASEMENTS

(a) **Utility Easements (Sec. 28-35)**

(i) Easements for utilities shall be provided where necessary along front, rear, or side lot lines in the subdivision, but shall not be required to center on such lines. Such easements shall be sufficiently wide to provide for installation of such utilities and access for maintenance and operation.

(ii) Where it is proposed to locate major utilities easements (defined for purposes of this section as being 20 feet or more in width) and/or sites for substations, such as pumping stations, relay towers, pressure regulating stations and the like, in a subdivision, procedures shall be as generally provided for minor and family subdivisions.

(b) **Minor Drainage Easement (Sec. 28-62 (2))**

(i) For purposes of this section, minor drainage easements are defined as those providing for drainage of surface waters from four or fewer lots, and not involving water bodies of substantial significance in the ecology of the area, as determined by the Planning Director. Minor drainage easements, where required, shall be permitted to cross lots at other points only where such arrangement is found by the Planning Director to be practically necessary as a result of topography or soils conditions or improved flow and where such arrangement will leave a suitable buildable area, safe from inundation, erosion or subsidence, and safely accessible from approved roads. Where necessary for operation, construction or maintenance, the Planning Director may require, in accord with the terms of the easement, minor drainage easements to be kept free of trees and other obstructions.

(c) **Utilities in Drainage Easements**

(i) Utilities in drainage easements shall be permitted only upon specific authorization by the Planning Director and only in locations authorized.

SECTION 4.7 MARKERS AND MONUMENTS (Sec. 28-62(8))

(a) Monuments, complying with the requirements of NCGS 47-30 and the current edition of the Standards of Practice for Land Surveying in North Carolina, shall be placed in all subdivisions.

(b) Any permanent monuments or markers displaced or destroyed during the course of development or construction in the subdivision shall be accurately witnessed and replaced upon completion of such development or construction.

SECTION 4.8 HOMEOWNER/PROPERTY OWNER ASSOCIATIONS

(a) **Establishment (Sec. 28-62(7))**

(i) If a property owners' association or similar legal entity is to be responsible for the maintenance and control of roads, open space, recreational facilities, or other common areas and facilities associated with a subdivision, it shall be established so that it has clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from subdivision residents to cover their proportionate shares of the costs associated with the maintenance of the common areas and facilities. Such association or similar

legal entity shall be established before any dwelling unit or lot in the subdivision is sold or any building in the subdivision is occupied.

(b) **Documentation (Sec. 28-62(7))**

(i) Documents providing for the establishment of a property owners' association or similar legal entity in accord with this section shall be submitted to and approved by the County Attorney before any plat for the development is recorded. The review by the County Attorney shall be limited to ensuring that the property owners' association or similar legal entity is established so that it has clear legal authority to maintain and exercise control over the common areas and facilities, including the power to compel contributions from subdivision residents to cover their proportionate shares of the costs associated with the maintenance of the common areas and facilities.

(c) **Maintenance of Private Subdivision Roads (Sec. 28-62(1))**

(i) Private subdivision roads shall be maintained privately by a property owners' association. Subdivisions of eight lots or less and family subdivisions shall not be required to establish a property owner's association for the maintenance of private roads in the subdivision. A maintenance agreement that establishes responsibility for maintenance of these roads shall be required for subdivisions of eight lots or less. The maintenance agreement for private subdivision roads shall include, but not be limited to, the items listed below. In lieu of the legally incorporated property owners' association identified below, subdivisions of eight lots or less may provide an agreement including all lot owners.

2) A legally incorporated property owners' association shall be established for the property owners within the entire subdivision.
3) All property owners within the subdivision shall be members of the property owners' association.
4) The subdivider shall convey, in a fee simple ownership, all neighborhood private roads within the subdivision to the property owners' association.
5) The passage of the responsibility for maintenance of neighborhood private roads from the developer to the property owners' association shall be noted in the deed of each purchaser of property within the subdivision.
6) At the time of preparation of the sales agreement, the developer shall include a disclosure statement to the prospective buyer. The disclosure statement shall:
   a) Provide an explanation of the consequences and responsibilities regarding the maintenance of a private road and shall fully and accurately disclose the party who shall be responsible for the construction and maintenance of the subdivision roads.
   b) Shall state that the owners of property in this subdivision are responsible for maintaining and repairing the roads as well as paying the costs thereof if the roads are private and will not be dedicated to NCDOT for maintenance.
   c) Shall state that County and other governmental services may be restricted or not provided for owners of property using private roads for access.
7) The buyer of the subject real estate shall receive and sign an acknowledgment of receipt of a separate instrument known as the subdivision streets disclosure statement.
8) A copy of the disclosure statement required by this section shall be provided to the Planning Department at the time of the submittal of the final plat.

SECTION 4.9 COMPLETION AND MAINTENANCE GUARANTEES

(a) **Completion**

(i) All applicants shall be required to complete all the street, sanitary sewer and storm drainage, sidewalks, street signs, monuments, erosion control, street lights, and other required improvements as approved by the Planning Director, prior to approval of the final plat, except as provided in Subsection (b) below concerning performance guarantees.

(ii) All required improvements shall be inspected and approved by appropriate public officials or agencies.

(b) **Performance Guarantees (Sec. 28-94)**

(i) In lieu of completion of all or part of required improvements prior to approval of subdivision final plats, the applicant may post a performance guarantee in the amount as indicated under subsection (d) of this section for the construction, installation and dedication of the uncompleted portion of the required improvements.

1) Type of guarantee. The type of the guarantee shall be as provided herein.
   a) The performance guarantee may be in the form of a certified check, a no contest irrevocable bank letter of credit or a performance and payment bond underwritten by a North Carolina licensed corporate surety company.
   b) Except for certified checks, such sureties shall not be accepted unless the County Attorney has made a review thereof and rendered a written opinion that the interests of the County are fully protected.
   c) The certified check should be deposited with the County Finance Director, as escrow agent, who shall deposit it in an interest-bearing escrow account of the County, with all interest accruing to the applicant.
   d) The no-contest irrevocable bank letter of credit shall be from a banking corporation licensed to do business in the state and having an office in the County. The terms of the letter shall include the absolute right of the County Manager to withdraw funds from the bank forthwith upon the County Manager's certifying to the bank that the terms and conditions of the performance guarantee have been breached. The expiration date of the letter of credit shall be at least six months past the anticipated completion date of the required improvements.

(c) **Guarantee Time Limits (Sec. 28-94(d))**

(i) Extensions for performance guarantees may be granted by the Planning Director subject to a review of the circumstances surrounding the request for an extension and the record of the applicant. Property owners in the development shall be notified and shall be given an opportunity to comment on the request for an extension of the performance guarantee.

(d) **Amount and Terms of Guarantee**

(i) The amount and terms, of the guarantee shall be as provided herein. Following receipt of such recommendations, the Planning Director shall review the information submitted as to the amount and terms of the performance guarantee, including the time of initiation and completion of the work; provisions concerning extensions for cause; and provisions for release of the guarantee upon completion of the work. If the information is complete and the guarantee amount is deemed satisfactory, the Planning Director shall administratively approve the performance guarantee package.

(ii) The guarantee shall be 1.25 times the executed construction contract amount or the certified cost estimate, whichever is provided. The amount of the guarantee shall be sufficient to provide adequate funds to the County to ensure, in the case of default, the installation of all required improvements uncompleted at the time of default. In reviewing the amount of the performance

guarantee, the Planning Director shall consider the difficulty of restarting a closed project, the size and complexity of the required improvements, the record of the applicant and the site conditions.

(iii) The Planning Director may authorize reductions in the amount of the performance guarantee in light of the completion of guaranteed improvements when doing so is fair and equitable and would not be contrary to the public interest.

(e) **Inspections; Reports; Cost Responsibility (Sec. 28-94(e))**

(i) Procedures for inspections and reports and the responsibility shall be as provided herein.

1) Governmental bodies exercising control shall make inspections to determine whether work has started as scheduled, shall make inspections as are necessary during the course of work, and shall make final inspections to determine whether stages of construction required under the performance guarantee have been completed in accordance with the terms of the guarantee.
2) Within ten days of such inspections, copies of reports of the results thereof shall be provided to the Planning Director.
3) The full cost of making such inspections and preparing such reports shall be paid by the applicant.
4) In lieu of having inspections conducted by the governmental body, the applicant, at his cost, may elect to have a registered, professional engineer who has civil engineering qualifications conduct the inspections as stated in subsection (e) of this section and submit reports to the Planning Director.

(f) **Action on Inspection Reports**

(i) The following actions may be taken on inspection reports:

1) Reports indicating satisfaction of requirements. Where such reports indicate satisfactory completion of work within time limits set and in accord with other terms of the performance guarantee, for agreed-upon stages or for the entire work, the Planning Director shall so indicate by first class mail to the applicant, any surety company involved and the County Manager. The County Manager, upon such notification and any further assurance he may require from the County attorney or governmental bodies exercising operating control, shall then release the performance guarantee in accordance with the terms thereof.
2) Reports indicating failure to satisfy requirements. Where such reports indicate failure to complete work on schedule in full compliance with the terms of the performance guarantee, the Planning Director shall so indicate by first class mail to the applicant, governmental bodies exercising control, any surety company involved, and the County Manager. Such notice shall indicate that, unless action required under the terms of the performance guarantee is completed within 30 days of the date of such notification, the performance guarantee or portions thereof, set forth in its terms, shall be called. Unless such action is completed, as evidenced by inspections and reports from governmental bodies exercising control transmitted through the Planning Director, the County Manager shall call the performance guarantee or affected portions thereof.
3) Reports indicating unsatisfactory progress. Where such reports indicate that work initiated appears unlikely to be completed on schedule, and where the performance guarantee provides for extension of time for cause, the Planning Director shall notify the applicant by first class mail and any surety company involved concerning the potential need for an application for such extension. Where such notice has been given, no application for an extension shall be given after expiration of the original schedule date.

(g) **Failure to Complete Work Under Performance Guarantee**

(i) Where work required under the terms of any performance guarantee given pursuant to this article is not completed by the applicant as specified therein, the County Manager, following the call of the guarantee, shall take such action as is appropriate in the circumstances of the case to procure the completion of the required improvements at the earliest reasonable time, according to the plans and specifications.

(h) **Maintenance of Land and Improvements**

(i) The applicant shall maintain all land and required improvements offered for dedication in a subdivision in satisfactory condition until acceptance of the dedication.

(i) **Guarantee of Other Governmental Agency or Public Utility**

(i) Where all or part of required subdivision improvements are to be completed by another government agency or public utility, the Planning Director may accept the written guarantee of such agency to complete such improvements within a time to be mutually agreed upon, with time for completion limited as provided in Section (d)(1) this section.

(j) **Building Permits and Certificates of Occupancy (Sec. 28-98)**

(i) Building permits may not be issued for construction of residential structures in a subdivision prior to completion of required improvements unless a performance guarantee has been approved by the Planning Director.

(ii) Certificates of occupancy may be issued, and buildings occupied only when all of the following improvements are available and as further provided in Section *(iii)* below:

1) Roads and driveways shall be passable for private, service and emergency vehicles under normal weather conditions.
2) Drainage shall be installed and operative, thus ensuring that, under normal weather conditions, there will be no flooding of the building site or access ways to the site.
3) Erosion protection, acceptable under normal weather conditions, shall be installed.
4) Domestic water supply and sanitary sewerage shall be installed and operative.

(iii) No such permits or certificates shall be issued unless all remaining required improvements are covered by a performance guarantee and the applicant accepts responsibility pending completion of all required improvements.

SECTION 4.10 PRESERVATION AND STORMWATER CONTROL MEASURES FOR WATER AREAS (Sec. 28-62 (3)(b))

(a) **Intent**. It is the intent of this article both to safeguard existing and potential development in appropriate locations and to preserve and promote a desirable ecological balance. Insofar as is reasonably practicable, subdivisions shall, therefore, be located, designed and improved to:

(i) Preserve important natural water areas and related vegetation and wildlife habitats;

(ii) Avoid creation of upstream impoundments or downstream runoff harmful to such complexes or to existing or potential development in appropriate locations; and

(iii) Maintain desirable groundwater levels.

(b) **Maintenance of Natural Watercourses**. Standards for maintenance of natural watercourses are as provided herein.

(i) Where a proposed subdivision is traversed by or includes in whole or in part a natural watercourse, as defined herein, the following requirements shall apply:

1) Such natural watercourse shall be maintained in its natural state except for those vehicular or utility crossings which are necessary and deemed unavoidable by the approving authority;

2) Bordering lands within 30 feet of the edge of any natural watercourse shall be maintained in a naturally vegetated and unaltered state;
3) Bordering lands likely to be inundated at the period of high water during periods of rainfall of ten-year return frequency shall be maintained in a naturally vegetated and unaltered state;
4) Any area designated as a floodway on the most recently adopted flood insurance rate map for the County shall be maintained in a naturally vegetated and unaltered state;
5) Any area designated as a special flood hazard area inundated by the 100-year flood on the most recently adopted flood insurance rate map for the County shall be designated as open space on any plat for a major subdivision. It shall not be necessary that it be maintained in a naturally vegetated and unaltered state except as required by subsection 4) of this section.
6) Any other suitable protective strips deemed necessary by the Planning Director shall be protected.

(ii) The Planning Director and/or his/her designee, as a condition for plat approval, may make such requirements as are reasonable for the protection of such areas, including the following:
1) The Planning Director may require that streets and/or parkways shall border such areas, setting them apart from residential or other intensive uses; or
2) The Planning Director may require that all or part of such area shall be platted as part of residential or other lots.

(iii) In making decisions concerning such requirements, the Planning Director shall consider topography, drainage patterns, soil types, character of existing and potential upland uses, ground cover, erosion control requirements, character of the area to be protected, the adequacy of proposed filter areas, and the like.

(iv) The development area for any lot shall be delineated on subdivision plats. Those areas described in Section(b)(i) above shall not be included in the area of any lot intended for development and shall be set aside for the common use and enjoyment of occupants of the subdivision, and arrangements for maintenance by a property owners' association, management group or other acceptable arrangement shall be made. These areas shall be designated for permanent protection on the subdivision plat and recorded deeds, with appropriate recorded deed restrictions for the use and protection of these areas stipulated, and all management responsibilities set forth in property owners' association bylaws or other appropriate and binding documents for the development.

(c) **Changes in Location or Extent of Significant Natural Waterways and Water Areas.** The Planning Director may approve plats depicting changes in the location or extent of significant natural waterways and/or water areas only in the following circumstances:

(i) When necessary to accommodate unavoidable vehicular or pedestrian crossings;

(ii) When such changes will not adversely affect desirable ecological conditions, drainage or water retention or result in undesirable location or amount of upstream impoundment or downstream discharge; and

(iii) The subdivider has obtained all necessary state and federal permits.

(iv) No-rise certifications shall be required where regulatory floodways are concerned.

(d) **Minor Incursion for Recreational Purposes**. Minor incursions into areas protected under this section may be permitted for the purpose of providing pedestrian and bicycle access for passive recreational activities. Such incursions shall be permitted only if shown on the preliminary and final plats and approved by the Planning Director.

SECTION 4.11 REQUIRED CERTIFICATIONS

(a) Certifications are required per North Carolina General Statutes.

SECTION 4.12 RESERVED – MIXED USE MULTIFAMILY SUBDIVISION

V

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Article V. ENVIRONMENTAL REGULATIONS

Section 5.1 General Provisions

(a) **Purpose and Intent**
   (i) This intent of this section is to protect the general health, safety, and welfare of the public by establishing criteria which define, regulate, prohibit, mitigate activities that negatively affect the environment.

(b) **Jurisdiction**
   (i) The standards in this section are applicable to the areas within unincorporated Jackson County or its Regulated Districts.

(c) **Administration**
   (i) The following environmentally related sections, may be administered, reviewed, and decided by different entities as referenced in Table 3.1: Development Review Procedures. For the purposes of this section, the term “Director” shall refer to the Planning Director unless otherwise stated (e.g. Permitting and Code Enforcement Director).

(d) **Enforcement**
   (i) Violations of this section shall be remedied in accordance with the provisions set forth in Article X: Violations and Enforcement of this Ordinance.

Section 5.2 Water Pollution

Section 5.2.1 General Provisions

(a) **Purpose**
   (i) The purpose of this section is to establish a 30-foot riparian buffer along sections of Scotts Creek in Jackson County.

(b) **Jurisdiction**
   (i) The provisions of this section shall apply within the area defined and established on the map entitled, "Scotts Creek Water Quality Protection District Map" ("the Scotts Creek WQP Map"), which is adopted simultaneously herewith. The Scotts Creek WQP Map and all explanatory matter thereon accompanies and is hereby made a part of this section and, together with a copy of this section, shall be permanently kept on file in the office of the Jackson County Clerk to the Board of Commissioners.

Section 5.2.2 Exemptions

(a) Nothing contained herein shall repeal, modify or amend any Federal or State law or regulation, or any County ordinance or regulation pertaining thereto.

(b) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if this section imposes greater restrictions or higher standards for the use of a building or land, then the provisions of this section shall control.

(c) These regulations shall not prevent the construction of any structure for which a building permit has been secured prior to the effective date of the ordinance from which this section is derived or any amendment thereto, so long as the building permit has not been revoked or allowed to expire. However, once constructed, any structure so erected will be subject to any and all regulations set forth in this section.

(d) These regulations shall not prevent the connection of any structure to the Scotts Creek sewer line in accordance with Section 32, Section 32-19 of the Jackson County Code of Ordinances.

Section 5.2.3 Nonconforming Structures

Structures which existed at the time of the enactment of the section from which this section is derived, or immediately preceding any applicable amendment shall be considered nonconforming in accordance with Article VIII: Nonconformities.

Section 5.2.4 Designated Planning Agency

The County Watershed Review Board shall serve as the planning agency under NCGS 153A-344.1 and as stated in Section 2.5.1. In the instance of the Planning Board or Board of Commissioners serving as the planning agency, a minimum of three members shall be from the watershed.

Section 5.2.5 District Regulations

(a) Establishment of riparian buffer
   (i) Except as provided in Section 5.2.5(b), no structure shall be erected, placed, constructed, or established, within 30 feet of Scotts Creek measured from the top of the bank on each side.
   (ii) Riparian property owners shall maintain this 30-foot riparian buffer area in a vegetated state.

(b) Use of land within riparian buffers.
   (i) Consistent with Section 5.2.5(a), the following uses may be permitted within the 30-foot riparian buffer area, subject to design review to minimize negative impact upon the water quality function of the aforementioned buffer:
      1) Fences.
      2) Landscaping.
      3) Private driveways, drainage structures and lighting for security and safety purposes.
      4) Benches, wildlife feeders and nesting boxes.
      5) Statues and artwork.
      6) Signs.
      7) Shoreline stabilization structures such as stone riprap and bulkheads conforming to Natural Resources Conservation Service (NRCS) standards and with necessary permits (Federal and State).
      8) Sewer line connections in accordance with Section 32-19 of the Jackson County Code of Ordinances.

Section 5.2.6 Appeals and Variances

Appeals and requests for variances shall be heard by the Watershed Review Board in accordance with provisions contained in Sections 3.7.3 (Administrative Review) and 3.7.20 (Variances).

Section 5.2.7 Administration

The Director shall administer this section and in doing so shall incorporate all necessary steps to ensure that development within the Scotts Creek Water Quality Protection District complies with the terms of this section.

Section 5.3 Erosion and Sedimentation Control Regulations

Section 5.3.1 Purpose and Intent

(a) This purpose of this section is to regulate certain land disturbing activity to control accelerated erosion and sedimentation in order to prevent the pollution and degradation of water and other damage to lakes, watercourses, and other public and private property by sedimentation.

Section 5.3.2 Applicability

(a) This section shall apply to all land disturbing activities, as defined, within the territorial jurisdiction of the County and to the municipalities including extraterritorial jurisdiction of the municipalities as allowed by the agreement between the local governments or other appropriate legal instrument or law.

Section 5.3.3 Exemptions

(a) This section shall not apply to the following land disturbing activities:

(a) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

1) Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
2) Dairy animals and dairy products.
3) Poultry and poultry products.
4) Livestock, including beef cattle, sheep, swine, horses, ponies, mules, and goats.
5) Bees and apiary products.
6) Fur-producing animal.
7) mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.Trout production and other aquaculture activities.

(ii) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by theForest Practice Guidelines Related to Water Quality(oBest Management Practices), as adopted by the North Carolina Department Agriculture and Consumer Services. If land disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, the provisions of this section shall apply to such activity and any related land disturbing activity on the tract.

(iii) Activities for which a permit is required under the Mining Act of 1971, NCGS 74, Article VII;

(iv) Land disturbing activity over which the State has exclusive regulatory jurisdiction as provided in NCGS 113A-56(a).

(v) For the duration of an emergency, activities essential to protect human life.

(vi) Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.

(vii) Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetlands functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2

Section 5.3.4 Permits and Procedures

(a) The Permitting and Code Enforcement Director shall administer this section per the Table 3.1 Development Review Procedures, and in doing so shall incorporate all necessary steps to ensure that development and other land disturbing activities comply with the terms of this section. See also Section 3.7.5 for procedures to obtain Erosion and Sedimentation Control permit procedures.

(b) Plan required.

(i) No person shall initiate any land disturbing activity which uncovers one-half or greater acres or more than 21,780 square feet without having an erosion and sedimentation control plan approved by the county.

(ii) An erosion and sedimentation control plan shall be prepared for all land disturbing activities subject to this article whenever the proposed activity is to be undertaken on a tract comprising of one-half or greater acres acre or more, if one-half or greater acres acre or more is to be uncovered. The plan shall be filed with the Permitting and Code Enforcement Department and a copy shall be simultaneously submitted to the County Soil and Water Conservation District at least 30 calendar days prior to the commencement of the proposed activity.

(iii) Persons conducting land disturbing activity on a tract which covers one-half or greater acres or more shall file three copies of the erosion control plan with the County at least 30 calendar days prior to beginning such activity and shall keep another copy of the plan on file at the job site. After approving the plan, if the County, either upon review of such plan or on inspection of the job site, determines that a significant risk of accelerated erosion or off-site sedimentation exists, the County will require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

(iv) The County will review each complete plan submitted to them and within 30 calendar days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Incomplete plans shall be returned for completion. The 30-day review period will not begin until all required items are submitted. The erosion control officer shall have five business days to check the plans for completeness. Failure to approve, approve with modifications, or disapprove a complete erosion and sedimentation control plan within 30 calendar days of receipt shall be deemed an approval. Disapproval of a plan must specifically state in writing the reasons for disapproval. The County must approve, approve with modifications, or disapprove a revised plan within 15 calendar days of receipt, or it is deemed to be approved. If, following commencement of a land disturbing activity pursuant to an approved plan, the County determines that the plan is inadequate to meet the requirements of this article, the County may require any revision of the plan that is necessary to comply with this article. Failure to approve, approve with modifications, or disapprove a revised erosion control plan within 15 calendar days of receipt shall be deemed approval of the plan. The County shall establish an expiration date of three years for erosion control plans approved under this article.

(v) The plan required by this section shall contain architectural and engineering drawings, maps, assumptions, calculations, and narrative statements as needed to adequately describe the proposed development of the tract and the measures planned to comply with the requirements of this article. Plan content may vary to meet the needs of specific site requirements. Detailed guidelines for plan preparation may be obtained from the County. A professional is not required to design plans for ground disturbance of three or less acres. For ground disturbance exceeding

three acres a professional drawing by an appropriately licensed or certified design professional is required, and if that same permit disturbs five or more acres an appropriately licensed or design professional shall conduct monthly inspections, a schedule of which is to be filed with the planning office.

(c) Financial responsibility statement.

(i) Erosion control plans may be disapproved unless accompanied by an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents. If the person financially responsible is not a resident of the state, a state agent must be designated in the statement for the purpose of receiving notice of compliance or noncompliance with the plan, the Act, this article, or rules or orders adopted or issued pursuant to this article.

(d) Soil and Water Conservation District review.

(i) The County Soil and Water Conservation District shall review the plan and submit any comments and recommendations to the County within 20 calendar days after the soil and water conservation district received the erosion control plan, or within any shorter period of time as may be agreed upon by the Soil and Water Conservation District and the County. Failure of the Soil and Water Conservation District to submit its comments and recommendations within 20 calendar days or within any agreed-upon shorter period of time shall not delay final action on the plan.

(e) Coordination with the North Carolina Environmental Policy Act.

(i) Any plan submitted for a land disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act (G.S. 113A-1 et seq.) shall be deemed incomplete until a complete environmental document is available for review. The County shall promptly notify the person submitting the plan that the 30-calendar day time limit for review of the plan pursuant to Section 5.3.4 (b)(3) shall not begin until a complete environmental document is available for review.

(f) Plan disapproval.

(i) An erosion and sediment control plan may be disapproved upon a finding that an applicant, or a parent, subsidiary, or other affiliate of the applicant:

1) Is conducting or has conducted land disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the commission or a local government pursuant to the Act and has not complied with the notice within the time specified in the notice;
2) Has failed to pay a civil penalty assessed pursuant to the Act or a local ordinance adopted pursuant to the Act by the time the payment is due;
3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to the Act; or
4) Has failed to substantially comply with state rules or local ordinances and regulations adopted pursuant to the Act. For purposes of this section an applicant's record may be considered for only the two years prior to the application date.

(g) Plan amendment.

(i) Applications for amendment of an erosion control plan in written and/or graphic form may be made at any time under the same conditions as the original application. Until such time as said amendment is approved by the County, the land disturbing activity shall not proceed except in accordance with the erosion control plan as originally approved.

(h) Failure to file a plan.

(i) Any person engaged in land disturbing activity who fails to file a plan in accordance with this article, or who conducts a land disturbing activity except in accordance with provisions of an approved plan shall be deemed in violation of this article.

(i) Compliance with water quality laws.

(i) The approval of an erosion control plan is conditioned on the applicant's compliance with federal and state water quality laws, regulations, and rules.

(j) Plans involving ditches to lower the water table.

(i) A copy of the erosion control plan for any land disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table must be forwarded to the director of the division of water quality and the Army Corps of Engineers.

(k) Plan approval.

(i) If the submitted plan is approved by the erosion control officer, a permit to conduct land disturbing activities shall be issued in the name of the applicant.

(l) Notification procedures for land disturbing activity not meeting the erosion control plan requirements.

(i) In cases where less than one-half acre will be disturbed, applicants will be asked to complete a form that explains how erosion control will be managed during construction. The form will provide an opportunity to choose among simple approaches to keep mud and sediment from leaving the property. The information provided on the form will serve as an erosion control plan for the new construction. Applicants will need to know the downhill slope of the lot to complete the form.

(ii) Should the applicant fail to fill out the notification form in advance of clearing land, give false or misleading information on the form or fail to install the procedures as called for on the form, a penalty will be assessed as outlined in Article X.

Section 5.3.5 General Requirements

(a) **Responsibilities of Persons Conducting Land Disturbing Activities**

(i) Persons conducting land disturbing activities shall be held responsible for understanding the requirements:

1) Persons conducting land disturbing activities shall take all reasonable measures to prevent damage to public and private property resulting from those activities.
2) Persons conducting land disturbing activities shall apply to the Permitting and Code Enforcement Department for any permit required and receive said permit contingent upon an approved erosion and sediment control plan, before beginning any land disturbing activity which uncovers one or greater acres.
3) If any land disturbing activity requires a permit as defined in this section, a building permit shall not be issued until a plan has been approved by the Permitting and Code Enforcement Director.

(b) **More Restrictive Rules Apply**

(i) Whenever conflicts exist between Federal, State, or local laws, ordinance, or rules, the more restrictive provision shall apply.

(c) **Access and Haul Roads**

(i) Temporary access and haul roads, other than public roads, constructed or used in connection with any land disturbing activity shall be considered a part of such activity.

(d) **Operations in Lakes or Natural Watercourses**

(i) Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall be planned and conducted in such a manner as to minimize the extent and duration of disturbance of the stream channel.

(ii) The relocation of a stream, where relocation is an essential part of the proposed activity, shall be planned and executed so as to minimize changes in the stream flow characteristics, except when justification for significant alteration to flow characteristic is provided.

(iii) The applicant shall consult with the Army Corps of Engineers and the North Carolina Department of Environment and Natural Resources to determine if a permit is required before undertaking any land disturbing activity in or near a watercourse, wetlands or swamp.

(iv) Said permits or approvals shall be submitted as part of the erosion and sediment control application.

(e) **Borrow and Waste Areas**

(i) When the person conducting the land disturbing activity is also the person conducting the borrow or waste disposal activity, areas from which borrow is obtained and which are not regulated by the provisions of the Mining Act of 1971, and waste areas for surplus materials, other than landfills regulated by the County solid waste management, shall be considered as part of the land disturbing activity where the borrow material is being used or from which the waste material originated.

(ii) When the person conducting the land disturbing activity is not the person obtaining the borrow and/or disposing of the waste, these areas shall be considered a separate land disturbing activity.

(f) **Additional Measures**

(i) Whenever the County determines that significant sedimentation is occurring as a result of land disturbing activity, despite application and maintenance of protective practices, the person conducting the land disturbing activity will be required to and shall take additional protective action.

(g) **Restoration of Areas Affected by Failure to Comply**

(i) The County may require a person who engaged in a land disturbing activity and failed to retain sediment generated by the activity, as required by NCGS 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation.

(ii) This includes damage to properties adjacent to, nearby or downstream of the permitted property that are not owned by the person engaging in the land disturbing activity.

(iii) This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this section.

Section 5.3.6 Basic Control Objectives

(a) An erosion and sedimentation control plan may be disapproved pursuant to Article III, Permits and Procedures, if the plan fails to address the following control objectives:

(i) Identify Critical Areas

1) On-site areas which are subject to severe erosion, and off-site areas which are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.

(ii) Limit Time of Exposure

1) All land disturbing activity is to be planned and conducted to limit exposure to the shortest feasible time.

(iii) Limit Exposed Areas

1) All land disturbing activity is to be planned and conducted to minimize the size of the area to be exposed at any one time.

(iv) Control Surface Water

1) Surface water runoff originating upgrade of exposed areas should be controlled to reduce erosion and sediment loss during the period of exposure.

(v) Control Sedimentation

1) All land disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.

(vi) Manage Stormwater Runoff

1) When the increase in the velocity of stormwater runoff resulting from a land disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, plans are to include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.

Section 5.3.7 Mandatory Standards for Land Disturbing Activity

(a) No land disturbing activity subject to the control of this section shall be undertaken except in accordance with the following mandatory standards:

(i) Buffer zone

1) No land disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the 25 percent of the buffer zone nearest the land disturbing activity. This provision shall not apply to a land disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
2) Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the 25 percent of the buffer zone nearest the land disturbing activity, whichever is greater; provided, however, that the County may approve plans which include land disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. This provision shall not apply to a land disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.
3) Unless otherwise provided, the width of a buffer zone is measured from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land disturbing activity containing natural or artificial means of confining visible siltation.
4) The 25-foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank.
5) Where a temporary and minimal disturbance is permitted as an exception by subsection (a) *(i)*(1) of this section, land disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of ten percent of the total length of the buffer zone within the tract to be distributed such that there is not more than 100 linear feet of disturbance in each 1,000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Permitting and Code Enforcement Director.

6) No land disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations in these waters, as set forth in 15 NCAC 2B.0211 "Fresh Surface Water Classification and Standards".

(ii) Graded slopes and fills

1) The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion-control devices or structures.
2) In any event, slopes left exposed will, within ten calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion.

(iii) Ground cover

1) Whenever land disturbing activity that will disturb more than one-half acre is undertaken on a tract, the person conducting the land disturbing activity shall install such sedimentation and erosion control devices and practices as are sufficient to retain the sediment generated by the land disturbing activity within the boundaries of the tract during construction upon and development of said tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development.
2) Except as provided in Section 5.3.8 (c)(v), provisions for a ground cover sufficient to restrain erosion must be accomplished within ten calendar days following completion of ground disturbing activity, excluding building footprint areas.

(iv) Prior plan approval

1) No person shall initiate any land disturbing activity on a tract if more than one-half acre or greater is to be uncovered unless, 30 or more calendar days prior to initiating the activity, an Erosion and Sedimentation Control Plan for such activity is filed with and approved by the Permitting and Code Enforcement Director.

Section 5.3.8 Design Performance Standards

(a) Except as provided in subsection (c)(ii) of this section, erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed as to provide protection from the calculated maximum peak rate of runoff from the ten-year storm.

(b) Runoff rates shall be calculated using the procedures in the USDA, Natural Resources Conservation Service's "National Engineering Field Manual for Conservation Practices." or other acceptable calculation procedures.

(c) In high quality water (HQW) zones the following design standards shall apply:

(i) Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract of 20 acres. Only the portion of the land disturbing activity within a HQW zone shall be governed by this section. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Permitting and Code Enforcement Director.

(ii) Erosion and sedimentation control measures, structures, and devices within HQW zones shall be so planned, designed and constructed to provide protection from the run off of the 25-year storm which produces the maximum peak rate of run off as calculated according to procedures in the United States department of Agriculture Natural Resources Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

(iii) Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70 percent for the 40 micron (0.04 mm) size soil particle

transported into the basin by the runoff of that 25-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Natural Resources Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

(iv) Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than 2 horizontal to 1 vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(v) Ground cover sufficient to restrain erosion must be provided for any portion of a land disturbing activity in a HQW zone immediately, not to exceed ten calendar days maximum, after ground disturbance activity.

Section 5.3.9 Stormwater Provisions

(a) **Stormwater Outlet Protection; Velocity Limitation**

(i) Persons shall conduct land disturbing activity so that the post-construction velocity of the ten-year storm runoff in the receiving watercourse to the discharge point does not exceed the greater of:

1) The velocity established by Table 5.1
2) The velocity of the ten-year storm runoff in the receiving watercourse prior to development.
3) If conditions 1) or 2) of this subsection cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the velocity prior to development by ten percent.

(ii) Measures applied alone or in combination to satisfy the intent of this section are acceptable if there are no objectionable secondary consequences. The North Carolina Sedimentation Control Commission recognizes that the management of stormwater runoff to minimize or control downstream channel and bank erosion is a developing technology. Innovative techniques and ideas will be considered and may be used when shown to have the potential to produce successful results. Some alternatives are to:

1) Avoid increases in surface runoff volume and velocity by including measures to promote infiltration to compensate for increased runoff from areas rendered impervious;
2) Avoid increases in stormwater discharge velocities by using vegetated or roughened swales and waterways in lieu of closed drains and high velocity paved sections;
3) Provide energy dissipaters at outlets of storm drainage facilities to reduce flow velocities to the point of discharge. These may range from simple rip-rapped sections to complex structures;
4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

(iii) This rule shall not apply where it can be demonstrated that stormwater discharge velocities will not create an erosion problem in the receiving watercourse.

(iv) Table 5.1 represents maximum permissible velocity for stormwater discharge:

TABLE 5.1: Maximum Permissible Velocity for Stormwater Discharge

Material	Maximum Permissible Velocities	
	F.P.S.	M.P.S.

Fine sand (non-colloidal)	2.5	0.8
Sandy loam (non-colloidal)	2.5	0.8
Silt loam (non-colloidal)	3.0	0.9
Ordinary firm loam	3.5	1.1
Fine gravel	5.0	1.5
Stiff clay (very colloidal)	5.0	1.5
Graded, loam to cobbles (non-colloidal)	5.0	1.5
Graded, silt to cobbles (colloidal)	5.5	1.7
Alluvial silts (noncolloidal)	3.5	1.1
Alluvial silts (colloidal)	5.0	1.5
Coarse gravel (noncolloidal)	6.0	1.8
Cobbles and shingles	5.5	1.7
Shales and hard pans	6.0	1.8

Source: Adapted from recommendations by the Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels, multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

Section 5.3.10 Maintenance

(a) **Responsibility for Maintenance**

(i) During the development of a site, the person conducting the land disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of this section, the Act, or any order adopted pursuant to this section or the Act.

(ii) After site development, the landowner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right-of-way or easement accepted for maintenance by a governmental agency.

1) Exposed areas shall be planted or otherwise provided with permanent ground cover, devices, or structures sufficient to restrain erosion, within 21 calendar days of completion of any phase of grading or construction.
2) The Permitting and Code Enforcement Director shall perform a final inspection verifying that all disturbed areas have been stabilized, that all permanent erosion control measures and stormwater management BMPs, facilities and improvements have been installed per the approved plan(s) and all requirements set forth in this section. A certificate of occupancy shall not be issued until there is a final inspection verifying compliance with these requirements.

Section 5.3.11 Appeals

(a) Unless otherwise noted, appeals shall be governed by the provisions found in Section 3.7.2, Administrative Appeals.

Section 5.4 Watershed Protection

Section 5.4.1 Jurisdiction

(a) The provisions of this section shall apply within the areas designated as a public water supply watershed by the North Carolina Environmental Management Commission and shall be defined and established on the map entitled, "Watershed Protection Map of Jackson County, North Carolina" ("the watershed map"), which is adopted simultaneously herewith. The watershed map and all explanatory matter contained thereon is hereby made a part of this section.

Section 5.4.2 Exceptions to Applicability

(a) **Effect upon Regulations**
   (i) Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace.
   (ii) However, the adoption of the ordinance from which this section is derived shall and does amend any and all ordinances, resolutions, and regulations in effect in the County at the time of the adoption of said ordinance that may be construed to impair or reduce the effectiveness of this section or to conflict with any of its provisions.

(b) **Abrogation**
   (i) It is not intended that these regulations interfere with any easement, covenants or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.

(c) **Effect upon Existing Development**
   (i) Existing development, as defined in this section, is not subject to the requirements of this section.
   (ii) Expansions to structures classified as existing development must meet the requirements of this section; however, the built-upon area of the existing development is not required to be included in density calculations.

Section 5.4.3 Development Regulations

(a) **Establishment of Watershed Areas**
   (i) The purpose of this section is to list and describe the watershed areas herein adopted. For purposes of this section the County is hereby divided into the following areas, as appropriate:
      1) WS-I
      2) WS-II-CA (critical area)
      3) WS-II-BW (balance of watershed)
      4) WS-III-CA (critical area)
      5) WS-III-BW (balance of watershed)

(b) **Watershed Areas Described**
   (ii) WS-I Watershed Areas (Dills Creek, Allen Creek, Upper Tributaries (UT) Fisher Creek and Fisher Creek).

1) The intent is to provide maximum protection for water supplies within essentially natural and undeveloped watersheds in public ownership by allowing only low intensity uses.
2) No residential or nonresidential uses are allowed except those listed in this subsection. Impacts from non-point source pollution shall be minimized.
   a) Allowed uses:
      i) Agricultural activities subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the soil and water conservation commission.
      ii) Silvicultural activities subject to the provisions of the Forest Practices Guidelines related to water quality (02 NCAC 60C .0101 - .020902 NCAC 60C .0101 - .0209).
      iii) Recreational activities.
      iv) Water withdrawal, treatment and distribution facilities.
      v) Restricted road access.
      vi) Power transmission and distribution lines.
   b) Density and built-upon limits do not apply.

(iii) WS-II-CA Watershed Areas—critical area (Big Creek and Indian Creek (Pheasant Creek))

1) In order to maintain a predominately undeveloped land use intensity pattern, single-family residential uses shall be allowed at a maximum of one dwelling unit per two acres.
2) All other residential and nonresidential development shall be allowed at a maximum six percent built-upon area.
3) New residuals (defined as including but not limited to remaining soil after soluble elements have been dissolved) application sites and landfills are specifically prohibited.
   a) Allowed uses:
      i) Agricultural activities subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the Soil and Water Conservation Commission.
      ii) Silvicultural activities subject to the provisions of the forest practices guidelines related to water quality (02 NCAC 60C .0101 - .020902 NCAC 60C .0101 - .0209).
      iii) Recreational activities.
      iv) Residential development including customary home occupations.
      v) Nonresidential development, excluding the storage of toxic and hazardous materials unless a spill containment plan is implemented, landfills, and sites for land application of residuals or petroleum-contaminated soils. New industrial development is required to incorporate adequately designed, constructed and maintained spill-containment structures if hazardous materials are either used, stored or manufactured on the premises.
   b) Density and built-upon limits:
      i) Single-family residential: Development shall not exceed one dwelling unit per two acres on a project-by-project basis. No residential lot shall be less than two acres (80,000 square feet excluding roadway right-of-way), except within an approved cluster development.
      ii) All other residential and nonresidential: Development shall not exceed six percent built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(iv) WS-II-BW Watershed Areas—balance of watershed (Big Creek and Indian Creek (Pheasant Creek))

1) In order to maintain a predominantly undeveloped land use intensity, single-family residential uses shall be allowed at a maximum of one dwelling unit per acre.
2) All other residential and nonresidential development shall be allowed a maximum of 12 percent built-upon area.
3) In addition, new development may occupy ten percent of the balance of the watershed which is outside the critical area, with up to 70 percent built-upon area when approved as a special intensity allocation (SIA).
4) The Planning Director is authorized to approve SIAs consistent with the provisions of this section.
5) To the maximum extent practicable, projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate best management practices to minimize water quality impacts.
6) Non-discharging landfills and residuals application sites are allowed.
   a) Allowed uses:
      i) Agricultural activities subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the soil and water conservation commission.
      ii) Silvicultural activities subject to the provisions of the forest practices guidelines related to water quality (02 NCAC 60C .0101 - .020902 NCAC 60C .0101 - .0209).
      iii) Recreational activities.
      iv) Residential development, including customary home occupations.
      v) Nonresidential development excluding discharging landfills and the storage of toxic and hazardous materials, unless a spill containment plan is implemented.
   b) Density and built-upon limits:
      i) Single-family residential. Development shall not exceed one dwelling unit per acre on a project-by-project basis. No residential lot shall be less than one acre (or 40,000 square feet excluding roadway right-of-way), except within an approved cluster development.
      ii) All other residential and nonresidential. Development shall not exceed 12 percent built-upon area on a project-by-project basis, except that up to ten percent of the balance of the watershed may be developed to 70 percent built-upon area on a project-by-project basis. For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(v) WS-III-CA Watershed Areas—Critical Area (Cullasaja River and Tuckasegee River)

1) In order to maintain a predominantly undeveloped land use intensity, single-family residential uses shall be allowed at a maximum of one dwelling unit per acre.
2) All other residential and nonresidential development shall be allowed at a maximum 12 percent built-upon area.
3) New residuals (defined as including but not limited to remaining soil after soluble elements have been dissolved) application sites and landfills are specifically prohibited.
   a) Allowed uses:
      i) Agricultural activities subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the soil and water conservation commission.
      ii) Silvicultural activities subject to the provisions of the forest practices guidelines related to water quality (02 NCAC 60C .0101 - .020902 NCAC 60C .0101 - .0209)
      iii) Recreational activities.
      iv) Residential development, including customary home occupations.

v) Nonresidential development, excluding the storage of toxic and hazardous materials unless a spill containment plan is implemented, landfills, and sites for land application of sludge/residuals or petroleum-contaminated soils. New industrial development is required to incorporate adequately designed, constructed and maintained spill-containment structures if hazardous materials are either used, stored or manufactured on the premises.

b) Density and built-upon limits:

i) Single-family residential: Development shall not exceed one dwelling unit per acre on a project-by-project basis. No residential lot shall be less than one acre (or 40,000 square feet excluding roadway right-of-way), except within an approved cluster development.

ii) All other residential and nonresidential: Development shall not exceed 12 percent built-upon area on a project-by-project basis. For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(vi) WS-III-BW Watershed Areas—balance of watershed (Cullasaja River and Tuckasegee River)

1) In order to maintain a predominantly undeveloped land use intensity single-family residential uses shall be allowed at a maximum of two dwelling units per acre.
2) All other residential and nonresidential development shall be allowed a maximum of 24 percent built-upon area.
3) In addition, development other than single-family residential development may occupy ten percent of the balance of the watershed which is outside the critical area, with a 70 percent built-upon area when approved as a special intensity allocation (SIA).
4) The Permitting and Code Enforcement Director is authorized to approve SIAs consistent with the provisions of this section.
5) Projects must minimize built-upon surface area, direct stormwater away from surface waters and incorporate best management practices to minimize water quality impacts.
6) Non-discharging landfills and sludge application sites are allowed.

a) Allowed uses:

i) Agricultural activities subject to the provisions of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 and all rules and regulations of the Soil and Water Conservation Commission.

ii) Silvicultural activities subject to the provisions of the forest practices guidelines related to water quality (02 NCAC 60C .0101 - .0209).

iii) Recreational activities.

iv) Residential development, including customary home occupations.

v) Nonresidential development excluding discharging landfills and the storage of toxic and hazardous materials unless a spill containment plan is implemented.

b) Density and built-upon limits:

i) Single-family residential: Development shall not exceed two dwelling units per acre on a project-by-project basis. No residential lot shall be less than one-half acre and not less than 20,000 square feet excluding roadway right-of-way, except within an approved cluster development.

ii) All other residential and nonresidential: Development shall not exceed 24 percent built-upon area on a project-by-project basis except that up to ten percent of the balance of the watershed may be developed to 70 percent built-upon area on a project-by-project basis. For the purpose calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(vii) Built-upon area

1) For the purpose of calculating built-upon area, total project area shall include total acreage in the tract on which the project is to be developed.

(viii) Stormwater Drainage Facilities

1) The application shall be accompanied by a description of the proposed method of providing stormwater drainage.
2) The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters and incorporates best management practices to minimize water quality impacts.
3) Consistent with subsection (g) of this section, subdivisions qualifying for the special intensity allocation shall provide non-structural methods of managing stormwater runoff.

(ix) Erosion and Sedimentation Control

1) The application shall, where required, be accompanied by a written statement that a sedimentation and erosion control plan has been submitted to and approved by the state division of land quality.
2) Roads constructed in critical areas and watershed buffer areas.
3) Where possible, roads should be located outside of critical areas and watershed buffer areas.
4) Roads constructed within these areas shall be designed and constructed so to minimize their impact on water quality.

(c) **Construction Procedures**

(i) No construction or installation of improvements shall commence in a proposed subdivision until a subdivision plat has been approved by the Planning Director.

(ii) No building or other permits shall be issued for erection of a structure on any lot not of record at the time of adoption of the ordinance from which this section is derived until all requirements of this section have been met. The subdivider, prior to commencing any work within the subdivision, shall provide the Planning Director with an opportunity to inspect the site.

(d) **Rules Governing the Interpretation of Watershed Area Boundaries**

(i) Where uncertainty exists as to the boundaries of the watershed areas, as shown on the watershed map, the following rules shall apply:

1) Where area boundaries are indicated as approximately following either street, alley, railroad or highway lines or centerlines thereof, such lines shall be construed to be said boundaries.
2) Where area boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be said boundaries. However, a surveyed plat prepared by a registered land surveyor may be submitted to the County as evidence that one or more properties along these boundaries do not lie within the watershed area.
3) Where the watershed area boundaries lie at scaled distance more than 25 feet from any parallel lot line, the location of watershed area boundaries shall be determined by use of the scale appearing on the watershed map.
4) Where the watershed area boundaries lie at a scaled distance of 25 feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.
5) Where other uncertainty exists, the Planning Director shall interpret the watershed map as to location of such boundaries. This decision may be appealed to the Watershed Review Board per Section 3.7.20.

(e) **Application of Regulations**

(i) No building or land shall hereafter be used and no development shall take place except in conformity with the regulations herein specified for the watershed area in which it is located.

(ii) No area required for the purpose of complying with the provisions of this section shall be included in the area required for another building.

(iii) Every residential building hereafter erected, moved or structurally altered shall be located on a lot which conforms to the regulations herein specified, except as permitted in subsection (f) of this section.

(iv) If a use or class of use is not specifically indicated as being allowed in a watershed area, such use or class of use is prohibited.

(v) Consistent with NCGS 153A-340, these regulations shall not affect bona fide farms, but any use of farm property for non-farm purposes shall be subject to the regulations.

(f) **Existing Development**

(i) Existing development may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this section; however, the built-upon area of the existing development is not required to be included in the built-upon area calculations.

1) Uses of land
   a) This category consists of uses existing at the time of adoption of the ordinance from which this section is derived where such use of the land is not permitted to be established hereafter in the watershed area in which it is located. Such uses may be continued except as follows:
   b) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
   c) Such use of land shall be changed only to an allowed use.
   d) When such use ceases for a period of at least one year, it shall not be reestablished.
2) Reconstruction of buildings or built-upon areas
   a) Any existing building or built-upon area not in conformance with the restrictions of this section that has been damaged or removed may be repaired and/or reconstructed but not expanded, except that there are no restrictions on single-family residential development.
   b) Repair or reconstruction of buildings or built-upon areas shall be initiated within 12 months.

(g) **Special Intensity Allocation (SIA)**

(i) A maximum of ten percent of the noncritical area of the WS-II-BW and the WS-III-BW watersheds may be developed to a maximum density of 70 percent built-upon surface area.

(ii) The special intensity allocation (SIA) acreage shall be available subject to the following conditions:

1) Consistent with Section 4.3.4 (v), development projects permitted under the SIA shall provide a minimum 50-foot vegetative buffer.
2) Vegetative buffers shall be used as a nonstructural method for providing additional infiltration of stormwater. Requirements for these filters are as follows:
   a) A distribution device such as a swale shall be used to provide even distribution of runoff over the length of the vegetative filter.
   b) The slope and width of the vegetative filter shall be determined so as to provide a nonerosive velocity of flow through the filter for a ten-year, 24-hour storm with a ten-year, one-hour intensity (generally, this will require a slope of five percent or less and a minimum width of 50 feet).

c) The Planning Director may allow the use of stone rip-rap to armor swales where steep slopes and other site limitations limit their development.
d) Vegetation in the filter may be natural vegetation, grasses or artificially planted wetland vegetation appropriate for the site characteristics.

Section 5.4.4 Public Health Regulations

(a) **Water Quality**
(i) No activity, situation, structure or land use shall be allowed within the watershed which poses a threat to water quality and the public health, safety and welfare. Such conditions may arise from inadequate on-site sewage systems which utilize ground absorption; inadequate sedimentation and erosion control measures; the improper storage or disposal of junk, trash or other refuse within a buffer area; the absence or improper implementation of a spill-containment plan for toxic and hazardous materials; the improper management of stormwater runoff; or any other situation found to pose a threat to water quality.

(b) **Abatement**
(i) The Planning Director shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.
(ii) The Planning Director shall report all findings to the Watershed Review Board. The Planning Director may consult with any public agency or official and request recommendations.
(iii) Where the Watershed Review Board finds a threat to water quality and the public health, safety and welfare, the Board shall institute any appropriate action or proceeding to restrain, correct or abate the condition and/or violation.

SECTION 5.5 WATER RECHARGE REGULATIONS

Section 5.5.1 Purpose

The purpose of this section shall be to establish standards to help assure ground water that is withdrawn by wells and other means is replenished. This procedure is part of the application and review process for obtaining a building permit. Typically, water recharge occurs as a result of rainwater or snowmelt soaking into the ground (water infiltration). How much water infiltrates depends on vegetation cover, slope, soil composition, depth to the water table, the presence or absence of confining beds and other factors. Recharge is promoted by natural vegetation cover, flat topography, permeable soils, a deep-water table and the absence of confining beds (groundwater beds that are saturated). The steep topography of much of the County creates a natural challenge for water infiltration and ground water recharge. Development activities create impervious surfaces that reduce the amount of water that enters the ground water system. In order to maintain the viability of ground water supplies, including wells, and to lessen the impact of surface runoff, reasonable limitations can be placed on the amount of impervious surface on lots and parcels developed for residential and other purposes. Promoting and/or providing incentives for the use of stormwater best management practices (BMPs), such as rain gardens, that promote the infiltration of stormwater into the soil also can promote water recharge. The following standards are meant to preserve the capacity for water recharge on properties that are developed for residential, commercial, and other uses.

Section 5.5.2 Jurisdiction

The provisions of this section shall apply to all unincorporated areas of Jackson County, North Carolina. The provisions identified herein shall apply to new commercial, industrial, and multi-family development and to major subdivisions.

Section 5.5.3 Exemptions

(a) The provisions of this section shall not apply to:
   (i) Agricultural uses.
   (ii) Single family residential construction.
   (iii) Minor subdivisions (eight or fewer lots).
   (iv) Development on the campus of Western Carolina University.

Section 5.5.4 Limitations on Impervious Surfaces

(a) In an effort to promote the absorption of stormwater into the earth's surface and thence into the water table, the following limitations on impervious surfaces are hereby established:

Table 5.2: Maximum Allowable Impervious Surface

Land Use	Lot Size	Maximum Allowable Impervious Surface
Multi-family residential	<1.0 acres	75%
Multi-family residential	>1.0 acres	70%
Industrial	All sizes	70%
Commercial	All sizes	70%
Open space	All sizes	12% (for roads, parking areas)

   (i) Pervious areas shall be dispersed throughout a subdivision or development rather than being concentrated in one area.
   (ii) The impervious surface standards identified in Table 5.2: Maximum Allowable Impervious Surface shall be applied on a per lot basis for subdivisions, not on the entire subdivision tract level.
   (iii) In large multi-family, commercial, and industrial developments of more than ten acres, no more than 25 percent of the pervious surfaces shall be located in any one area.
   (iv) On properties subject to Section 5.7 Mountain and Hillside Development, the provisions of that section limiting impervious surfaces shall apply.

Section 5.5.5 Exceeding Limitations on Impervious Surfaces

(a) The amount of impervious surface on a lot may exceed that which is allowed by the Table 5.2: Maximum Allowable Impervious Surface, provided that stormwater retention measures that collect and retain for percolation the runoff from the impervious areas are installed.
(b) The permitted increase in impervious surfaces shall be on a direct ratio basis. For example, if ten percent of the total stormwater generated by the development's impervious surfaces is retained, a ten percent increase in the permitted impervious surfaces shall be allowed; if 60 percent of the total stormwater generated by the development's impervious surfaces is retained, a 60 percent increase in the permitted impervious surfaces shall be permitted.
(c) Stormwater retention systems shall be designed by a registered professional engineer or landscape architect and their installation and construction certified by the designer.
(d) Standing water and installations that allow for water to collect and stagnate so as to provide a suitable habitat for mosquitoes should be prohibited.

(e) Development plans meeting these standards shall be approved for compliance with the impervious surface standards.

Section 5.5.6 Granting of Modifications

(a) The County Planning Board is authorized to approve a modification in those cases in which a development cannot meet the limitations on impervious surfaces identified above.
(b) The developer/property owner shall submit the application for a modification at least 30 days prior to the meeting of the Planning Board at which it is to be considered.
(c) The application shall state the reason(s) the water recharge standards cannot be met and shall describe any alternative proposed for the property. In applying for the modification, the applicant must identify physical characteristics of the property that preclude compliance with the standards and/or identify proposed systems for ensuring water recharge that meet or exceed the goals of this Section.

Section 5.5.7 Preservation of Vegetation

(a) Preserving existing vegetation on a site can enhance the water recharge capacity of the property.
(b) Grass, shrubs, and trees all contribute to the ability of a property to provide water recharge.
(c) While the wholesale removal of existing trees and shrubs is discouraged, some vegetation removal and pruning is recommended to create a "firewise" home.
(d) Existing vegetation within 30 feet of the home should be pruned and/or thinned to reduce the amount of fuel available for a fire.
(e) All dead plant material, including leaves, should be removed in this 30-foot zone. Plants that can contain resins and oils that burn readily (ornamental junipers, hollies, and young pines) should not be planted in this area.
(f) For more information regarding creating a "firewise" home, contact Firewise Communities at www.firewise.org.
(g) Removal of vegetation on property with a slope of 30 percent or more is regulated Section 5.5.
(h) Standards for preservation of vegetation on property with a slope of 30 percent or more can be found in of Sections 5.8.4 and 5.8.6.

SECTION 5.6 FLOOD DAMAGE PREVENTION

Section 5.6.1 General Provisions

(a) **Statutory Authorization**
   (i) The Legislature of the State of North Carolina has in Part 6, Article 21 of Section 143; Parts 3, 5, and 8 of Article 19 of Section 160A; and Article 8 of Section 160A 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.
   (ii) The Legislature of the State of North Carolina has in Part 6, Article 21 of Section 143; Parts 3 and 4 of Article 18 of Section 153A; and Part 121, Article 6 of Section 153A 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.
   (iii) Therefore, the Board of Commissioners of Jackson County, North Carolina, has enacted the following floodplain development regulations.
(b) **Findings of Fact**
   (i) The flood prone areas within the County 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.

(ii) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

(c) **Statement of Purpose**

(i) 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:

1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocities
2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction
3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters
4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage
5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters, or which may increase flood hazards to other lands

(d) **Objectives**

(i) The objectives of this section are to:

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

(e) **Applicability**

(i) This section shall apply to all special flood hazard areas within the County, including the municipal jurisdictions, including extra-territorial jurisdictions (ETJs), of Sylva, Dillsboro, Webster and Forest Hills.

(f) **Basis for Establishing the Special Flood Hazard Areas**

(i) 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) and its accompanying flood insurance rate maps (FIRM), for Jackson County and its incorporated areas, dated April 4, 2010, which are adopted by reference and declared to be a part of this Section.

(g) **Establishment of Floodplain Development Permit**

(i) 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 5.6.1(f)(*i*).

(h) **Compliance**

(i) 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.

(i) **Abrogation and Greater Restrictions**

(i) 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.

(j) **Interpretation**

(i) 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
3) Deemed neither to limit nor repeal any other powers granted under State statutes

(k) **Warning and Disclaimer of Liability**

(i) The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration.

(ii) Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes.

(iii) 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.

(iv) This section shall not create liability on the part of the County or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made thereafter.

(l) Lands to which this Section applies:

(i) The municipalities of Sylva, Dillsboro, Forest Hills, and Webster have entered into an officially approved inter-local agreement to authorize and designate that the Permitting and Code Enforcement Director will be serving as the administrator of this section within the corporate and extra-territorial jurisdictions of their municipality.

(ii) This section shall apply to all special flood hazard areas within the county, including those within municipal jurisdictions, including the extra-territorial jurisdictions (ETJs), of Sylva, Dillsboro, Webster and Forest Hills.

(m) Variance Procedure.

(i) The County Board of Adjustment shall hear and decide requests for variances from the requirements of this Section within the unincorporated areas of the County and make appeals to the Superior Court per Table 3.1: Development Review Procedures and Section 3.7.20, Variances.

(ii) Variances may be issued for:

1) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
2) Functionally dependent facilities if determined to meet the definition as stated in Article XI Definitions, provided provisions of subsection *viii*(2), (3), and (5) below have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
3) Any other type of development, provided it meets the requirements of this Section.

(iii) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:

1) The danger that materials may be swept onto other lands to the injury of others;
2) The danger to life and property due to flooding or erosion damage;
3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

4) The importance of the services provided by the proposed facility to the community;
5) The necessity to the facility of a waterfront location as defined in Article XI of this chapter as a functionally dependent facility, where applicable;
6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
7) The compatibility of the proposed use with existing and anticipated development;
8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

(iv) A written report addressing each of the above factors shall be submitted with the application for a variance.

(v) Upon consideration of the factors listed above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.

(vi) 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 $25.00 per $100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

(vii) The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the state upon request.

(viii) Conditions for variances:

1) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
2) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
4) Variances shall only be issued prior to development permit approval.
5) Variances shall only be issued upon:
   a) A showing of good and sufficient cause;
   b) A determination that failure to grant the variance would result in exceptional hardship; and
   c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(ix) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met.

1) The use serves a critical need in the community.

2) No feasible location exists for the use outside the special flood hazard area.
3) The reference level of any structure is elevated or floodproofed to at least the regulatory flood protection elevation.
4) The use complies with all other applicable federal, state and local laws.
5) The Permitting and Code Enforcement Director has notified the Secretary of The State Department of Crime Control and Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

Section 5.6.2 Administration

(a) **Designation of Director**

(i) It is the responsibility of the Permitting and Code Enforcement Director to administer and implement the provisions of this section as the Jackson County Floodplain Administrator per Section 2.1.2.

(ii) The municipalities of Sylva, Dillsboro, Webster, and Forest Hills have entered into an officially approved inter-local agreement with the County for the Permitting and Code Enforcement Director to serve as the Administrator of this Section within the corporate and extra-territorial jurisdictions of said municipalities.

(b) **Application Requirements**

(i) For floodplain development permit procedures, refer to Section 3.7.6.

(c) **Duties and Responsibilities of the Director**

(i) The Permitting and Code Enforcement Director 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 State 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 subsection 5.6.3 (e) 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 3.7.6 (f).
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 3.7.6 (f).
8) Obtain actual elevation (in relation to mean sea level) of all public utilities in accordance with the provisions of Section 3.7.6 (f).

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 3.7.6 (f). and subsection 5.6.3(b)(i)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 section.
11) When base flood elevation (BFE) data has not been provided in accordance with the provisions of subsection 3.7.6 (f): Floodplain Development Permit, 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 subsection 5.6.3 (c)(i)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 3.7.6: Floodplain Development Permit, 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 Permitting and Code Enforcement Director shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Permitting and Code Enforcement Director 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 Permitting and Code Enforcement Director 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 Permitting and Code Enforcement Director 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 Permitting and Code Enforcement Director 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 Article X: Violations and Enforcement.
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 subsection 5.6.1 (f)(i) of this section, 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).

Section 5.6.3 Provisions for Flood Hazard Reduction

(a) **General Standards**

(i) 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, except by variance as specified in subsection 3.7.20. 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 subsection 3.7.6.

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**

(i) In all special flood hazard areas where base flood elevation (BFE) data has been provided, as set forth in subsections 5.6.1 (f)(i) or 5.6.3 (c), the following provisions, in addition to the provisions of subsection 5.6.3 (a) are required:

1) Residential construction
   a) 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 Article XI: Definitions of this Ordinance.
2) Nonresidential construction.
   a) New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Article XI: Definitions.
   b) 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 subsection 5.6.3 (c)(i)(2).
   c) A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Permitting and Code Enforcement Director as set forth in subsection 3.7.6 (f), 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 Article XI: Definitions.

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.

c) Additionally, when the elevation would be met by an elevation of the chassis 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 36 inches in height, an engineering certification is required.

4) All enclosures or skirting below the lowest floor shall meet the requirements of subsection 5.6.2 (b)(ii).

5) 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 Permitting and Code Enforcement Director and the local emergency management coordinator.

(ii) Elevated buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor.

1) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

2) Shall be constructed entirely of flood resistant materials at least to the regulatory flood protection elevation; and

3) 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:

a) A minimum of two flood openings on different sides of each enclosed area subject to flooding;

b) The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding;

c) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;

d) The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

e) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

f) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(iii) Additions/improvements.

1) Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

a) Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more non-conforming than the existing structure.
b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

2) 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.
3) Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:
   a) Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction.
   b) A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

(iv) Recreational vehicles.
1) 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.

(v) Temporary nonresidential structures.
1) Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Permitting and Code Enforcement Director 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 Permitting and Code Enforcement Director for review and written approval:
   a) A specified time period for which the temporary use will be permitted. Time specified may not exceed three months, renewable up to one 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.

(vi) Accessory structures.
1) When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:
   a) Accessory 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 subsection 5.6.3 (a);

f) All service facilities such as electrical shall be installed in accordance with the provisions of subsection 5.6.3 (a); 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 subsection 5.6.2 (b)(ii)3).
h) 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 subsection 5.6.2 (b)(ii)3).

(c) **Standards for Floodplains Without Established Base Flood Elevations**

(i) Within the special flood hazard areas designated as approximate zone A and established in section 3.7.6, where no base flood elevation (BFE) data has been provided by FEMA, the following provisions, in addition to the provisions of subsection 5.6.3(a) shall apply:

1) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of 20 feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
2) The BFE used in determining the regulatory flood protection elevation shall be determined based on the following criteria:
   a) When base flood elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this section and shall be elevated or floodproofed in accordance with standards in subsections 5.6.3(a) and 5.6.3(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 subsections 5.6.3(b) and 5.6.3(e).
   c) All subdivision, manufactured home park and other development proposals shall provide base flood elevation (BFE) data if development is greater than five acres or has more than 50 lots/manufactured home sites. Such base flood elevation (BFE) data shall be adopted by reference in accordance with 5.6.1(f) 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 subsection 5.6.3(b). All other applicable provisions of subsection 5.6.3(b) shall also apply.

(d) **Standards for Riverine Floodplains with Base Flood Elevations but without Established Floodways or Non-Encroachment Areas**

1) 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:
   a) Standards of subsections 5.6.3(a) and 5.6.3(b); and

b) Until a regulatory floodway or non-encroachment area is designated, no encroachments, including fill, new construction, substantial improvements, or other development, shall be permitted unless certification with supporting technical data by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(e) **Floodways and Non-Encroachment Areas**

(i) Areas designated as floodways or non-encroachment areas are located within the special flood hazard areas established in 5.6.1(f). 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 subsections 5.6.3(a) and 5.6.3(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 Permitting and Code Enforcement Director 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 subsection 5.6.3(c)*(i)(*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 subsection 5.6.3(b)(*ii*); and
   b) The no encroachment standard of subsection 5.6.3(e)(*i*)1).

Section 5.6.4 Legal Status

(a) **Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance**

(i) This section in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted April 5, 2010, 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 ordinances of Jackson County enacted on March 18, 1982, May 17, 1989, and April 5, 2010, which are not reenacted herein, are repealed.

(ii) Additionally, this section in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinances of each of the participating municipalities, as noted below. 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 ordinances of the Towns of Sylva, Dillsboro and Webster, and the Village of Forest Hills, which are not reenacted herein are repealed.

(iii) The dates of the initial flood damage prevention ordinance for Jackson County and each of the participating municipalities are as follows:
1) Jackson County Unincorporated Area, dated May 17, 1989
2) The Town of Sylva dated July 28, 1975
3) Town of Dillsboro dated July 23, 1975
4) The Town of Webster dated March 18, 1992
5) The Village of Forest Hills N/A

(iv) The dates of the initial flood insurance rate maps are as follows:
1) Jackson County Unincorporated Area, dated May 17, 1989
2) The Town of Sylva dated July 3, 1986
3) The Town of Dillsboro dated May 15, 1986
4) The Town of Webster dated April 19, 2010
5) The Village of Forest Hills dated May 17, 1989

(b) Effect upon outstanding floodplain development permits.

(c) 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 Permitting and Code Enforcement Director 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 months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Section.

Section 5.7 MOUNTAIN RIDGE PROTECTION REGULATIONS

Section 5.7.1 General Provisions

(a) **Purpose**

(i) The Board of Commissioners finds that the construction of tall (greater than 40 feet in height) buildings or structures on mountain ridges may cause unusual problems and hazards to the residents of and visitors to the mountains. The purpose of this Ordinance therefore is to regulate the construction of tall buildings or structures on mountain ridges to insure that: adequate water supply is available to such building or structure; the disposing of sewage will not infringe on the ground water rights and endanger the health of those persons living at lower elevations; adequate fire protection can be made available; such buildings or structures will not be a hazard to air navigation and to persons on the ground, and such tall buildings will not detract from the natural beauty of the mountains.

(b) **Jurisdiction**

(i) The provisions of this section shall apply to the construction of tall buildings or structures, as defined in this ordinance, on protected mountain ridges, as defined in this Ordinance, within Jackson County, and outside the territorial jurisdiction of any municipality within Jackson County.

(ii) This section may also apply to any and all areas lying within the territorial jurisdiction of any municipality within Jackson County if the municipality by resolution requests such application.

(iii) Protected mountain ridges are further identified by the map entitled "Identification of Protected Mountain Ridges in the County of Jackson" and which is on file in the office of the

Jackson County Permitting and Code Enforcement Department and the Jackson County Planning Department.

(c) **Application for permit.**

(i) All applications for permits shall be submitted to the enforcement officer and shall be accompanied by a map or plat prepared by a registered land surveyor or engineer and a development plan containing, where applicable, the following information:

1) Title block containing the name of the development, name of owner, name of developer, scale and north arrow.
2) Existing site conditions, including contours, water courses, any unique natural or manmade features such as vegetation and ground cover.
3) Exact boundary lines of the property containing the proposed construction.
4) Exact location and use of all existing and proposed buildings or structures.
5) Plans of proposed water and sewer layouts shall show the location of lines, line sizes, approximate location of manholes, pumps, hydrants, force mains, and the connection of the proposed system with existing systems.
6) Location of existing and proposed easements and rights-of-way.
7) The proposed treatment of the perimeter of the development including materials and/or techniques such as screens, fences and walls.
8) Information on adjacent land areas, including land use, zoning classifications, public facilities and any unique natural features.
9) Existing and proposed road access to and within the development showing rights-of-way and pavements widths. Notation of the proposed ownership of the street system (public or private) and the method or manner of assuring maintenance and repair.
10) A front and side elevation profile, drawn to scale, of all existing and proposed buildings.
11) Landscaping and provisions showing the type of vegetation to be used to stabilize slopes and to beautify the site. The landscape plan shall indicate that natural vegetation has been preserved wherever possible during site development. Landscaping shall include types of vegetation native to the soils of the area and easily adaptable to the conditions of the site.
12) The area to be graded, contour lines of the area graded upon completion, and the manner or method of disposing or utilizing the graded material.

(ii) In addition to the development plan, all applications for permits shall be accompanied by the following documentation:

1) If a street is to be dedicated for public use, a letter of approval for the proposed street plan shall be submitted indicating that street plans have been reviewed and approved in the following manner:
   a) Street plans shall be reviewed and approved by the North Carolina Department of Transportation or whatever public agency is to accept the dedication and assume maintenance of the streets.
   b) Street plans shall contain all data, calculations and information as required by the North Carolina Department of Transportation or other appropriate public agency.
   c) The developer shall meet all other requirements of NCGS 136-102.6 if the development constitutes a subdivision.
2) If the proposed water and/or sewer system is to connect onto an existing system, a letter of approval from the owner of said existing system for such connection shall be submitted. In addition, a letter of approval from the appropriate regulatory agency shall be submitted

indicating that the proposed connection will not cause any problems related to overloads, discharges, shortages, etc., on said existing system.

3) If individual wells and/or septic tanks are to be utilized, a written statement from the Jackson County Health Department indicating approval of wells and/or septic tanks for use in the development shall be submitted.
4) If an on-site package water and/or sewer treatment system is to be utilized, a letter of approval from the North Carolina Department of Human Resources and/or the North Carolina Department of Environmental Quality shall be submitted.
5) Documentation of an approved sedimentation and erosion control plan shall be submitted where required.
6) A letter of approval from the appropriate fire department indicating the adequacy of the development facilities for emergency medical and fire services. Such determination shall take into consideration the street access, water pressure and availability, building height, and any other relevant factors that will insure adequate emergency medical and fire services.
7) A letter from the applicant indicating the land in the proposed development is under single ownership or management by the applicant or proper assurance (legal title or execution of a binding sales agreement) shall be provided indicating that the development can be successfully completed by the applicant.
8) The number of copies of all items to be submitted by the developer under this ordinance shall be determined by the Jackson County Permitting and Code Enforcement Department.

(d) **Application approval.**

(i) The Permitting and Code Enforcement Director shall review the application for compliance with the provisions of Section 5.7.1(c). Any application not containing all information required in Section 5.7.1(c) shall be returned to the applicant for correction and resubmission. After the Permitting and Code Enforcement Director has determined the application contains all information required in Section 5.7.1(c), they shall have ten days to recommend to the Planning Board either approval or disapproval of the application. In making a recommendation, the Permitting and Code Enforcement Director may include any appropriate conditions they feel should be placed on the issuance of the permit.

(ii) First consideration of the application shall be at the next regularly scheduled meeting of the planning board after receiving the recommendation of the Permitting and Code Enforcement Director. The Planning Board shall take action on the application at its first consideration or within 45 days of its first consideration. In taking action, the Planning Board shall recommend to the Board of Commissioners either approval or disapproval of the application. If the Planning Board fails to take action within the time period specified in this subsection, it shall be deemed to have recommended approval of the application. The Board of Commissioners shall tentatively approve or shall disapprove the application, and if tentatively approved the developer shall be notified within 30 days after submission of the recommendation from the planning. If tentatively approved, the developer shall then submit to the Board of Commissioners the things called for in Section 5.7.1 (d)(v) of this ordinance and any other matters and things requested by the Board of Commissioners. After the submission by the developer to the Board of Commissioners of the financial matters set forth in said Section 5.7.1(d)(*v*)(7), the Board of Commissioners shall approve or disapprove the application, and if approved authorize the enforcement officer to issue a permit within 30 days after submission of the financial information as required of the developer. In making its recommendation, the

planning board may include any appropriate conditions it feels should be placed on the issuance of the permit.

(iii) The Board of Commissioners shall not approve an application until it has determined that the intent of this ordinance has not been violated. In making such determination, the Board of Commissioners shall not approve the issuance of a permit if the application for said permit fails to provide for:

1) Sewering that meets the requirements of a public wastewater disposal system that it discharges into, or that is part of a separate system that meets applicable state and federal standards.
2) A water supply system that is adequate for fire protection, drinking water and other projected system needs; that meets with requirements of any public water supply system that it interconnects with; and that meets any applicable state standards, requirements and approvals.
3) Compliance with applicable state and local sedimentation control regulations and requirements.
4) Adequate consideration to protecting the natural beauty of the mountains as determined by the Board of Commissioners.

(iv) In making such determination, the Board of Commissioners may impose any additional conditions on the permit it deems necessary.

(v) In its consideration of whether or not adequate consideration has been given to protecting the natural beauty of the mountains, the following factors shall be among those considered:

1) Does the development plan show that natural vegetation will be preserved wherever possible?
2) Does the development plan indicate that slopes will be stabilized by use of vegetation or by other means?
3) Does the proposed landscaping utilize types of vegetation native to and compatible with the soils of the area?
4) Assurance that the developer will landscape the site.
5) Do the buildings and infrastructure blend in with the landscape?
6) That the architectural style and design of the building is appropriate to the site.
7) It shall not be necessary for the developer to present financial information with the application or for financial information to be considered by the department of construction standards and permits or by the Planning Board. However, if the Board of Commissioners tentatively approves the application, as forwarded to it by the planning board, the developer shall then submit directly to the Board of Commissioners , before final approval of the application, a copy of all contracts with the general contractor and any subcontractors, copies of surety bonds and performance bonds, letters of credit, firm and binding loan commitments, financial statements certified by a certified public accountant, or any other information and/or certifications required by the Board of Commissioners , which in its opinion is deemed necessary, to ensure that the entire project as approved by it and for which the permit is issued will be completed in its entirety and will not be abandoned or left uncompleted which would or might have a detrimental effect on the natural beauty of the mountains, have a detrimental effect on other property owners in the area, in any other way or manner defeat the purpose for which this ordinance is enacted, or be detrimental to the public interest advanced by this ordinance.

(vi) If the application is approved by the Board of Commissioners, such approval shall be stated in a letter. One copy of said letter shall be sent to the applicant one copy shall be sent to the enforcement officer, and one copy shall be retained by the Board of Commissioners. Said letter shall be sent within five days of approval of the application. Upon receipt of the letter indicating approval, the enforcement officer shall issue a permit for construction. Said letter shall contain a listing of all conditions imposed on the issuance of the permit.

(vii) The Board of Commissioners shall, if it disapproves the application, make findings of fact to justify such disapproval. These findings of fact shall be entered in the minutes of the board's meeting. In addition, a letter containing the findings of fact and specifying the provisions of this ordinance with which the application does not comply shall be prepared. One copy of said letter shall be sent to the applicant, one copy shall be sent to the enforcement officer, and one copy shall be retained by the Board of Commissioners. Said letter shall be sent within five days of disapproval of the application. If the application is disapproved, the applicant may make such changes as will bring the application into compliance with this ordinance and resubmit same for reconsideration by the enforcement officer as provided in Section 5.7.1 (c).

Section 5.8 MOUNTAIN AND HILLSIDE DEVELOPMENT

Section 5.8.1 General Provisions

(a) **Findings**

(i) The mountains of Jackson County, North Carolina, are characterized by steep slopes and thin soils. Land-disturbing activity on high-elevation, steep-slope mountains potentially threatens the public health, safety, welfare, and economic progress of Jackson County. Such land-disturbing activity has the potential to do the following: (a) endanger the quality of surface water by increasing erosion, stream sedimentation, and stormwater runoff; (b) induce landslides; (c) adversely affect ground water due to the difficulty in providing proper sewage disposal; (d) damage the habitat for some species of wildlife (both plants and animals); and (e) detract from the mountains' scenic and natural beauty which is vital to the recreation and tourism industry of Jackson County.

(ii) The Jackson County Board of Commissioners finds the following:

1) Steep hillsides are inherently unstable.
2) Changes to slopes—Through undermining by humans, flowing rivers, heavy rains, or the focusing of stormwater runoff by human-built channels or storm drain outlets can cause erosion or landsliding. Soil slips, which cause avalanche-type failures, and slower-moving earth flows can occur on slopes of 25 percent and more. Serious erosion can occur on much shallower slopes. Steeper slopes are less forgiving of construction errors than are shallower slopes.
3) When steeper slopes fail, such failures can have disastrous consequences. Disturbed surfaces create loose materials which tend to move downhill. Development can result in alteration of land surfaces that can contribute to slope destabilization. Alterations that have the potential for creating unstable slopes include placing fills on top of marginally stable slopes, cutting slopes at too steep an angle or undermining the toe of a slope, redirecting storm runoff in a way that artificially concentrates flows onto portions of the landscape not prepared to receive such flows, removing woody vegetation, and adding water by means of hillside septic systems. These factors work together and can cumulatively decrease the stability of slopes and eventually lead to disaster. Landslides and slope failures pose a variety of hazards to persons and property.

4) Hillside development, if unregulated, can take place at the expense of environmental concerns. Stormwater runoff from slopes is greater in both quantity and velocity than it would be from level ground. Preserving existing vegetation reduces erosion by maintaining roots which increase infiltration and bind soils. Vegetation also reduces the velocity of raindrops and slows the velocity of surface water flow by increasing the roughness of the ground, thereby increasing groundwater recharge. Constructing hillside roads involves cuts in the upslope side and fills on the down slope side. Such cuts and fills are often much wider than the minimum required road right-of-way and can be more susceptible to failure.
5) Hillsides and ridge lines are unique vegetation communities and wildlife habitats. Hillsides in developing areas are often the last remaining natural areas and are the final refuges for many species of wildlife. Development needs to be sensitive to the hillside's function of providing biodiversity.
6) Hillsides have aesthetic value to Jackson County and its municipalities and contribute to the community's sense of identity, as well as its tourism economy. Prominent mountains, peaks, hills, and ridges have significance as identifiable landmarks to area residents. Hillside development, if unregulated, can take place at the expense of aesthetic concerns. Hills and ridges are highly visible from surrounding areas.
7) Vegetation clearance and landform grading practices, if unregulated, can upset the natural shape of hills. The bulk, shape, height, and color of buildings can contrast with the natural landscape if unregulated and thus intrude on the natural character of the landform. Regulations are needed to ensure that buildings and structures blend in with the natural environment through their placement on the land, shape, materials, and colors.

(b) **Purpose, Intent and Objectives**

(i) It is the purpose of this section to provide development regulations applicable to mountains and hillsides to ensure that development occurs in the following manner:

1) Protects the natural conditions and respects existing topography;
2) Prevents inappropriate development;
3) Preserves the aesthetic and scenic qualities of such areas;
4) Ensures the public health, safety, and general welfare.

(ii) The provisions of this section are intended to prevent developments that will erode hillsides, result in sedimentation of lower slopes and bodies of water, cause damage from landslides or create the potential for damage from landslides, flood downhill properties, or result in the severe cutting of trees or the scarring of the landscape. It is the intent of this section to encourage a sensitive form of development and to allow for a reasonable use that complements the natural and visual character of the community. These purposes cannot be met fully with existing development regulations such as subdivision, soil erosion and sedimentation control, and flood damage prevention. This section is considered the minimum necessary to attain these purposes. These regulations are also intended to encourage the application of principles of landscape architecture, architecture, planning, and civil engineering to preserve the appearance and protect the resources of mountains and hills.

(c) **Establishment of the Mountain and Hillside Development District**

(i) The Mountain and Hillside Development District is hereby established, the boundaries and extent of which are depicted on the map entitled "Mountain and Hillside Development District Map" (herein referred to as the district map), which is hereby adopted as if fully set forth in this Ordinance. Said map shall be attached to the copy of this Ordinance filed with the Clerk of the Board of Commissioners upon adoption and shall be available for public inspection in the office of the Jackson County Planning Department. The district map identifies all those areas with a

slope of 35 percent or more, and is to be used to identify properties on which further analysis is required.

(d) **Applicability**

(i) This section shall apply to any subdivision plat, land-disturbing activity, building permit, or any other development proposal on property situated within the Mountain and Hillside Development District.

(ii) This section shall apply, and the Planning Director shall apply and enforce the provisions of this Ordinance, to the earliest application for development or building approval required of the applicant.

(iii) When an application for a preliminary subdivision plat, preliminary development plan as may be required by other provisions of the ordinances of Jackson County, land-disturbing activity (e.g., soil erosion and sedimentation control plans), or a building permit pertaining to property regulated by this Ordinance is filed, said application shall be required to demonstrate compliance with applicable provisions of this ordinance, unless compliance has already been satisfactorily demonstrated by prior application and approval as determined by the Planning Director.

(e) **Exemptions**

(i) The following land uses or activities are exempt from the requirements of this Ordinance provided they comply with any limitations or conditions specified herein.

1) Agriculture and forestry. Agriculture and forestry on protected mountains, provided such uses or activities, including associated roads, are consistent with the best management practices established by the North Carolina Division of Forest Resources or the North Carolina Natural Resources Conservation Service, consistent with all State and Federal laws, and all applicable regulations promulgated by the State of North Carolina. Logging roads shall be reclaimed in accordance with practices of the division of forest resources when they are no longer in service.
2) Landscape maintenance. Landscape maintenance activities, including the removal of diseased, dead or damaged trees; provided, however, that such activities shall be carried out in conformance with applicable regulations of this Ordinance.
3) Additions to single-family residences. On lots of record with existing residences that were approved prior to the effective date of this section, said existing residences may be expanded without demonstrating compliance with this ordinance, provided that the height of the building addition does not exceed the height limitation contained in subsection 5.8.4(a)(v), no more than minimal land disturbance is required to accomplish the building addition, and the building addition is in conformity with the purposes and intent and consistent with regulations and guidelines of this ordinance as determined by the Planning Director.

(ii) Existing Lots of Record.

1) The owner, or any successor in interest, of any lot of record existing as of the effective date of this Ordinance shall be entitled to build one single-family home thereon.
2) Such lot shall be exempt from the requirements contained in this Ordinance provided that the development of such home shall be done in compliance with the following provisions: subsection 5.8.2(b)(i), minimum alterations, subsection 5.8.2 (b)(ii), cut and fill, subsection 5.8.2(b)(iii), compaction of fill, subsection 5.8.3, regarding driveways, subsection 5.8.4(a)(vii), partial screening, subsection 5.8.4(a)(viii), hazardous waste facilities, as well as requirements contained within Section 5.8.6, Best Management Practices.

(iii) Prior Development Plan Approval.

1) It is recognized that some or all of the lots in subdivisions for which a determination of vested rights has been made, either pursuant to the Jackson County Vested Rights Ordinance or by final judgment of a court of competent jurisdiction, may not be lots of record.
2) For a period of two years subsequent to the effective date of this Ordinance, or such longer period as may have been granted in the determination of vested rights, the building of homes in subdivisions determined to be vested shall be treated as if they were lots of record and regulated in accordance with subsection 5.8.1(e)*(ii)*.
3) Subsequent to this vesting period, the building of homes or other improvements on lots in such subdivisions which have not been recorded shall comply with applicable requirements of this ordinance unless the Planning Director determines that such compliance would result in practical difficulty or unnecessary hardship.

(iv) Non-Regulatory Lots.

1) Lots of record which are not situated on a protected mountain ridge, as defined herein, and for which the average slope, as determined by subsection 5.8.2 (c), below, is less than 35 percent, shall be exempt from the requirements of this ordinance.

Section 5.8.2 Administration

(a) **Relationship to Other Regulations**

(i) Nothing in this Ordinance shall be construed to modify or exempt development from applicable requirements of the State and other ordinances or regulations of Jackson County, including but not limited to the following:

1) Land disturbance
   a) Proposed land-disturbing activity shall meet all applicable State standards and all regulations of Jackson County relating to soil erosion and sedimentation control. The provisions of this Ordinance are more restrictive and require the submission of plans and a permit which may not be required by said land-disturbance and soil erosion requirements.
2) Septic tanks
   a) Where one or more septic tanks are to be used for individual sewage disposal, the proposed land-disturbing activity shall meet all applicable State standards and all applicable regulations of Jackson County relating to septic tanks.
3) Sewage disposal
   a) If sewage treatment is to be provided by any means other than one or more individual septic tanks, the sewage treatment shall meet all applicable State standards and all applicable regulations of Jackson County relating to sewage disposal.
4) Individual wells
   a) Where one or more wells are to be used for water supply, the proposed land-disturbing activity shall meet all applicable state standards and all applicable regulations of Jackson County relating to water wells.
5) Water systems
   a) If a public water supply system is to be provided, the water supply system shall meet all applicable State standards and all applicable regulations of Jackson County relating to public water systems.

(b) **General Regulations for all Development and other Land-Disturbing Activity**

The following minimum standards shall apply to earth moving and land-disturbing activity which is not otherwise exempt:

(i) Minimum alterations

1) Earth moving shall be limited to the minimum required for building foundations, driveways, drainage control structures and immediate areas surrounding the building, structure, road driveway, or drainage structure required by this section.
2) With the exception of approved stockpiling or restoration efforts, substantial earth moving beyond that required for the installation or construction of approved buildings, structures, driveways, roads, or drainage structures shall not be permitted.

(ii) Cut and fill

1) Unless otherwise specifically approved by the Planning Director, cut slopes shall be no steeper than one foot horizontal to one foot vertical and fill slopes shall not be steeper than one-and-one-half feet horizontal to one foot vertical.
2) Artificial slopes exceeding 35 feet in height shall be benched at 35-foot intervals.

(iii) Compaction of fill

1) All fill shall be stabilized in conformance with generally accepted engineering standards, including a compacted density of at least 95 percent proctor.
2) Vegetation which has been cut or cleared shall be removed from the site and shall not be covered by, or imbedded in, fill material.
3) The Planning Director may require certification of compaction by a qualified professional if necessary to determine compliance with this ordinance.

(iv) Control of stormwater run-off

1) Run-off from concentrated impervious surfaces shall be collected and transported in a pipe or other approved manner to an approved stormwater system if available, or if unavailable, to the bottom of the drainageway or other location specified by the Planning Director and in a safe, adequate, and non-erosive manner.
2) Where required by other ordinances or regulations or by the Planning Director, stormwater retention facilities shall be installed.
3) Where required, interceptor ditches shall be established above steep slopes in such a way as not to avoid saturation or erosion of soil, and the intercepted water shall be conveyed in a pipe or other manner to the bottom of the drainageway or other location specified by the Planning Director.
4) The overall drainage system shall be completed and made operational at the earliest possible time during construction.

(v) Buffering of natural watercourses and lakes

1) An undisturbed buffer shall be required around all natural watercourses (creeks, streams, branches, etc.) and lakes.
2) The required buffer width shall be equal in feet to the calculated average slope (percent) of the property/parcel. Example: If the average slope of a property is 38 percent then the minimum undisturbed buffer shall be 38 feet wide.

(vi) Impact on adjacent property

1) Realignment of streams and natural drainage channels shall not be permitted except for the purpose of effecting a stream crossing and only as specifically approved by the Planning Director upon issuance of all necessary state and federal permits.
2) In such cases, natural or typical flow of surface or subsurface water shall not be altered or obstructed in any way by grade changes if such alteration may adversely affect the property of another by either contributing to pooling or collection of waters, or to the concentration or intensification of surface water discharge.

(vii) Density limits

Development on lands that are subject to this section shall meet the density requirements shown in the Table 5.3:

Table 5.3: Minimum Lot Area

Slope %	Minimum Lot Area in Acres[1]
35	2.0
36	2.24
37	2.51
38	2.81
39	3.15
40	3.52
41	3.95
42	4.42
43	4.95
44	5.55
45	6.21
46	6.96
47	7.79
48	8.73
49	9.77
50 and >	10.0

[1] Only one dwelling unit is permitted per minimum lot area.

(c) **Determining Slope**

Average slope shall be determined for each separate land tract in accordance with the methods and procedures contained herein.

(i) Prior to commencing any development or land disturbing activity and prior to making application for any permits and/or other approvals, the calculated average slope for a particular land tract shall be approved by the Planning Director.

(ii) Average slope calculations and supporting documentation shall be submitted to the Planning Director for review.

(iii) Within 20 days of receipt, the Planning Director shall:

1) Request additional information
2) Request revisions to the average slope calculation submittal; or,

3) Issue written concurrence with the determination of average slope, as submitted.

(iv) Each slope calculation submitted to the Planning Director for review shall include a scaled map, accurately showing:

1) Topography for the entire land tract;
2) A closed perimeter line delineating a single area proposed for any type(s) of land of land-disturbing activity; and,
3) The deeded land tract boundary.

(v) The accuracy and detail of the map shall be acceptable to the Planning Director for site specific conditions and the particular land-disturbing activities proposed.

(vi) In certain cases, the Planning Director may, at his/her discretion, require that the slope calculation and associated mapping be prepared by a NC Professional Land Surveyor, a NC Professional Engineer, or a NC Professional Landscape Architect.

(vii) For an individual building site, the basis of the average slope calculation will include only the building and grading envelope for such site.

(viii) For subdivisions, the average slope calculation shall be based on the entire tract to be subdivided unless the subdivider has elected to exclude areas subject to a non-buildable protected area or conservation easement pursuant to subsection 5.8.2 (d) or the Planning Director has approved a division of area pursuant to subsection 5.8.2 (e), below.

(ix) For the purpose of determining entitlement to an exemption pursuant to subsection 5.8.1 (e) above, the average slope calculation shall be based on the lot or parcel for which a determination of exemption is sought.

(x) When used for determining slope, the term "delineated area" shall refer to the relevant parameters described herein.

(xi) The formula for conducting a slope analysis of the property shall be:

$$S = \frac{.0023(I)(L)}{A}$$

Where:
S = Existing grade of parcel in percent
I = Contour interval of map in feet, with said contour intervals to be five feet or less
L = Total length of the contour lines within the parcel in feet
A = Area of the parcel in acres
0.0023 = Product of two constants, one of which converts feet into acres and one of which converts a decimal fraction into a percentage
Once "S" is calculated, it shall be rounded to the nearest whole number.

(xii) The Planning Board may, at its discretion, approve other methods for conducting a slope analysis of property subject to this Ordinance.

(xiii) A slope analysis conducted by an NC Professional Land Surveyor, a NC Professional Engineer, or a NC Registered Landscape Architect may be provided in cases where the applicant/property owner does not agree with the slope analysis conducted by Jackson County staff. The alternate slope analysis shall be approved by the Jackson County Planning Board.

(d) **Non-Buildable Protected Area/ Conservation Easement**

(i) Lands subject to a Non-Buildable Protected Area or conservation easement may, at the landowners' option, be excluded when determining average natural slope under this Ordinance.

(ii) The following activities are prohibited in the Non-Buildable Protected Areas:

1) The construction or placing of buildings

2) Signs, billboards or other advertising
3) Dumping of soil or other substance or materials as a landfill
4) Dumping or placement of trash, waste or unsightly or offensive materials
5) Removal or destruction of trees, shrubs or other vegetation unless such trees, shrubs or vegetation pose a threat to health or safety
6) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other mineral substance
7) Utilities such as wells and septic systems,
8) Surface uses except for agriculture, farming, forest or outdoor recreational uses
9) Activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation

(iii) All conservation easements and non-buildable protected areas must be identified on a recorded plat and in a recorded legal document at the Jackson County Register of Deeds office.

(e) **Division of Area**

(i) Where there is a drastic variation in the landform character within one site, the site may be divided into several distinct areas for the purposes of slope determination. This division must be approved by the Planning Director. Generally, this provision shall only be used in cases where large tracts of property encompass flat land as well as significant mountain and hillside terrain. Details for each division must be provided.

Section 5.8.3 Requirements for Roads and Driveways

(a) No new public road, private road, or driveway, including undeveloped lots of record, shall be permitted or constructed unless it complies with the regulations located within Section 4.3.5 Street Standards.

(i) All new public and private roads and driveways shall be designed and constructed to minimize the potential for landslides, erosion, and runoff.

(ii) Roads and driveways shall be located such that the maximum number of existing trees on the site is preserved.

(iii) Roads and driveways shall be designed to create the minimum feasible amounts of land coverage and the minimum feasible disturbance of the soil.

(iv) Variations in road design and road construction specified by the County in its land subdivision regulations shall be permitted, as may be approved by the Planning Director, to prevent the dedication of unnecessarily large amounts of land to such roads or driveways.

(v) One-way streets shall be permitted and encouraged where appropriate for the terrain and where public safety would not be jeopardized in the opinion of the Planning Director. For instance, a two-way road may have the directions of flow split into one-way pairs that differ in elevation, circumnavigate difficult terrain, or avoid tree clearance.

Section 5.8.4 Requirements for Construction of Buildings

(a) Unless exempted pursuant to subsection 5.8.1 (e), above, no residential or nonresidential building or manufactured home shall be erected within the area governed by this section except in compliance with the provisions of this ordinance.

(i) Plot plan

1) A plot plan of the lot or site on which the building is to be located shall be submitted to the planning office for review and approval by the Planning Director.

2) The plot plan for a single home site lot can be prepared using the Jackson County GIS Mapping system without the assistance of professionals provided sufficient accuracy of detail is maintained.
3) The plot plan shall be prepared by a registered surveyor, professional civil engineer, or other qualified professional and shall show the finished floor elevation of the building in relation to the natural ground surface and in relation to the uppermost point of the crest, summit, or ridge top of the mountain or hill on which said building is constructed.
4) The plot plan shall also indicate the limits of the area to be disturbed and the slope of the buildable area.
5) Areas proposed or required to remain undisturbed shall be marked on the plot plan and in the field with tape, orange plastic fencing, or other approved marker until a certificate of occupancy is issued or as otherwise approved by the Planning Director.

(ii) Disturbance limits for lots intended for single family homes
1) The building and grading envelope shall not exceed the greater of 10,000 square feet or twice the size of the building footprint unless approval is obtained from the Planning Board.
2) Furthermore, impervious surfaces within the building and grading envelope shall comply with the standards in Table 5.2: Maximum Allowable Impervious Surface.
3) No other disturbance or impervious surfaces are permitted on the lot other than for a driveway to provide ingress and egress.

(iii) Disturbance limits for lots intended for other than single-family homes
1) For lots intended for development as other than single-family homes, the building and grading envelope and impervious surfaces shall be the minimum necessary to develop the property for its intended use.

(iv) Building and grading envelopes
1) Building and grading envelopes shall be sited so that any structure to be placed thereon shall not be readily visible from public rights-of-way or public lands, the elevation of which is equal to or less than such structure. This may be accomplished through natural terrain, existing vegetation or other means approved by the Planning Director.

(v) Building height
1) The height of any building shall not extend closer than 20 feet to the uppermost point of any protected mountain ridge, as that term is defined herein, on which said building is constructed. For the purposes of this Ordinance, the uppermost point of the crest, summit, or ridge top refers to geological formations and not vegetation.

(vi) Exempted appurtenances
1) The building height restriction specified in this Ordinance shall not apply to any of the following which are attached to the single-family dwelling:
   a) Equipment for the transmission of electricity or communications;
   b) Chimneys, flag poles, flues, poles, or wires;
2) Provided, however, that such appurtenances shall not extend to or beyond the uppermost point of the crest, summit, or ridge top of the mountain or hill on which said dwelling is constructed.

(vii) Partial screening
1) A portion of natural on-site vegetation shall be retained sufficient to partially screen (along 50 percent of the building face, or that achieves 50 percent opacity or more along the building face) the building, structure, use, or activity from views from public roads not serving the building, or landscaping shall be installed and designed to partially screen the

building, structure, use, or activity from views from public roads, or other measures have been included in the project and approved by the Planning Director to reduce the visual impacts of such development from views from public roads.

2) View corridors from the proposed development to surrounding areas may be provided, but such corridors shall not extend for more than 50 percent of the width of building face between the view sought and the building face from which the view is sought.

(viii) Hazardous waste facilities

1) Handling areas for the receiving and storage of hazardous waste and hazardous waste or solid waste disposal facilities are prohibited in areas regulated by this Ordinance.

(ix) Mining

1) Mining activity which requires a new permit from the North Carolina Department of Environmental Quality shall be prohibited in the areas regulated by this ordinance. Expansion of an existing mining activity that would require a permit modification from the North Carolina Department of Environment Quality shall be prohibited in the areas regulated by this ordinance.

Section 5.8.5 Fire Protection

(a) Adjacent to residences or structures to be occupied, in areas of high risk of forest fires there shall be required a fire-buffer zone of no less than 30 feet on all sides of said residences or structures, or to the property line, whichever is nearer.

(b) Within the fire-buffer zone, all brush, flammable vegetation, or combustible growth shall be maintained in a fire-safe manner. This provision shall not apply to single specimens of trees, ornamental shrubbery, or similar plants used as ground cover, provided that they do not form a continuous means of rapidly transmitting fire from the native growth to a residence or structure to be occupied.

(c) In areas of high risk of forest fires as determined by the fire marshal, the following provisions may be made a condition of development or building permit approval:

(i) Roofs shall be covered with noncombustible materials, such as clay or concrete shake, or tile, or other fire-retardant materials;

(ii) Exterior walls shall be surfaced with noncombustible or fire-resistant materials; and,

(iii) Chimneys shall be provided with approved spark arresters.

(iv) Where no public water is available to serve a development or subdivision, the Planning Director may, in the interests of public safety, require the establishment of ponds and dry hydrants to serve such development or subdivision.

Section 5.8.6 Best Management Practices

Applications for development authorization shall demonstrate compliance with the best management practices set forth herein unless waived by the Planning Director in those circumstances where (1) strict compliance would result in practical difficulty or unnecessary hardship, (2) the public safety and welfare are assured, and (3) the purposes of this ordinance are not compromised.

(a) **Accepted Professional Practices**

(i) All development proposals subject to the requirements of this Ordinance shall be designed to meet generally accepted principles of land use planning, soil mechanics, engineering geology, civil engineering, environmental management, civic design, architecture, landscape architecture, landscape ecology, and related disciplines.

(b) **Planning**

(i) Planning of the development shall take into account the topography, soils, geology, hydrology, vegetation, and other features of the proposed site. Areas not well suited for development due to soil characteristics, geology, vegetation, existing plant and animal life, or hydrology limitations, should not be developed.

(c) **Innovation**

(i) Site designers are encouraged to propose and apply innovative concepts for slope and soil stabilization, grading, landscaping, and building placement and design to meet the purposes and intentions of this ordinance.

(d) **Land Disturbance and Grading**

(i) When grading is necessary, rigid contouring should be avoided; contours should be rounded to appear undulating and natural.

(ii) Projects involving more than one use or phase should be phased into workable units in a way that minimizes the amount of soil disturbance at any given point in time.

(iii) When grading must occur, it should blend with the natural land form as much as possible.

(iv) Grading to form level pads and building sites is strongly discouraged and when required such grading should be minimized.

(v) Earth berms, rock forms, or stone retaining walls should be used to minimize visual impacts of cuts.

(vi) Hedges and fences may also be appropriate in some locations.

(vii) Large, continuous surfaces of smooth concrete and related structures are considered inappropriate.

(viii) The height of any retaining wall should not exceed four feet unless required to be higher for engineering reasons. In areas where cuts are steeper, a stepped or terraced wall should be used.

Figure 5.1 Example of vegetated bioswale that catches and filters runoff.

Source: Stewart

(e) **Vegetation, Landscaping, and Habitat**

(i) Plans for development should consider any characteristics of the area that make it unique or significant in the conservation of flora and fauna including threatened, rare, and endangered species.

(ii) Existing deep-rooted vegetation, including trees, bushes and ground covers, should be removed only in cases where necessary for buildings, roads, driveways, parking, and minimal yards.

(iii) Plant materials should be used that blend with the mountainside or hillside. Landscape schemes that are rough, natural and/or subdued in character are encouraged.

(iv) Extensive areas of exotic plants and sod are discouraged where they would be visible from the public right-of-way.

(f) **Historic and Archaeological Resources**

(i) Plans for development should consider the preservation of significant state historical and archaeological resources (defined as properties on or eligible for the National Register of Historic Places) within areas subject to the requirements of this ordinance.

(ii) Cemeteries and gravesites shall be protected, and family members shall be assured reasonable access thereto.

(iii) Anyone developing properties containing roads, trails and other travel ways connecting to national forests and other public lands shall assure continued public access thereto.

(g) **Sensitive Natural Areas**

(i) Plans for development shall comply with requirements concerning sensitive natural areas contained in Article IV and shall be sensitive toward and mitigate any negative effects of development activities on immediately adjacent sensitive natural areas.

(h) **Building Colors**

(i) It is strongly encouraged that exterior colors for new buildings and structures, including roofs, be coordinated with the predominant colors of the surrounding landscape to minimize contrast between the structure and the natural environment. Furthermore, it is strongly encouraged that dark or earth-tone colors be used to make the home less conspicuous as seen from off site.

(i) **Clustering of Buildings and Building Locations**

(i) Buildings and structures should be clustered where possible to reduce disturbance and removal of vegetation.

(ii) Buildings should be sited with different floor elevations to achieve height variation.

(iii) For multi-family projects, stagger alignments of buildings both horizontally and vertically to create unit identity, privacy at entry and private outdoor space, and to share common open space.

(j) **Building Setbacks**

(i) Where appropriate, buildings and structures should be located as close to the road as possible to preserve the natural terrain and to minimize disturbance and the length of driveways.

(k) **Screening and View Corridors**

(i) The thinning of limbs of individual trees is preferred over tree removal as a means to provide a view corridor. Dwellings or buildings that are proposed to be sited to maximize views from the lot or that require removal of vegetation to produce a view corridor are strongly discouraged.

(l) **Roads and Driveways**

(i) Road and driveways should follow the natural terrain. Road and driveway alignments should follow the natural terrain unless the project engineer can justify additional cuts or fills. Roads, walkways, and parking areas should be designed to parallel the natural contours of the site.

(m) **Shared Driveways and Parking**

(i) Combinations of collective private driveways, shared parking areas and on-street parallel parking bays should be used where possible to minimize land and soil disturbance, minimize impervious surface coverage, and achieve excellence of design and aesthetic sensitivity.

(n) **Lighting**

(i) Outside lighting should be muted and directed so that it does not spill over on to neighboring properties. See also Section 6.1 Outdoor Lighting.

(ii) Light emanating from a development on a mountainside or hillside should be minimized, since lighting from buildings located on mountainsides or hillsides can be highly visible at night and may affect the night character of the community.

(iii) High-pressure sodium lights are prohibited.

(o) **Building Pads**

(i) For subdivisions and developments with multiple buildings, building pads (i.e., clearing and grading for buildings and structures) should be varied in elevation above or below road level to avoid the appearance of monotonous, flat, level pads.

(ii) Step-down design

1) Single-family dwellings and other structures should "step down" the hillside or mountainside to limit the amount of grading required.

2) Large building pads and footings should be split into more than one (i.e., split-level homes that step down the hillside) where possible to allow the building pad and structure to more closely follow the existing slope of the land.
3) Building footprint coverage should be minimized where possible by using multiple-level (two or more stories) buildings.
4) The visible mass of larger buildings and structures should be reduced by utilizing below-grade rooms cut into the natural slope.
5) Natural drainage channels
6) Natural drainageways shall be preserved to the maximum extent possible.

(p) **Setbacks**

(i) Setbacks should be used to protect natural features of the mountain and hillside terrain.

(ii) Placing structures away from the shoulder reduces the visual impact of development as well as erosion on steep slopes.

(iii) All structures should be set back a minimum of 20 feet from the shoulder of a ridge line. The shoulder is defined as the plane at which the slope of the land changes from greater than 20 percent to a ridge top of less than 20 percent.

(iv) Natural vegetation should be maintained undisturbed within the setback area except for access to a lot or limited cutting to provide a view.

(v) All other setbacks including, but not limited to, those from streams, creeks, springheads and property lines shall be met as required by this Ordinance.

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VI

Development Standards

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Article VI. DEVELOPMENT STANDARDS

Section 6.0 General Provisions

These Development Standards apply to all structures and land uses, including any expansion and alterations of legally conforming uses are established or otherwise occur after the effective date of this UDO unless otherwise noted.

Section 6.1 Outdoor Lighting

Section 6.1.1 Purpose and Intent

(a) It is the intent of this section to establish outdoor lighting standards which fulfill the following purposes:
   (i) Provide adequate light for safety and security;
   (ii) Promote efficient and cost-effective lighting and conserve energy;
   (iii) Reduce light pollution, light trespass, glare, and offensive light sources;
   (iv) Provide an environmentally sensitive nighttime environment that includes the ability to view the stars against a dark sky so that people can see the Milky Way Galaxy from residential and other appropriate viewing areas;
   (v) Prevent inappropriate, poorly designed or installed outdoor lighting; and
   (vi) Encourage quality lighting design and light fixture shielding, establish maximum uniformity ratios, and establish maximum light levels within and on property lines.

(b) Administration. The Permitting and Code Enforcement Director shall be responsible for the administration of this section, unless stated otherwise.

Section 6.1.2 Jurisdiction

(a) This section shall apply to all the County except for:
   (i) The Cashiers Commercial Area (see Section 9.3).
   (ii) Those areas included within the planning jurisdiction of any incorporated municipalities.
   (iii) Those areas within the Qualla Boundary, as provided by law.

Section 6.1.3 Scope and Compliance

(a) This section shall apply to all exterior lighting including illumination from outdoor signs that impact the outdoor environment. No person shall install or maintain any light fixture unless such fixture meets the requirements of this section.
   (i) *Compliance required.* Compliance with the requirements of this section shall be required for all new development. For redevelopment or additions or modifications to existing development, compliance shall be required in accordance with the provisions set forth in this section. For the purpose of determining applicability of this section, all such redevelopment, additions, or modifications shall be measured cumulatively over time.
      1) For the purpose of illustration, if redevelopment, additions, or modifications take place amounting to 15 percent of the County Assessor's actual value of the structure occurs and six months later additional redevelopment, additions, or modifications occur which exceed ten percent of the actual value of the structure, compliance is required pursuant to subsection (a)(ii)(1) below.

2) When development or redevelopment exceeds 25 percent of the County Assessor's actual value of the structure as of the effective date of the ordinance from which this article is derived, then all existing unshielded exterior light fixtures shall be retrofitted with shielding to prevent light trespass.
3) When development or redevelopment exceeds 50 percent of the County Assessor's actual value of the structure, the following shall occur.
   a) All exterior lighting, except existing parking lot lighting, shall be brought into conformance with the requirements of this section
   b) All existing parking lot light fixtures shall be retrofitted with shielding to prevent light trespass.
4) When development or redevelopment exceeds 75 percent of the County Assessor's actual value of the structure as of the effective date of the ordinance from which this article is derived, then all exterior lighting fixtures shall be brought into full conformance with the requirements of this section.

(ii) Replacement of luminaires

1) If an existing luminaire is removed, it shall only be replaced with a conforming luminaire.
2) This provision shall not apply to public art such as the cross on Mt. Lyn Lowery where the luminaires are an essential part of the artistic expression. In such event, it shall not be required to replace existing luminaires with conforming luminaires.

(iii) Demonstrating compliance

1) For detached single-family homes, compliance with this section shall be demonstrated prior to a final inspection for any building permit.
2) For development other than detached single-family homes, compliance shall be demonstrated prior to issuance of a Land Use Compliance Permit by the County. In either event, all required outdoor lighting improvements shall be installed prior to a final inspection for any building permit.

Section 6.1.4 General Standards for Outdoor Lighting

(a) The Permitting and Code Enforcement Director shall be responsible for the administration of, review, permitting and approval for outdoor lighting.

(b) The standards contained in this section shall apply to all outdoor lighting, unless exempt, and shall be in addition to other standards contained in this article.

(i) Floodlights. Floodlights are prohibited absent a permit from the Permitting and Code Enforcement Director which shall be issued only upon a determination that there is no practical alternative in order for the lighting of a site in a manner to meet the minimum recommendations established by the Illuminating Engineering Society of North America (IESNA). The Permitting and Code Enforcement Director may require shields to be installed on floodlights before, during or after the installation when needed to reduce lighting trespass, glare and light pollution. When permitted, floodlights shall be installed such that the fixture shall be aimed down at least 45 degrees from vertical. These 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 the right-of-way, with a side-to-side horizontal aiming tolerance not to exceed 15 degrees from perpendicular to the right-of-way. Floodlights shall not be aimed at residential property.

(ii) Wall pack fixtures. All wall pack fixtures shall be fully shielded.

(iii) Public roads. Except as otherwise provided herein, all fixtures installed, owned, or leased by governmental or public agencies, or their agents, for the purpose of illuminating public streets are otherwise exempt from this regulation.

(iv) Private roads. Fixtures installed to light private roads shall meet IESNA recommended minimum standards for roadways.

(v) Reduced energy consumption. The lighting plan required by Article 26-71 Streets and Sidewalks and Other Public Places within the Jackson County, North Carolina Code of Ordinances shall demonstrate a consideration for reduced energy consumption through the selection of energy efficient fixtures.

Section 6.1.5 Lighting for Detached Single-Family Homes

(a) Outdoor lighting for detached single-family homes shall comply with the following:

(i) It shall be limited to 60 watts or 900 lumens, whichever is less, per luminaire (light fixture). Luminaires do not have to be fully shielded, but they must hide the lamp sufficiently to prevent glare and obtrusive light onto adjacent properties.

(ii) It is recommended that all luminaires be Energy Star rated, which generally means the use of compact fluorescent lamps.

(iii) Luminaires shall be mounted at or lower than the eave line.

(b) There are three exceptions to subsection (a) of this section:

(i) Parabolic Aluminized Reflector (PAR) lamp directional luminaires with halogen or metal halide PAR lamps up to 100 watts may be used, but they must be aimed away from neighboring properties.

(ii) Fully shielded luminaires up to 100 watts may be used, and they may be mounted up to 25 feet above grade as long as they are at least three times the mounting height away from the property line. Notwithstanding the foregoing, such luminaires may be situated closer to a property line if both adjoining property owners agree in writing to such location. These fixtures are generally used for dusk-to-dawn area lighting, especially for rural and agricultural sites. Lamps and luminaires may be placed or replaced on an existing nonconforming public utility pole. The existing pole need not be moved or replaced; however, such lamps and luminaires shall comply with these requirements.

(iii) Low voltage landscape lighting may be used.

Section 6.1.6 Lighting Requirements: Multifamily and Non-Residential

(a) Lighting for all development other than for detached single-family homes, including, without limitation, all nonresidential and multifamily residential development, shall comply with the following requirements:

(i) *The prescriptive method.* This method requires simple hand calculations and installations must follow specific rules, but detailed lighting calculations are not required. This method is recommended for most outdoor lighting installations, especially those undertaken by persons with little or no lighting expertise.

1) *Prescriptive method setback requirements.* Setback, when combined with other prescriptive requirements, helps minimize off-site impacts. Lighting installations shall comply with the following setback requirements:

a) If property abuts a property used for industrial, institutional, or commercial purposes, then luminaires can be mounted anywhere on the property relative to that property line.
b) If property abuts a property used for other than industrial or commercial purposes, then luminaires must be mounted at least three times their mounting height from the abutting property line.
c) If a luminaire is used for the purpose of street, parking lot or public utility easement illumination purposes, it can be located less than three mounting heights from the property line, but it must be aimed away from the property line and, if located adjacent to a residence, employ a permanently-mounted house-side shield.
d) If a building or structure is located within 25 feet of the property line, then shielded or fully shielded luminaires can be mounted onto the structure at a mounting height not to exceed eight feet above grade at the foundation. Lighting recessed into a canopy or enclosed by an awning or similar structure can also be used.

2) Prescriptive method luminaire requirements. In order to prevent luminaires from being too bright and causing glare, the rated wattage for any fixture is limited to 100 watts; provided, however, luminaires with a rated wattage of up to 400 watts may be used for the purpose of illuminating parking lots. All fixtures shall be fully shielded unless otherwise provided by this article. Low voltage landscape lighting of 50 watts or less and with a mounting height of one foot or less need not be shielded, provided they are aimed away from neighboring properties.
3) *Prescriptive method mounting height*. When using the prescriptive method, the mounting height of luminaires is limited according to Table 6.1: Maximum Lighting Mounting Height in Feet. If luminaires are mounted to poles, the pole height may be taller as long as the highest part of the luminaire's optics is mounted at or below the appropriate value from the table below. These mounting height limits apply whether the luminaire is mounted to a pole, building or other structure and is measured relative to the grade directly below the luminaire. If there are excessive changes in grade on the site, the project should be designed to ameliorate off site impacts for lower adjacent properties.
   a) Single family residential uses are exempt from these requirements.

TABLE 6.1: MAXIMUM LIGHTING MOUNTING HEIGHT IN FEET

Application	Lighting for private roads, driveways, parking, bus stops	Lighting for walkways, bikeways, plazas, & other pedestrian areas	All other lighting
Multifamily residential	25	12	4
Non-residential	40	18	8

4) *Prescriptive method total lighting limits.* (For purposes of this section, the maximum allowed lighting power is calculated as follows per Table 6.2: Allowed Lighting Power.)
   a) Lighting classified as exempt in Table 6.2 is unregulated and there are no limits on use.
   b) Single-family residential development is exempt from the requirements of Table 6.2.
   c) With the exception of building entrances, determine the allowed lighting power for each application by multiplying the area in plan by the allowed lighting power density for the lighting zone of the property. Only one lighting power allowance can be claimed for any area.

d) Count the number of building entrances and multiply by the allowance per entrance.
e) Add all the values calculated in subsections 3 and 4. The actual lighting-rated lamp watts must be equal to or less than this sum.

TABLE 6.2: ALLOWED LIGHTING POWER

Lighting Application	Allowed area	Multifamily Residential*	Non-residential*
Hardscape	Watts per square foot of paved or improved area	0.06	0.08
Building entrances	Per door (stated values are watts, not watts per square foot)	18	26
Building entry, drive-up sales, and general use canopies	Drip line area under canopy	0	0.2
Vehicle service station canopy	Drip line area under canopy	0	0.60
Outdoor sales, service, or industrial lot	Portion of uncovered hardscape used exclusively for display of vehicles or other merchandise for sale, for the service of vehicles, aircraft or watercraft, or for exterior manufacturing	0	0.45
ATM security lighting	Within five feet of ATM facility	Exempt	Exempt
Flagpole lighting	Illuminating flags on flagpole	Exempt	Exempt

` * Watts per square foot (w/sf) unless otherwise noted.

Example of the Application of these Requirements per Table 6.2:
An office building has a parking lot, driveways and sidewalks with two main entrances (4 doors each), a loading dock with door and two emergency exits. Using AutoCAD, the paved area is 48,000 square feet.
The allowed power is 48,000 sf × .08 w/sf = 3840 watts.
11 building entrances × 26 = 286 watts.
Total allowed = 4,126 watts.
The design has thirty-five 100-watt pole lights and sixteen 26-watt wall lights.
The design total is 3,916 watts and meets the ordinance.

(ii) The performance method. The performance method allows complex lighting designs and/or complex sites to demonstrate compliance. In general, as long as whatever happens on the site stays on the site, the design complies. There are three sets of criteria:

1) The total direct uplight cannot exceed limits according to lighting zone. See Table 6.3: Performance Method Criteria. This is calculated by adding the zonal lumens in the 90—180 degree; zone for all luminaires and dividing by the sum of all fixture lumens.
2) The maximum light level at or beyond the property line shall not exceed limits in Table 6.3: Performance Method Criteria.
3) The maximum vertical light level at the property line shall not exceed limits in Table 6.3: Performance Method Criteria. To determine these values, competent use of lighting software is necessary. Because of the relatively high level of illuminating engineering skill

needed to both develop and check this work, the County may charge a fee, established by resolution of the Board of Commissioners, to fund detailed review of performance method applications by an independent consultant. When using the performance method, there is no limit on the maximum wattage or maximum mounting height of luminaires.

TABLE 6.3: PERFORMANCE METHOD CRITERIA

Application	Maximum percentage of direct uplight lumens	Maximum light level at property line: horizontal plane [1]	Maximum light level at property line: vertical plane [2]
Multifamily residential	1	0.05 fc	0.1 fc
Non-residential	5	0.2 fc [3]	0.4 fc [3]

[1] Measured at grade in maintained footcandles.
[2] Facing the site in question, measured in maintained footcandles at 4½ feet above grade.
[3] When other uses (commercial, industrial, institutional, etc.) adjoin residential uses, either single-family detached or multifamily, maximum light levels shall not exceed the maximums prescribed for multifamily residential applications, that is, 0.05 footcandles on the horizontal plane and 0.1 footcandles on the vertical plane. This provision shall only apply to those boundaries which adjoin such residential uses.

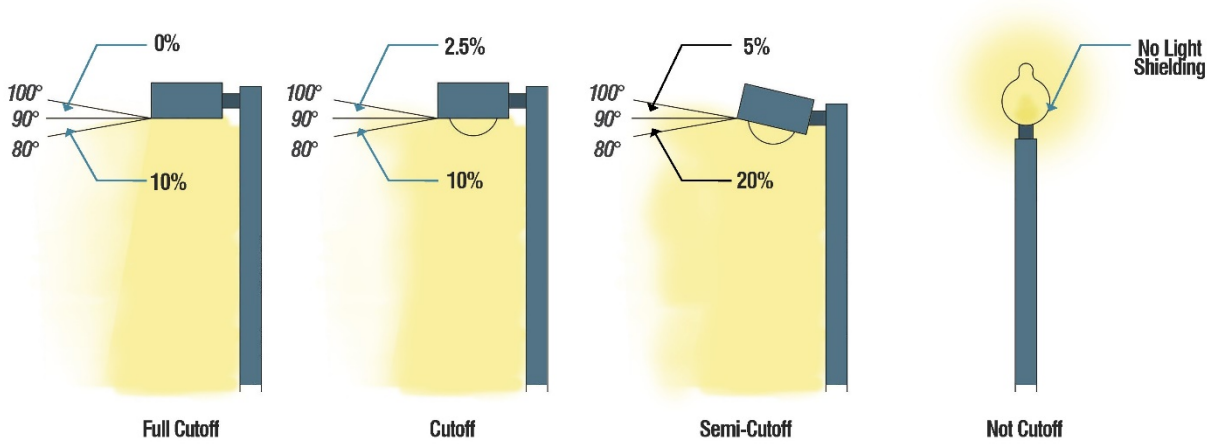
Section 6.1.7 Lighting for Special Applications

(a) Additional standards are required for certain lighting applications set forth herein.

(i) Lighting for vehicular canopies. Areas under a vehicular canopy shall have an average maximum horizontal illuminance of 24 maintained footcandles (fc). Areas outside the vehicular canopy shall be regulated by the standards of Article 26-71 Streets, Sidewalks, and Other Public Places. Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include one or both of the following:

1) Recessed fixture incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy that provides a full cutoff or fully shielded light distribution.

Figure 6.1: Types of cutoff fixtures



Source: Stewart

2) Surface mounted fixture incorporating a flat glass that provides a fully shielded light distribution.

(ii) Outdoor sports field/outdoor performance area lighting.

1) The mounting height of outdoor sports field and outdoor performance area lighting fixtures shall not exceed 80 feet from finished grade unless approved by the County Board of Adjustment.
2) All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices).
3) Lighting fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area. The maximum light level shall be 0.5 maintained footcandles at any property line in a residential district, or on a lot occupied by one or more dwellings, congregate care or congregate living structures.
4) As outdoor sport field/outdoor performance area lighting nonconforming fixtures fail, maintenance replacement fixtures must be installed that comply with the requirements of these lighting standards.
5) The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.

(iii) Lighting of buildings.

1) Lighting fixtures shall be selected, located, aimed, and shielded so that direct illumination is focused exclusively on the building facade, plantings, and other intended site features, and away from adjoining properties and the public street right-of-way.
2) Illumination on any vertical surface or angular roof shall not exceed 2.0 footcandles average maintained, with a maximum of ten footcandles.
3) To the extent practical and where possible, lighting fixtures shall be directed downward rather than upward.
4) When upward aiming is used, placement of low wattage fixtures with shields (as needed) close to the building to graze the facade is required to minimize reflected light from windows and other surfaces. The Permitting and Code Enforcement Director can waive this requirement in rare and unusual cases if it is demonstrated that the physical location of light fixtures close to the building to accomplish this design is not possible.

Figure 6.2. Building lighting directed downward.

Source: Stewart

(iv) Permanent sign and billboard lighting. Lighting fixtures illuminating signs and billboards shall be aimed and shielded so that direct illumination is focused exclusively on the sign. Externally lighted signs shall be lighted from the top of the sign downward. The Permitting and Code Enforcement Director can waive this requirement in rare and unusual cases if it is demonstrated that the physical location of light fixtures for top-down aiming is not possible. The maximum watts permitted to illuminate a sign are determined by multiplying the sign face area by two watts per square foot. Exception: Signs less than seven feet in height above grade may be illuminated by ground mounted uplighting not exceeding 100 lamp watts per sign face.

(v) Holiday/festive lighting. Holiday/festive lighting is allowed provided it complies with the definition outlined in Article 26-65 Streets, Sidewalks, and Other Public Places. The connection of multiple holidays and/or festive events over a number of weeks and/or months is not permitted. Lamps below ten watts are exempt and have no restrictions on use.

(vi) Landscape lighting. All landscape and residential facade lighting systems shall employ shielded directional luminaires not to exceed 50 watts. The luminaires shall be aimed such that the light source cannot be seen from any reasonable viewing point on an adjacent property.

Section 6.1.8 Exempt Lighting

(a) Unless used in lieu of regulated lighting in order to circumvent this article, the following lighting systems are exempt from regulation:
- *(i)* Interior lighting.
- *(ii)* Temporary lighting for theatrical, television, and performance areas.
- *(iii)* Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code.
- *(iv)* Code-required exit signs.
- *(v)* Lighting specifically for stairs and ramps.
- *(vi)* Temporary and seasonal lighting, provided that individual lamps are ten watts or less.
- *(vii)* Lighting required and regulated by the Federal Aviation Administration, U.S. Coast Guard or other federal or state agency.
- *(viii)* Lighting utilized to illuminate public roads, as per Article 26-69(3) Streets, Sidewalks, and Other Public Places.

Section 6.2 Wireless Communications Facilities

Section 6.2.1 Purpose and Legislative Intent

(a) The purpose of this wireless communications section is:
- *(i)* To provide for the public health, safety and welfare by ensuring that residents, businesses and public safety operations in Jackson County have reliable access to wireless communications networks and mobile broadband communications services while also providing for the protection of Jackson County's communities, residents, and natural resources;
- *(ii)* To encourage colocation of communications facilities on existing towers;
- *(iii)* To encourage the use of existing buildings and structures as locations for communications facilities; and
- *(iv)* To establish a fair and efficient process for review and approval of applications.
- *(v)* To accomplish the above stated objectives and to ensure that the placement, construction or modification of wireless communication facilities complies with all applicable federal laws, including without limitation Section 6409 of the Federal Middle-Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, and to assure compliance with applicable state laws, including Session Law 2013-185, Jackson County adopts this wireless communications ordinance. By enacting this section, it is Jackson County's intent to ensure Jackson County has sufficient wireless infrastructure to support public safety communications throughout Jackson County and to ensure access to reliable wireless communications services throughout all areas of Jackson County while protecting communities, residents, and natural resources.

Section 6.2.2 Approvals Required for Wireless Communication Facilities and Wireless Support Structures

(a) **General procedure** and desired outcomes for approving and issuing permits for wireless communication facilities. In order to ensure that the placement, construction, and modification of wireless communication facilities protect the county's health, safety, public welfare, environmental

features, the nature and character of communities and neighborhoods and other aspects of the quality of life within the County, while providing an adequate level of wireless communications service within the County, Jackson County hereby adopts an overall policy with respect to the review, approval and issuance of permits for wireless communication facilities for the express purpose of achieving the following outcomes:

(i) Implementing an application process for person(s) seeking approval of wireless communication facilities.

(ii) Requiring review of applications for any new wireless communication facilities as required or otherwise specified in this section.

(iii) Establishing a procedure for examining an application and issuing the required permit(s) for wireless communication facilities that is both fair and consistent.

(iv) Promoting, and requiring wherever possible, the sharing and/or collocation of wireless communication facilities among service providers.

(v) Requiring, promoting and encouraging, wherever possible, the placement, height and quantity of wireless communication facilities in such a manner as to minimize the physical and visual impact on the community, including, but not limited to, the use of concealment technology and camouflaging.

(vi) Providing for a level of service that provides access to adequate wireless communication throughout Jackson County.

(vii) In approving a wireless communication facility, the county shall find that the proposed facility site is the most appropriate in regard to being the least visually intrusive within the community.

(b) **Requirements for review and approvals.**

(i) No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of a wireless communication facility as of the effective date of this section without having first obtained the required permit for a wireless communication facility as defined in section (f) below and Article III: Permits and Procedures.

(ii) If constructed as required by permit, all legally permitted wireless communication facilities that existed on or before the effective date of this section shall be allowed to continue as they presently exist, provided however, that they are operating as originally permitted and that any modification of an existing wireless communication facilities permitted by this section complies with the applicable provisions of this section.

(iii) Ordinary maintenance of a wireless communication facilities as defined in this section and that does not exceed the conditions of the wireless communication facilities permit does not require an application for a wireless communication facility permit but may require a building permit. Additional construction or site modification shall not be considered to be ordinary maintenance.

(c) **Exclusions. The following shall be exempt from this section:**

(i) Any facilities expressly exempt from the County's siting, building and permitting requirements.

(ii) Any reception or transmission devises expressly exempted under the communications Act of 1996.

(iii) Facilities used exclusively for private, noncommercial radio and television reception and private citizen's bands, licensed amateur radio and other similar noncommercial communications.

(iv) Facilities used exclusively for providing unlicensed spread spectrum technologies, such as IEEE 802.11a, b, g services (e.g. Wi-Fi and Bluetooth) where the facility does not require a new tower or increase the height of the structure to which it will be attached.

(d) **Exemptions**

(i) Exempt from all approval processes. The following are exempt from all Jackson County plan approval processes and requirements:

1) Removal of equipment on an existing wireless tower or wireless communication facility.

2) Ordinary maintenance of existing wireless communication facilities and wireless support structures, as defined in this section.
3) COWs placed for a period of not more than 120 days at any location within Jackson County or after a declaration of an emergency or a disaster by the governor and/or by the Jackson County Board of Commissioners.
4) Facilities owned or leased by Jackson County or County authorities, e.g. airport authority.
5) Facilities used exclusively for state and local emergency management communications systems.

(e) **Administrative review and approval.**

(i) The following types of applications are subject to the application and administrative review process as provided in Section 3.4: Common Review Procedures. No additional plan review is necessary.

1) Concealed wireless communication facilities that are 60 feet or less in height, in any location.
2) COWs, if the use of the COW is either not in response to a declaration of an emergency or disaster by the governor and/or by the Jackson County Board of Commissioners or will last in excess of 120 days.
3) Collocations.
4) Facilities used exclusively for providing unlicensed spread spectrum technologies, such as IEEE 802.11a, b, g services (e.g. Wi-Fi and Bluetooth) where the facility requires a new tower or increases the height of the structure to which it will be attached.
5) Wireless communication facilities placed on utility poles.
6) Placement of new transmission equipment on an existing wireless support structure or tower.
7) Replacement of transmission equipment on an existing wireless support structure or tower or base station that does not result in a substantial modification as defined in this Section. This includes both "like kind" replacement and upgrades with dissimilar equipment.
8) Facilities used exclusively for providing broadband services, provided that the structure to which facilities are attached does not exceed 120 feet in height and does not require the construction of an access road to the property.
9) Facilities owned by the State of North Carolina.

(f) **Wireless Communication Facilities Permit (Special Use Permit).**

(i) The following types of applications are subject to the application and review process as provided in section 3.7.15.

1) New wireless support structures, including towers;
2) Substantial modifications to existing wireless communication facilities.

Section 6.2.3 Location and Design Standards for Wireless Communication Facilities

(a) **Location of Wireless Communication Facilities.**

(i) It is recommended that applicants for all wireless communication facilities locate, site and construct said wireless communication facilities in accordance with the following priorities, in order:

1) On existing wireless support structures without substantial modification of the tower or structure.
2) On existing wireless support structures with substantial modification(s).

3) On existing structures other than wireless support structures, such as electrical transmission towers and buildings, capable of accommodating the facilities.
4) On properties in areas developed for business use.
5) On properties in areas developed for rural use.
6) On properties in areas developed for residential use.

(ii) If the proposed site is not proposed for the highest priority listed above, then a detailed explanation and documentation (i.e. intermodulation study) must be provided in the application as to why a site of a higher priority designation was not selected.

(iii) The County may approve any site located within an area in the above list of priorities, provided that the County finds that the proposed site is in the best interest of the health, safety and welfare of the County and its inhabitants.

(b) **Type and Height of Wireless Support Structures and Towers.**

(i) The usual maximum height for wireless support structures shall be 100 feet. The Jackson County Board of Commissioners may approve increases in wireless support structure height up to a maximum height of 180 feet based on a showing of need and after consideration and satisfaction of the other requirements of this section.

(ii) Wireless support structures and towers may be monopole or lattice type.

(iii) Wireless support structures and towers may be located on a protected mountain ridge as defined in the Jackson County Mountain and Hillside Development Ordinance provided that:

1) The wireless support structure does not extend more than 20 feet above the average height of the tree canopy within 100 feet of the tower site. If any antenna extends more than two feet from the side of the support structure, the portion of the tower extending above the vegetative canopy shall be camouflaged to appear like the top of a coniferous tree with all antennas concealed within simulated foliage.
2) The wireless support structure or tower is not visible from a public road within one-half mile of the proposed site.
3) There is no other wireless support structure or tower located on a ridge within one mile of the proposed site.
4) The proposed wireless support structure or tower is a monopole.
5) The proposed wireless support structure or tower is not visible from and within two miles of the Blue Ridge Parkway.
6) There are no other structures, including electrical transmission towers, within the search area capable of accommodating the wireless communications equipment.

(c) **Reserved**.

(d) **Visibility and Noise of Wireless Communication Facilities.**

(i) Lighting. Wireless communication facilities shall not be artificially lighted or marked, except as required by federal regulations. If lighting is legally required, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under state and federal regulations. For any wireless communication facilities for which lighting is required under the FAA's regulations, or that for any reason has lights attached, all such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 12 degrees vertical for a distance of at least one mile in a level-terrain situation. Such device must be compliant with or not in conflict with FAA regulations. A physical shield may be used, as long as the light is able to be seen from the air, as intended by the FAA. If lighting is required by the FAA or other government agency, then such lighting shall be installed pursuant to the FAA or other government agency standards. The applicant shall present the

options for selection by the County, being mindful of the impacts of the proposed lighting upon people whose residences are located at higher elevations.

(ii) Retrofitting. In the event a wireless communication facility that is lighted is modified, at the time of the modification the County may require that the tower be retrofitted with the technology set forth in the preceding subsection.

(iii) Camouflage/concealment. All new wireless communication facilities are encouraged to utilize camouflage and/or concealment techniques to the maximum extent feasible. Wireless communications facilities to be located within residential areas, rural areas, and scenic areas are encouraged to employ camouflage or concealment techniques.

(iv) Wireless communication facilities finish/color. Structures shall be galvanized and/or painted with a rust-preventive paint of an appropriate color to harmonize with the surroundings and shall be maintained in accordance with the requirements of this section and subject to FAA requirements.

(v) Noise. All facilities at a wireless communication facility, regardless of the owner of the facilities, shall comply with the County's noise control regulations, without exception.

(e) **Security of wireless communication facilities.** All wireless communication facilities shall be located, fenced or otherwise secured in a manner that prevents unauthorized access. Specifically:

(i) All wireless communication facilities, including antennas, towers and other supporting structures, including guy anchor points and wires, shall be made inaccessible to individuals and constructed or shielded in such a manner that they cannot be climbed or collided with; and

(ii) Transmitters and communications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

(f) **Signage.** Wireless communication facilities shall contain a sign no larger than four square feet shall be installed to containing the name(s) of the owner(s) and operator(s) of the antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC registration site, as applicable, is also to be present. The signs shall not be lighted, unless applicable law, rule or regulation requires lighting. No other signage, including advertising, shall be permitted.

(g) **Setbacks.**

(i) Unless otherwise stated herein, each wireless support structure shall be set back from all property lines a distance equal to its engineered fall zone plus ten percent. The setback shall be measured from the nearest portion of the right-of-way of any public road or thoroughfare and any occupied building or domicile. Further, the nearest portion of any new access road leading to a wireless communication facility shall be no closer than 15 feet to the nearest property line.

(ii) Accessory structures shall be located within the footprint of the approved facility and meet the minimum property line setbacks for the district or 30 feet from adjacent property lines whichever is more restrictive.

(iii) There shall be no development of habitable buildings within the wireless support structure setback set forth in the preceding subsection.

(h) The accessory structures associated with wireless communication facilities shall maximize the use of building materials, colors, and textures designed to blend with and harmonize with the natural surroundings.

(i) All utilities at a wireless communication facilities site shall be installed underground if practical and in compliance with all laws, ordinances, rules and regulations of the County, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

(j) At a wireless communication facilities site an access road and turnaround space for an emergency vehicle shall be provided to assure adequate emergency and service access. Maximum use of existing roads, whether public or private, shall be made to the extent practicable. Road construction shall at all times minimize ground disturbance and the cutting of vegetation. Road design and construction shall comply with the private road standards set forth in Article IV: Subdivisions. Maintenance of the access roads shall be provided to assure vehicular access to the site at all times. All erosion control and storm water management facilities shall be maintained at all times. A maintenance log that documents inspections of the site and access roads shall be maintained at the communications facility site. The required maintenance log shall be placed in a location accessible at all times to the Jackson County employees charged with review of the log. Inspections shall have made at least quarterly by the owner/lessee of the site to confirm that the access road and site are maintained with no erosion or storm water issues and that all equipment is in good order. The employee of the site owner/lessee conducting the inspection shall note the date of the inspection and condition of the site and access road on the inspection log. Inspections logs shall be reviewed at least biennially by the Jackson County Planning Department. Any failure to maintain the inspection log and/or to maintain the erosion control and storm water management measures at the site and on the access roads shall be considered a violation of this Section.

(k) All wireless communication facilities, shall be constructed, operated, maintained, repaired, provided for removal of, modified, or restored in strict compliance with all current applicable technical, safety and safety-related codes adopted by the County, state, or United States, including, but not limited to, the most recent editions of the ANSI Code, National Electrical Safety Code, and the National Electrical Code, as well as accepted and responsible workmanlike industry practices and recommended practices of the National Association of Tower Erectors. The codes referred to are codes that include, but are not limited to, construction, building, electrical, fire, safety, health, and land use codes. In the event of a conflict between or among any of the preceding the more stringent shall apply.

(l) A holder of a wireless communication facilities permit granted under this section shall obtain, at its own expense, all permits and licenses required by applicable law, ordinance, rule, regulation or code, and must maintain the same, in full force and effect, for as long as required by the County or other governmental entity or agency having jurisdiction over the applicant.

(m) A building permit shall not be issued for construction of the wireless support structure unless there is an FCC authorized or licensed spectrum carrier which has indicated it will be installing equipment to use such spectrum on the wireless support structure.

Section 6.2.4 Application and Review Process

(a) A wireless communication facilities permit shall be considered a Special Use Permit and shall be subject to the review and approval processes set forth in Section 3.7.15. The Board may, at its discretion, delegate or designate other official agencies or officials of the County or outside consultants to accept, review, analyze, evaluate and make recommendations to the Board with respect to the granting or not granting or revoking wireless communication facilities permits for wireless communication facilities. However, outside consultants shall have no authority to make or change policy for the County.

(b) When placing wireless communication facilities or wireless support structures on government-owned property or facilities, only noncommercial wireless carriers and users are exempt from the permitting requirements of this section.

(c) No wireless communication facilities or wireless support structures shall be installed, constructed or modified until the wireless communication facilities permit has been approved and a building permit has been issued.

(d) The applicant must provide documentation to verify it has the right to proceed as proposed on the site. This requires an executed copy of the lease with the landowner or landlord or a signed letter of agency acknowledging authorization. If the applicant owns the site, a copy of the ownership record is required.

(e) The application shall include a statement in writing:

(i) That the applicant's proposed wireless communication facilities shall be maintained in a safe manner, and in compliance with all conditions of the wireless communication facilities permit, without exception, unless specifically granted relief by the board in writing, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable county, state and federal laws, rules, and regulations.

(ii) That the construction of the wireless communication facilities is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the State.

(iii) The applicant acknowledges and understands that should the facility not be used for a period of 180 days, the applicant will remove the facility at its expense within 90 days of abandonment as set forth in section 6.2.8.

(f) Where an engineering certification is required in the application materials, such certification shall bear the signature and seal of a professional engineer licensed in North Carolina.

(g) In addition to all other information required by this section, all applications shall contain the following information:

(i) Ownership and management:

1) The name, address and phone number of the person preparing the application.
2) The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided.

(ii) The 911 address and tax map parcel number of the property.

(iii) A copy of the FCC license applicable for the intended use of the wireless communication facilities.

(iv) Written acknowledgement that any new wireless support structure facility shall be structurally designed to accommodate a minimum of three antenna arrays and shall be managed so as to not restrict, prevent or prohibit competition among carriers. Further, applicant acknowledges that any charges made to other users of the facility, shall be reasonable and shall not exceed those charges made by other facility users in Jackson County using similar facilities.

(v) The applicant shall disclose in writing any agreement in existence prior to submission of the application that would limit or preclude the ability of the applicant to share any new wireless support structure that it constructs.

(vi) A site plan depicting the following:

1) The zoning district (in the case of Regulated Districts) or designation in which the property is situated, if applicable.
2) The size of the property footprint on which the proposed facility to be built or attached is located, stated both in square feet and lot line dimensions, topography of the subject property and the adjacent properties, and a survey showing the location of all lot lines. The

location, size and height of all existing and proposed facility on the property on which the facility is to be located and adjoining properties.

3) The footprint and type, location and dimensions of any access drive, camouflage, landscaping buffers, fencing and any other improvements exiting on or proposed for the site.
4) Plans for any access road to be constructed to provide access to the site.
5) Erosion control and storm water management plans for the proposed access road and the facility site.
6) A drawing showing a circle around the proposed facility equal to the setback requirements of Jackson County, if any; for such a facility.
7) A drawing showing any landscaping proposed for the site by the applicant.

(vii) Elevations showing the profile or the vertical rendition of the wireless support structure identifying proposed attachments and all related fixtures, structures, appurtenances and apparatus, including the height above the pre-existing grade, surrounding trees, materials, camouflage, color and lighting.

(viii) The azimuth, size and center line height location of all proposed antennas on the supporting structure.

(ix) Technical information regarding noise and/or sound generated by any generators or other equipment to be used on site, if applicable; if multiple generators are to be used, then the data should show the cumulative impact of noise generated. A specification sheet from the generator manufacturer providing this information is sufficient to meet this requirement.

(x) Safety: If substantially modifying an existing wireless communication facility:

1) The age of the facility in years, including the date of the grant of the original permit.
2) A description of the type of tower, e.g. guyed, self-supporting lattice or monopole.

(xi) A structural report certified and signed by a professional engineer licensed to do business in North Carolina and bearing that engineer's currently valid stamp, showing the structural adequacy of the proposed or existing structure to accommodate the proposed wireless communication facilities, including any equipment shelter, unless the equipment shelter is located on the lowest floor of a building.

(xii) Compliance with FAA regulations. Applicant shall comply with all FAA regulations and shall supply any FAA determination for the proposed site. This applies to any modification to a pre-existing tower that adds additional height to the structure.

(xiii) The owner of a proposed new wireless support structure, and his/her successors in interest, shall negotiate in good faith for the shared use of the proposed wireless support structure by other wireless service providers in the future. Failure to abide by the conditions outlined above may be grounds for revocation of the wireless communication facilities permit.

(xiv) In order to better inform the public, in the case of a new wireless support structure (tower), the applicant shall conduct a "balloon test" prior to the initial public hearing on the application. The applicant shall arrange to fly, or raise upon a temporary mast, a minimum of a ten-foot length, brightly colored balloon at least three feet in diameter at the maximum height of the proposed new wireless support structure (tower).

1) At least 14 days prior to the conducting of the balloon test, the applicant, in coordination with the planning department, shall cause a sign to be erected so as to be clearly visible

from the public road nearest the proposed site and shall be removed no later than 14 days after the conduct of the balloon test. The sign shall be readable from the road by a person with 20/20 vision.

2) Such sign shall be placed off, but as near to, the public right-of-way as is possible.
3) Such sign shall contain the location, purpose, times and date(s) of the balloon test and contact information.
4) The dates (including a second date, in case of poor visibility or wind in excess of 15 mph on the initial date), times, purpose, and location of this balloon test shall be advertised by the applicant seven and 14 days in advance of the first test date in a newspaper with a general circulation in the County and as agreed to by the County. The applicant shall inform the Planning Department in writing, of the dates and times of the test, at least 14 days in advance. The balloon shall be flown for at least four consecutive hours between 10:00 a.m. and 2:00 p.m. on the dates chosen. The primary date shall be on a weekend, but the second date, in case of poor visibility on the initial date, may be on a week day. A report with photographs from various locations of the balloon shall be provided with the application. Locations from which photographs are to be taken shall be reviewed and approved by the planning department.
5) The applicant shall provide written notice to all property owners and residents of property located within 2,000 feet of the nearest property line of the subject property of the proposed construction of the wireless support structure (tower) and of the date(s), location, and time(s) of the balloon test. Such notice shall be provided at least 14 days prior to the conduct of the balloon test and shall be delivered by first class mail to a resident at the address of such property and to the owner at the mailing address for such owner as listed in the Jackson County property records.

(xv) All applications for proposed wireless support structures shall contain a demonstration that the facility is sited and designed so as to create the least visual and physical intrusiveness reasonably possible given the facts and circumstances involved, and thereby will have the least adverse visual and physical effect on the environment and its character, on existing vegetation, and on the community in the area of the wireless support structure. The County expressly reserves the right to require the use of camouflage and/or concealment technology or techniques to achieve this goal and such shall be subject to approval by the board.

(xvi) To assist the County in making this determination, the applicant shall furnish a visual impact assessment, which shall include:

1) Pictorial representations (photo simulations) of "before and after" views from key viewpoints inside of the county, including, but not limited to, state highways and other major roads, state and local parks, other public lands, historic districts, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors, travelers, or residents. Guidance will be provided concerning the appropriate key viewpoints at the pre-application meeting. In addition to photographic simulations to scale showing the visual impact, the application shall provide a map showing the locations of where the pictures were taken and the distance(s) of each location from the proposed wireless support structure;

2) A pictorial representation or photo simulation of the visual impact of the proposed facility, including, as applicable, the tower base, guy wires, fencing and accessory buildings from abutting and adjacent properties and streets as related to the need or appropriateness of screening.

(xvii) The applicant shall demonstrate and provide by drawing and/or photo simulation how it shall effectively screen from view the base and all related equipment and structures of the proposed wireless communication facilities.

(xviii) Applications will not be transmitted to the Board of Commissioners for consideration until the application is deemed complete.

(xix) The holder of a wireless communication facilities permit shall notify the county of any proposed modification of a wireless communication facility and shall apply to the county to modify, relocate or rebuild a wireless communication facility.

(xx) All applications for a condition use permit and administrative review in the following sections shall be accompanied by the following statements.

1) The information contained in this application is true and accurate.

2) Is signed and sworn before a notary public.

(h) **Transfer of Approval**. A wireless communication permit approval may be transferred to a subsequent owner of the property for which the permit was issued but may not be transferred to another property.

(i) **Resubmission of Denied Applications**. No application for approval of a wireless communication permit shall be filed with or accepted by the Planning Department that is identical or substantially similar to an application that has been denied by the Jackson County Board of Commissioners.

(j) **Modifications.** Modifications from the standards established by this section for wireless communication facility are subject to the procedure and standards set forth in Section 6.2.10.

(k) **Permit validity.** Approval of a wireless communications permit (Special Use Permit) shall be valid for one year from the date of approval by the Jackson County Board of Commissioners. Failure to obtain a building permit, or otherwise initiate the permitted use, within this time shall render the wireless communications permit approval void. The Jackson County Planning Department may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension.

(l) Wireless Communication Facilities Permit Administrative Review Application Requirements

(i) All applicants for administrative review to collocate on an existing wireless support structure, to upgrade equipment on an existing wireless support structure, to replace existing equipment, and/or any other activity not meeting the definitions of substantial modification or ordinary maintenance provided in this Section shall comply with the administrative review requirements in Section 3.4 Common Review Procedures.

(ii) An application to "substantially modify" the parameters of an approved wireless communication facilities as relates to the approved height, profile, number of collocations or footprint shall not qualify for administrative review under Section 3.4: Common Review Procedures.

(iii) Approval of a wireless communication facility permit (Special Use Permit) shall not be required for an application to modify or to co-locate an antenna array on an existing and properly permitted wireless support structure so long as the co-location or modification does not exceed the parameters set forth in NCGS 153A-349.53 (as amended by S.L. 2013-185), unless for good cause such approval shall be required by the Planning Board or Planning Department. Administrative review shall be required for such application.

(iv) Documentation shall be provided to demonstrate that the applicant has the legal right to proceed as proposed on the site, including an executed copy of the lease with the owner of the

facility proposed to be attached to, or a letter of agency, showing the right of the applicant to attach to the structure.

(v) The applicant shall include a written statement that:

1) The applicant's proposed wireless communication facility shall be maintained in a safe manner, and in compliance with all conditions of all applicable permits and authorizations, without exception, as well as all applicable and permissible local codes, ordinances, and regulations, including any and all applicable County, State and Federal laws, rules, and regulations.

2) The construction of the wireless communication facility is legally permissible, including, but not limited to the fact that the applicant is authorized to do business in the state of North Carolina.

(vi) An application for attaching an antenna array, which shall include equipment upgrades and replacement of equipment, under this section shall contain the following information:

1) The name, address and phone number of the person preparing the application.

2) The name, address, and phone number of the property owner and the applicant, including the legal name of the applicant. If the owner of the structure is different than the applicant, the name and all necessary contact information shall be provided.

3) The 911 address and tax map parcel number of the property.

4) A copy of the FCC license or other authorization applicable for the intended use of the wireless communication facilities.

5) A site plan depicting the following:

   a) The zoning district (in the case of Regulated Districts) or designation in which the property is situated, if applicable.

   b) For applications that involve expansion of the ground compound, the size of the property on which the structure to be attached to is located, stated both in square feet and lot line dimensions, and a survey showing the location of all lot lines.

   c) The location, size and height of all existing and proposed structures on the property on which the structure is located and that is the subject of the application;

   d) The footprint, location and dimensions of access drives, landscaping and buffers, fencing and any other existing or proposed site improvements.

   e) Unless it is deemed inappropriate or unnecessary by the planning department given the facts and circumstances, the method proposed to effectively buffer and screen from view the base and all related equipment and structures of the proposed Wireless Communication Facility up to a height of ten feet.

   f) Unless already contained in the structural analysis required by Section 6.2.3 (b) elevations showing the vertical rendition of the wireless communication facilities identifying all attachments, and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color and lighting;

6) All attachments and exposed cabling shall use concealment techniques to match as closely as possible the color and texture of the structure, whenever practical.

7) The applicant shall provide a certification by a professional engineer licensed in North Carolina, along with documentation (a structural analysis), including calculations, that prove that the wireless support structure and its foundation as proposed to be utilized, including all proposed attachments, existing attachments, and reserved future attachments, are designed and were constructed to meet all local, county, state, federal and ANSI EIA/TIA 222 as amended requirements for loads, including wind and ice loads and the placement of any equipment on the roof a building after the addition of the proposed new facilities.

All utilities installed for a new wireless communication facility shall be installed underground when practical and in compliance with all laws, ordinances, rules and regulations of the county, including specifically, but not limited to, the National Electrical Safety Code and the National Electrical Code where appropriate.

(vii) Permit validity. Approval of a request for administrative review and approval shall be valid for one year from the date of approval by the planning department. Failure to obtain a building permit, or otherwise initiate the permitted use, within this time shall render the approval void. The Jackson County Planning Department may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension.

Section 6.2.5 Retention of Consultant/Expert Assistance Cost to be Borne by Applicant

(a) The County may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating the application for substantial modifications, new wireless communication facilities, and collocations, including the construction and modification of the site, once permitted, and any site inspections.

(b) To prevent the taxpayers from having to bear the cost related to the issue of the regulation of wireless communication facilities, an applicant shall pay the consultant's fee as set forth in the contractual agreement between the consultant and the County. The amount of the fee shall be based on the cost of services provided and what is usual and customary in Jackson County for the review and permitting assistance related to wireless communication facilities to cover all reasonable costs of consultant and expert evaluation and consultation with the County in connection with the submittal, review and permitting of any application, and where applicable, any lease negotiation, preapproval evaluation and including any construction and modification of the site, once permitted. The payment of the consultant's fee to the County shall precede any work being done as regards to processing an application.

(c) Records of all outside costs associated with the review and permitting process shall be maintained and available for public inspection, in compliance with applicable North Carolina law.

Section 6.2.6 Removal and Performance Security

(a) The Applicant and the owner of record of any proposed wireless communication facilities property site, at its cost and expense, shall be jointly required to execute and file with the County a bond, or other form of security acceptable to the County as to type of security and the form and manner of execution, in an amount and with such sureties as are deemed sufficient by the County to assure the faithful performance of the terms and conditions of this section and conditions of any communications facility permit issued pursuant to this section. The amount of the bond or other security shall be at least $75,000.00, with the amount based upon cost estimates for the removal of the wireless support structure or tower and the restoration of the site. Such cost estimates shall be

submitted by the applicant and shall be provided by independent contractors. The full amount of the bond or security shall remain in full force and effect throughout the term of the communications facility permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original communications facility permit. All bonds or other forms of security provided as required by this section shall be reviewed every five years to assure that the amount of the security is adequate to cover the cost of the structure removal and site restoration. An increase in the amount of the security shall be required if it is determined that the amount of the security is insufficient to adequately restore the site.

Section 6.2.7 Reservation of Authority to Inspect Wireless Communication Facilities

(a) In order to verify that the holder of a wireless communications facility permit for wireless communication facilities and any and all lessees, renters, and/or licensees of such place and construct such facilities, in accordance with all applicable technical, safety, fire, building, and zoning codes, laws, ordinances and regulations and other applicable requirements, the County may inspect all facets of said permit holder's, renter's, lessee's or licensee's placement, construction, modification and maintenance of such facilities, including, but not limited to, wireless support structures, antennas and buildings (excluding exteriors) or other structures constructed or located on the permitted site.

Section 6.2.8 Removal of Wireless Communication Facilities

(a) Under the following circumstances, the County may determine that the health, safety, and welfare interests of the County warrant and require the removal of wireless communication facilities.
   (i) Wireless communication facilities with a permit have been abandoned (i.e. not used as wireless communication facilities) for a period exceeding 180 days, except for periods caused by force majeure or acts of God, in which case repair or removal shall commence within 90 days of abandonment;
   (ii) Permitted wireless communications facilities fall into such a state of disrepair that it creates a health or safety hazard;
   (iii) Wireless communications facilities have been located, constructed, or modified without first obtaining, or in a manner not authorized by, the required communications facility permit, or any other necessary authorization and the special permit may be revoked.

(b) If the County makes such a determination as noted in subsection (a), then the County shall notify the holder of the wireless communications facility permit within 48 hours that said wireless communication facilities are to be removed, the County may approve an interim temporary use agreement/permit, such as to enable the sale of the wireless communication facilities.

(c) The holder of the wireless communication facility permit, or its successors or assigns, shall dismantle and remove such facility, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within 90 days of receipt of written notice from the County. However, if the owner of the property upon which the facility is located wishes to retain any access roadway to the facility, the owner may do so.

(d) If wireless communication facilities are not removed or substantial progress has not been made to remove the wireless communication facilities within 90 days after the permit holder has received notice, then the County may order officials or representatives of the County to remove the wireless communication facilities at the sole expense of the owner or wireless communication facility permit holder.

(e) If the County removes, or causes to be removed, wireless communication facilities, and the owner of the wireless communication facilities does not claim and remove it from the site to a lawful location within ten days, then the County may take steps to declare the wireless communication facilities abandoned and sell them and their components.

(f) Notwithstanding anything in this section to the contrary, the County may approve a temporary use permit/agreement for the wireless communication facilities, for no more than 90 days, during which time a suitable plan for removal, conversion, or relocation of the affected facility shall be developed by the holder of the communications facility permit, subject to the approval of the County, and an agreement to such plan shall be executed by the holder of the permit and the County. If such a plan is not developed, approved and executed within the 90-day time period, then the County may take possession of and dispose of the affected facilities in the manner provided in this section and utilize the bond in this section.

Section 6.2.9 Liability Insurance

(a) A holder of a wireless communication facility permit shall secure and at all times maintain public liability insurance for personal injuries, death and property damage, and umbrella insurance coverage, for the duration of the wireless communication facility permit in amounts as set forth below:

(i) Commercial general liability covering personal injuries, death and property damages $1,000,000.00 per occurrence/$2,000,000.00 aggregate; and

(ii) Umbrella coverage: $3,000,000.00.

Section 6.2.10 Modifications

(a) Any applicant desiring modification, waiver, or exemption from any aspect or requirement of this section may request such at the pre-application meeting, provided that the request for modification is detailed in the submitted application for either a communications facility permit or, in the case of an improvement requiring administrative review, in the application submitted for administrative review. All requests shall be heard and decided by the Jackson County Board of Commissioners, which must find that justification is provided for the requested modification, waiver, or exemption. Such relief may be temporary or permanent, partial or complete. However, the burden of proving the need for the requested modification, waiver, or exemption is solely on the applicant to prove. All requests for a modification, waiver, or exemption shall be accompanied by an application fee as set forth in the schedule of fees and charges. No modification, waiver, or exemption shall be approved unless the applicant demonstrates by clear and convincing evidence that the request is justified and is necessary to prevent unnecessary hardship and that, if granted, the modification, waiver, or exemption will have no significant effect on the health, safety, and welfare of the County, its residents, property owners and other service providers and preserves the intent of this section.

Section 6.3 Manufactured Home Parks

Section 6.3.1 Purpose and Intent

(a) The purpose of this section is to provide for the proper and orderly development of manufactured home parks in Jackson County. Manufactured homes are an important housing alternative to conventional single-family structures. The placement of manufactured homes in parks or clustered groups is a means of providing this housing in an attractive and affordable setting. These regulations

are designed to ensure that manufactured home parks promote the health, safety and welfare of their residents and do not create negative impacts on adjoining properties.

Section 6.3.2 Jurisdiction and Applicability

(a) The provisions of this section shall apply to all areas of Jackson County, North Carolina within the planning jurisdiction of any incorporated municipalities.

(b) This Ordinance shall apply to any property upon which manufactured homes are placed after the effective date of this section regardless of the number of manufactured homes located thereon.

Section 6.3.3 Exceptions

(a) **Exceptions to Applicability**

(i) It is not intended that these regulations interfere with any easement, covenant or other agreement between parties. However, if these regulations impose greater restrictions or higher standards for the use of a building or land, then these regulations shall control.

(ii) Manufactured home parks existing at the time of the adoption of this Ordinance with spaces completed, ready for occupancy and/or occupied are exempt form the terms of this Ordinance. However, said manufactured home parks shall not be allowed to expand or increase in any manner unless such expansion meets the requirements of this ordinance.

(iii) Notwithstanding section 6.3.3(a)(ii) above, any manufactured home park existing at the time of the adoption of this Ordinance may become subject to the provisions of this Ordinance if expanded. For the purpose of this section, a manufactured home park is "expanded" only when the total number of units in the manufactured home park increases. A mobile home park is not expanded when a unit existing at the time of the initial passage of this act is replaced with a different unit.

(iv) An expanded manufactured home park may be allowed to come into compliance with this ordinance on a space by space basis. Notwithstanding the foregoing, full compliance must be achieved within five years in the old park after it is expanded.

(v) The issuance of a manufactured home park permit or occupancy permit does not constitute or imply the acceptance, dedication or maintenance of any street or ground, easement, utility line or other facility by Jackson County.

(vi) For the purpose of this section a manufactured home park is 'expanded' whether by the same or different owner where the new park is owned by a person or entity who is related to or has any interest, whether actual, apparent, implied or constructive, in the old park.

Section 6.3.4 Manufactured Home Park Design Standards

(a) **General Provisions**

(i) All manufactured home parks shall post a permanent and clearly viable identification sign at each park entrance. Signs shall be constructed of materials that will not rapidly deteriorate, fade, fall apart or in any way become a hazard to the public health, safety and general welfare.

(ii) The owner/operator of a manufactured home park that rents spaces and/or homes is responsible for the maintenance of the park and the enforcement of all restrictions, setbacks and parking requirements. The manufactured home park owner/operator shall record an enforceable operation and maintenance agreement with the Jackson County Planning Department.

(b) **Manufactured Home Park Levels**. For the purpose of this Ordinance, three manufactured home park levels have been established as noted in Table 6.4:

Table 6.4 Manufactured Home Park Levels

Level I	Parks with at least two manufactured homes but less than 12
Level II	Parks with at least 12 manufactured homes but less than 25
Level III	Parks with 25 or more manufactured homes

(c) **Level I Manufactured Home Parks.** Level I manufactured home parks shall comply with the following design standards:

(i) Roads and drainage.

1) Interior roads shall be constructed with drainage systems that prevent water from standing or pooling in the road or its shoulder or with minimum construction standards for secondary roads as adopted by the North Carolina Division of Highways.

(ii) Utilities.

1) An accessible, adequate, safe and potable supply of water shall be provided in accordance with the standards of the water supply branch of the North Carolina Department of Environmental Quality and/or Jackson County Health Department.
2) An adequate and safe sewage disposal facility shall be provided in accordance with the standards of the Department of the Environment Quality and/or Jackson County Health Department.

(iii) Lots, unit sites, buffers and setbacks.

1) Each manufactured home shall have an identification number at least four inches high and placed in a conspicuous location that is clearly visible from the access road.
2) Any portion of a proposed manufactured home park that is within 200 feet from an existing residence and visible from said residence (other than that of the park owner) shall be screened from view with a buffer strip along the property line facing the residence. The buffer requirement may be satisfied by existing natural vegetation meeting the intent of this ordinance, provided that the natural vegetation is owned by the manufactured home park owner. If the said existing residence is elevated above the proposed park to the extent that a mature natural or planted tree buffer would not screen the residence, the Permitting and Code Enforcement Director may waive this requirement.
3) At least two automobile parking spaces shall be provided for each manufactured home site. No portion of the required spaces shall be within a street right-of-way or in any other designated setback area.
4) Additions shall not interfere with minimum parking requirements.
5) Manufactured home setbacks:
   a) Setback from boundary lines shall be 15 feet, except when adjacent property is owned by the same person or entity owning the manufactured home park.
   b) Either the front or rear of each manufactured home shall have at least a 30-foot setback and the opposite side shall have at least a 30-foot setback between units.
   c) The ends of each manufactured home shall have a setback of at least 30 feet between other manufactured homes.
6) The elevation of the first habitable floor of all structures in the 100-year flood plain shall be above the base floor elevation in accordance with the Flood Damage Prevention, Section 5.6.

7) The surface area adjacent to the foundation shall be provided with adequate drainage and shall be graded so as to drain surface water away from foundation walls in accordance with the regulations for manufactured/mobile homes.
8) Each manufactured home, upon being installed on a manufactured home foundation, shall have stabilizing devices made up of a combination of ties, anchoring equipment and ground anchors in accordance with regulations for manufactured/mobile homes and Section 5.6 Flood Damage Prevention.
9) Manufactured homes shall be underpinned within 90 days of installation.
10) If a manufactured home burns and is uninhabitable, the unit and all associated debris shall be removed from the premises within 90 days after the fire at the manufactured home owner's expense.

(d) **Level II Manufactured Home Parks.** Level II manufactured home parks shall comply with the requirements for Level I manufactured home parks plus the following design standards:

(i) Roads and drainage.

1) Interior roads shall be constructed with an all-weather surface that is at least 12 feet wide and with at least a four-foot shoulder on each side of the road that is free of any obstruction and can allow easy passage of emergency vehicles.

(d) **Level III Manufactured Home Parks**. Level III Manufactured Home Parks shall comply with the requirements for Class II Manufactured Home parks plus the following design standards:

(i) Roads and drainage.

1) Interior roads shall be constructed with the following additional standards:
   a) Permanent dead-end streets or cul-de-sac streets shall have a bulb or other suitable means for vehicles to turn around at the closed end. Bulbs shall have a diameter of at least 40 feet.
   b) All roads or portions thereof with a slope of 15 percent or greater shall be paved with asphalt or concrete.
2) All parks shall either have at least 30 feet of frontage on a state-maintained road or provide access to the park through adjoining properties consistent with the terms of this ordinance under a joint maintenance agreement recorded with the Jackson County Planning Department.

(e) **Buffer strip screen defined**

(i) Buffer strip screens shall be free of all encroachments by buildings, parking areas or impervious coverage and may incorporate trees, shrubs, walls, fences, berms and/or other natural or created topographic features. However, the Permitting and Code Enforcement Director may require the use of trees when neighboring residences are elevated due to topography.

(ii) Shrubs and/or trees may be used as natural screening provided that when trees are used, only varieties which bear limbs and foliage down to within one foot of ground level shall be allowed.

(iii) Trees installed as a planted screen shall be evergreen and of a variety which are a minimum height of three feet when planted and which can be expected to reach a height of at least six feet within four years from planting.

(iv) Shrubs shall be a minimum of three feet at planting and expected to reach six feet within four years.

(v) Walls or fences shall be opaque and shall be a minimum of six feet in height as measured from the ground up along the adjoining property line.

(vi) Grassed and/or landscaped berms or other topographic features may be used as screening provided that such screening reaches a height of at least six feet within three years of its establishment. All soil slopes shall be stabilized and vegetated.

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Section 6.4 Industrial Development

Section 6.4.1 Purpose and Intent

(a) For the purposes of promoting health, safety, or the general welfare of its citizens and the peace and dignity of the County, the Jackson County Board of Commissioners shall establish certain criteria to accommodate activities engaged in the mechanical, physical, or chemical transformation of materials, substances, components into new products, or for repair of products. These noxious industries that, by their very nature produce objectionable levels of noise, odors, vibrations, fumes, light, or smoke, may or may not have hazardous effects. These standards shall allow for the placement and growth of noxious industrial activities, while maintaining the health, safety, and general welfare standards of established residential and commercial areas in Jackson County.

Section 6.4.2 Jurisdiction

(a) This section shall apply to all areas of unincorporated Jackson County which are not included in the extraterritorial jurisdictions of any municipalities. All municipalities and their respective corporate limits shall be exempted from this section, unless they choose to adopt this Section or some form thereof.

Section 6.4.3 General Provisions

(a) No use, expansion of existing use, or sale of land or buildings except in conformity with this section.
(b) No person may use, expand, occupy, or sell any land or buildings, or authorize or permit the use, expansion, occupancy or sale of land or buildings under his control, except in accordance with all of the applicable provisions of this Ordinance.
(c) For purposes of this section, the use or occupancy of a building or land relates to anything and everything that is done to, on, or in that building or land.

Section 6.4.4 Performance Standards by Industrial Use

(a) Asphalt industries (including on-site sale of products).
   (i) The location of the closest point of the property line of a lot on which an asphalt plant, both portable and permanent, is located shall not be less than 1,320 linear feet from the closest point of a property line of a lot on which a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, assisted living facility, or nursing care institution is located; any property line of publicly owned property excluding road rights-of-way; or from the closest exterior wall of a residential structure.
   (ii) Permanent roads used continuously for vehicular traffic (once per any 72-hour period of time excluding Saturdays, Sundays, or holidays) in excess of six months within the property site shall be surfaced with a dust-free material (i.e., soil cement, Portland cement, bituminous concrete).
   (iii) Material piles and other accumulations of byproducts shall not exceed 35 feet above the original contour and shall be graded so the slope shall not exceed a 45-degree angle.
   (iv) A continuous vegetative buffer designed to grow at least six feet in height will be maintained continuously along any property line which is adjacent to a public right-of-way or adjacent to property on which is located a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, nursing care institution, or residential use.

(v) The operation of this type of industry shall not violate the Jackson County Noise Ordinance.

(vi) Asphalt plants shall provide bag houses for managing fumes created from an asphalt batch facility and emissions control equipment that will regulate blue smoke particulate matter emissions during the process of filling silos and loading trucks to a minimum of Reasonably Available Controlled Technology (RACT).

(b) Junkyards (including on-site sale of products).

(i) The location of the closest point of the property line of a lot on which a junkyard is located shall not be less than 1,320 linear feet from the closest point of a property line of a lot on which a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, assisted living facility, or nursing care institution is located; any property line of publicly owned property excluding road rights-of-way; or from the closest exterior wall of a residential structure. All junkyards shall be located in compliance with NCGS 136-144.

(ii) An opaque security fence constructed of either wood, masonry, metal, aluminum, or synthetic material shall be installed around the entire perimeter lot line of the lot on which the proposed junkyard is located. The fence shall be a minimum of ten feet in height at the time of installation. The fence shall be set back ten feet from any property line that is adjacent to a public road right-of-way. No junk or material may be stored within the ten-foot setback. Any junk stored in the junkyard cannot be stored to a height of greater than ten feet. If at any point on the property a portion of the junkyard is at an elevation higher than the required ten-foot opaque security fence, an interior fence or vegetative buffer will be installed so that the junk stored on the elevated portion of the junkyard is not visible from any public right-of-way which is at the same or lower elevation as the elevation of the top of the opaque security fence at its closest point to a public right-of-way.

(iii) All fluids shall be removed from junk or inoperable vehicles prior to placement in a junkyard. All fluids shall be disposed of in compliance with applicable federal, state, and local regulations.

(iv) A continuous vegetative buffer designed to grow at least six feet in height will be maintained continuously along any property line which is adjacent to a public right-of-way or adjacent to property on which is located a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, nursing care institution, or residential use.

(v) A 30-foot planted vegetative buffer shall be installed along any junkyard property line which is adjacent to a perennial stream.

(vi) The operation of this type of industry shall not violate the Jackson County Noise Ordinance.

(c) Heavy industry.

(i) The location of the closest point of the property line of a lot on which a heavy industry is located shall not be less than 1,320 linear feet from the closest point of a property line of a lot on which a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, or nursing care institution is located; any property line of publicly owned property excluding road rights-of-way; or from the closest exterior wall of a residential structure.

(ii) A continuous vegetative buffer designed to grow at least six feet in height will be maintained continuously along any property line which is adjacent to a public right-of-way or adjacent to property on which is located a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, nursing care institution, or residential use.

(iii) The operation of this type of industry shall not violate the Jackson County Noise Ordinance.

(d) Mining industries (including on-site sale of products and hydraulic fracking):

(i) The location of the closest point of property line of the lot on which a mine or quarry is located shall not be less than 1,320 linear feet from the closest point of a property line of a lot on which a commercial use, school, child care home, child care institution, day care center, church,

hospital, nursing care home, assisted living facility, or nursing care institution is located; any property line of publicly-owned property excluding road rights-of-way; or from the closest exterior wall of a residential structure.

(ii) Permanent roads used continuously for vehicular traffic (once per any 72-hour period of time excluding Saturdays, Sundays, or holidays) in excess of six months within the property site shall be surfaced with a dust free material (i.e., soil cement, Portland cement, bituminous concrete).

(iii) Material piles and other accumulations of byproducts shall not exceed 35 feet above the original contour and shall be graded so the slope shall not exceed a 45-degree angle.

(iv) The operation of this type industry shall not violate the Jackson County Noise Ordinance.

(v) A continuous vegetative buffer designed to grow at least six feet in height will be maintained continuously along any property line which is adjacent to a public right-of-way or adjacent to property on which is located a commercial use, school, child care home, child care institution, day care center, church, hospital, nursing care home, nursing care institution, or residential use.

Section 6.4.5 Transportation Impact Analysis (TIA)

(a) Transportation infrastructure.

(i) All uses permitted by this Ordinance shall be located on a site with direct access to a road designated, at a minimum, as a major thoroughfare in the Jackson County Comprehensive Transportation Plan.

(ii) Any use that is not located on a site with direct access to a minimum of a major thoroughfare shall complete a preliminary traffic assessment prepared by a traffic engineer to determine if the roadway is designed to accommodate the proposed use.

1) The preliminary assessment shall address potential congestion and road functionality to the nearest primary route. If the preliminary assessment determines that the current roadway design is sufficient for the proposed use, the Jackson County Planning Department staff may approve the permit.
2) If the preliminary assessment cannot confirm the existing roadway design is sufficient for the proposed use, then the applicant may submit a Transportation Impact Analysis (TIA) prepared by a traffic engineer. The TIA should include the following:
   a) Intersection congestion to the nearest primary route.
   b) Functionality of roadway to the nearest primary route.
   c) Mitigation of impacts for proposed use.

(iii) Applicants that propose to use a TIA must make application for a (Special Use Permit from the Jackson County Board of Adjustment.)

1) The Board of Adjustment must find the following in order to approve the use:
   a) That the TIA provided shows that there are no adverse impacts associated with the proposed use or that any adverse impacts can be mitigated.
   b) That the proposed use is consistent with Jackson County's Land Use Plan.
   c) That the proposed use or development of the land will not materially endanger the public health or safety.
   d) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity given the design and any mitigation measures proposed by the applicant.
2) The Board of Adjustment will hold a quasi-judicial hearing for any application for a Special Use Permit. The Director will advertise the hearing in the local newspaper, send letters by first class mail to adjacent property owners, and post the proposed site with a sign pursuant to North Carolina General Statutes.

3) Applications for Special Use Permits will be approved or denied by a majority vote of the Board of Adjustment per Section 3.7.15.

(b) Exceptions

(i) This section shall not apply to automotive storage facilities, service stations, repair shops or garages unless the operation thereof would fall within the definition of junkyards or automobile graveyards as defined in Article XI: Definitions.

(ii) Junkyards or automobile graveyards registered with the Jackson County Planning Department, may continue to be operated, provided said uses are screened from view by dense natural vegetation or other natural topographic barriers or by an opaque fence or wire fence with vegetation as defined above in Section 6.4.4(b)(ii). Said screens shall prevent persons standing on public roads, in residential areas, or on property owned by schools, churches or rural volunteer fire departments from viewing the junkyard or automobile graveyard. In addition, the land area of the screened junkyard or automobile graveyard shall not be enlarged beyond that in use at the effective date of this ordinance. If a junkyard or automobile graveyard is sold, discontinued, closed or in any way fails to be in operation for a period of six consecutive months, the use shall not be reestablished.

Section 6.5 Adult Establishments

Section 6.5.1 General

(a) **Administration**. This section shall be administered by the Planning Director; may also be referred to as Director.

(b) **Purpose**. The purpose of this section shall be to set forth the regulatory licensing requirements for adult establishments located within the County. Adult establishments, because of their very nature, are recognized as having serious objectionable operational characteristics. Studies and experiences have shown that lower property values and increased crime rates tend to accompany and are brought about by adult establishments. The Board of Commissioners finds that regulation of these uses is necessary to ensure that these adverse secondary effects do not contribute to the blighting of surrounding neighborhoods and to regulate acts and conditions detrimental to the health, safety or welfare and the peace and dignity of the County. Regulation to achieve these purposes can best be accomplished by the licensing procedures and standards set forth hereinafter.

(c) **Provisions**. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this section to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. This Section represents a balancing of the legitimate ends of the community by imposing an incidental, content neutral place, time and manner regulation of sexually oriented businesses, without limiting alternative avenues of communication, and at the same time, requiring the business to carry its share of financing administrative and enforcement activities.

(d) **Jurisdiction**. This article shall apply to all the County except for those areas included within the planning jurisdiction of any incorporated municipalities.

Section 6.5.2 Sign Standards

(a) Every adult establishment shall prominently display on the outside of the building or in close proximity thereto a sign identifying the premise as an adult establishment and containing the license number under which it is operated.
(b) The sign may also indicate the name by which the establishment does business, so long as the name does not contain vulgar or offensive language, graphics, or make references, direct or implied, to specified sexual activities or specified anatomical areas.
(c) No other outside signage shall be permitted.
(d) The sign shall be single faced and shall not exceed 32 square feet in size.
(e) If attached to the building, the sign shall be affixed to a wall at a height not to exceed eight feet. If not attached to the building, the height of the sign shall not exceed eight feet. The height of the sign shall be measured from the finished grade of the area on which the sign is located to the top of the sign.
(f) Such signs shall not be closer than 25 feet from the edge of the highway/road right-of-way or 35 feet from the edge of the pavement, whichever is greater.
(g) Such signs shall not be internally illuminated but may be indirectly lighted.

Section 6.5.3 License Required

(a) Adult Establishment Business.
   (i) It shall be unlawful for any person to operate or maintain an adult establishment in the County unless the owner(s) or operator(s) thereof has obtained an adult establishment business license from the County. It shall also be unlawful for any person to operate such business after such license has been revoked or suspended by the County or has expired.
   (ii) It shall be unlawful for any entertainer to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult establishment within the County.
   (iii) It shall be unlawful for any person who operates an adult establishment to employ a person as an entertainer at the adult establishment who has not obtained an entertainer license as required by this section.
   (iv) It shall be prima facie evidence that any adult establishment that fails to have posted, in the manner required by this section, an adult establishment business license, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer who performs any service or entertainment in an adult establishment in which an adult establishment business license is not posted, in the manner required by this section, has knowledge that such business was not licensed.
   (v) The adult establishment license shall be valid for a period of 12 months and shall be renewed annually. The fee for the required annual renewal of the adult establishment license shall be as set forth in this section.
(b) Entertainer.
   (i) It shall be unlawful for any person to work as an entertainer at an adult establishment without first obtaining a license to do so from the County, or to work as an entertainer at an adult establishment after such person's license to do so has been revoked or suspended by the County or has expired.
(c) License classification and fees.
   (i) For licenses and fees for adult establishments and entertainers, see Section 1.13.

Section 6.5.4 Application Procedures

(a) Adult establishment business license application. All persons desiring to secure a license to conduct, operate, or maintain an adult establishment under the provisions of this section shall make a verified application to the Planning Director. All applications shall be submitted in the name of the person proposing to conduct, operate or maintain the adult establishment. If more than one person is a partner, officer of a corporation, or otherwise involved in the ownership and/or operation of the adult entertainment business, a license shall be required for each person. Licenses shall be issued only to natural persons and shall not be issued to nonhuman entities such as corporations or partnerships. Licenses shall be nontransferable. All applications shall be submitted on a form supplied by the Planning Director and shall require the following information for each applicant:

(i) The applicant's full name and any aliases or other names by which the applicant is known or that the applicant has used at any time, and the residence addresses for the past two years, the business and home telephone numbers, occupation, date and place of birth, and social security number of the applicant.

(ii) The name of the adult establishment, a description of the adult entertainment to be performed on the licensed premises, the name of the owner of the premises where the adult establishment will be located, and the business address and the County parcel identification number (PIN) of the adult establishment.

(iii) The names, residence addresses for the past two years, social security numbers, and dates of births of the applicant (owner(s)/operator(s) of the adult establishment) or of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers and Directors. If the applicant (owner(s)/operator(s) of the adult establishment) is other than an individual, each individual who has a financial or other interest in the adult establishment must complete the application for the license as an applicant and shall be considered an applicant for the purposes of this provision.

(iv) A statement from the applicant, or from each partner, or from each corporate officer and Director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:

1) A felony criminal act within five years immediately preceding the application; or
2) A misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the laws of North Carolina or any other comparable violation of the laws of this state or the laws of any other state.

(v) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this provision regulating adult establishments.

(vi) A statement signed under oath that the applicant consents to investigation of his/her criminal background by the County.

(vii) A statement signed under oath that the applicant consents to being fingerprinted as part of the background investigation.

(viii) A statement signed under oath that the applicant is a citizen of the United States with proof of citizenship attached to the statement.

(ix) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other County, city, state, or country, an adult establishment; has ever had a license, permit, or authorization to do business denied, revoked,

or suspended; or had any professional or vocational license or permit denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the license, permit, or authorization, the name of the business (if applicable), the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation, or suspension. A copy of any order of denial, revocation, or suspension shall be attached to the application.

(x) A certified straight-line drawing prepared within 30 days prior to the application date by a professional land surveyor accurately depicting:

1) The property lines of any property on which an existing adult establishment is contained, that is located within 2,640 feet of the property for which the adult establishment is proposed;
2) The property lines of any established/existing school, church/place of worship, library, licensed child care center, public recreation center, public park or playground, fire department, and/or public property located within 2,640 feet of the property for which the adult establishment is proposed; and
3) The location and property lines of all tracts or parcels of real property used for residential purposes and/or recorded residential subdivisions, whether the lots in the subdivision are developed or not, located within 2,640 feet of the property for which the adult establishment is proposed.

(xi) Failure to provide the information and documentation required by this subsection shall constitute an incomplete application and it shall not be processed until complete. Once the Planning Director has determined that the application is complete, as submitted, he or she shall notify the applicant by certified mail, return receipt requested, that the review process will be undertaken.

(b) Adult entertainer license application. All persons desiring to secure a license under the provisions of this section to be an entertainer shall make a verified application to the Director. All applications shall be submitted in the name of the person proposing to be an entertainer. All applications shall be submitted on a form supplied by the Planning Director and shall require the following information:

(i) The applicant's full name and any aliases or other names by which the applicant is known or which the applicant has used at any time, and the residential address(es) for the past two years, the home and/or cellular telephone number, date and place of birth, social security number, and any stage names or nicknames used in entertaining.

(ii) The name and address of each adult establishment where the applicant intends to work as an entertainer.

(iii) A statement from the applicant that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:

1) A felony criminal act within the five years immediately preceding the application; or
2) A misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses in the laws of the state or any other comparable violation of the laws of this state or the laws of any other state.

(iv) Photographs shall be taken of the applicant by the Planning Director and the Planning Director shall process and retain the copies.

(v) The applicant shall present to the Planning Director for copying documentation that the applicant has attained the age of 21 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:

1) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
2) A state-issued identification card bearing the applicant's photograph and date of birth;
3) An official and valid passport issued by the United States of America;
4) Any other form of picture identification issued by a governmental entity that is deemed reliable by the Planning Director; or
5) Any other form of identification deemed reliable by the Planning Director.

(vi) A statement signed under oath that the applicant consents to investigation of his/her criminal background by the County.

(vii) A statement signed under oath that the applicant consents to being fingerprinted as part of the background investigation.

(viii) A statement signed under oath that the applicant is a citizen of the United States with proof of citizenship attached to the statement.

(ix) Failure to provide the information required by this subsection shall constitute an incomplete application and it shall not be processed until complete. Once the Planning Director has determined that the application is complete, as submitted, he or she shall notify the applicant by certified mail, return receipt requested, that the review process will be undertaken.

(c) *Application processing*. Upon receipt of a complete application for an adult establishment business license or for an entertainer license, the Planning Director shall immediately commence investigation of the application as follows:

(i) In the case of an application for a business license for an adult establishment, the Planning Director shall:

1) Transmit a copy of the application to the Sheriff. The Sheriff shall report to the Planning Director no later than fifteen working days after the receipt of the application by the sheriff the result of his/her investigation of the applicant. In the event that the sheriff fails to report to the Planning Director within this time period, the Planning Director shall proceed with processing the application.
2) Upon completion of his/her review of the application, payment of the applicable license fee and upon receipt of the report of the sheriff (or upon expiration of the time period referenced above without receiving a report), the Planning Director shall determine whether or not a license shall be issued. In no event shall the time period for determination by the Director exceed 45 days from the date the application is received by the Planning Director, unless consented to by the applicant.

(ii) In the case of an application for a license for an entertainer, the Planning Director shall:

1) Transmit a copy of the application to the Sheriff. The Sheriff shall report to the Planning Director no later than fifteen working days after receipt of the application by the Sheriff the results of his/her investigation of the applicant. In the event that the Sheriff fails to report to the Director within this time period, the Director shall proceed with processing the application.
2) Upon completion of his/her review of the application, payment of the appropriate license fee, and upon receipt of the report of the sheriff (or upon expiration of the time period referenced above without receiving a report), the Director shall determine whether or not a license shall be issued. In no event shall the time period for determination by the Director exceed 45 days from the date the application is received by the Director, unless consented to by the applicant.

(d) Reasons for disapproving application. The Director must deny the license application for one or more of the following reasons:

(i) The license application is incomplete so as to not contain all information required by this Section.

(ii) The applicant (including any partners, corporate officers and Directors, where applicable), has been convicted of a crime in the local, State or Federal court systems for any violations listed in this section.

(iii) The applicant (including any partners, corporate officers and Directors, where applicable), has made false or fraudulent statements in the application, evidence of which is disclosed by the County background check.

(iv) The applicant is under the age of 21 years.

(v) The entertainer license is to be used for employment in a business prohibited by local or state law, statute, rule, or regulation, or prohibited by a particular provision of this Section.

(vi) The license fee required by this section has not been paid.

(vii) The premises to be used for the adult entertainment business has not been approved by the Health Department, Fire Marshal's office, the Building Inspections Department, or the Planning Department as being in compliance with applicable laws and ordinances.

(viii) The applicant is not a citizen of the United States.

(ix) The applicant is not in compliance with any of the provisions of this Section.

(x) The applicant has been denied an adult establishment business license or an entertainer license by the County within the preceding 12 months or has had an adult establishment business license or an entertainer license revoked within the preceding 12 months.

(xi) At the time that the application is determined to be complete, the proposed location of the adult establishment is within 2,640 feet of an existing residence other than that of the applicant or within 2,640 feet of an established/existing school, church/place of worship, library, licensed child care center, public recreation center, public park or playground, fire department, public property, recorded residential subdivision whether the lots in the subdivision are developed or not, or other adult establishment or location for which an adult establishment business license is currently in effect. The distance shall be measured from the closest edge of the property on which the adult establishment is proposed to the closest edge of the property on which the residence, school, or other use is located.

(e) Notice of approval or disapproval.

(i) Upon a determination by the Director of the disapproval or approval of the application, the Director shall notify the applicant by certified mail, return receipt requested, to the address of the applicant as shown on the application. In the event that the application is disapproved, the notification shall state the basis for such disapproval.

(ii) In the event an application is disapproved, the applicant shall have 30 days from the receipt of the notice of disapproval to appeal that determination to the Board of Commissioners. Further appeals shall be to the Superior Court of the County, to be heard de novo, pursuant to the provisions of NCGS 7A-250.

(f) Changes to application**.** All applicants shall notify the Director of any changes to the application within five working days of the date the change occurs.

Section 6.5.5 Expiration of License

(a) Expiration. Each adult establishment license and entertainer license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 6.5.3. Application for renewal shall be made no sooner than 45 days prior to expiration and no later than 30 days before the date of expiration of the license, and when made less than 30 days before the expiration date, the license shall expire.

(b) Denial of renewal application. When an application for license renewal is denied, the applicant shall not be issued a license for one year from the date of denial.

Section 6.5.6 License Renewal

(a) Application required. An adult establishment license or entertainer license may be renewed by making application to the Director on application forms provided for that purpose, following the procedure for applications set forth in Sections 6.5.3. Any license issued under this provision shall expire one year from the date of its issuance, and renewal applications for such licenses shall be submitted no sooner than 45 days prior to expiration and no later than 30 days before the date of expiration of the license, and when made less than 30 days before the expiration date, the license shall expire.

(b) Action on renewal application. Upon timely and proper application for renewal and the payment in full of the license fee, the Director shall issue to the applicant a receipt showing the date of the renewal application and granting to the applicant a temporary extension of the license for a period of 45 days or until the application for renewal is approved or disapproved. Any license issued under the provisions of this section may be renewed by issuance of a new license for an additional one-year period upon approval of the renewal application. All applications for renewal of licenses shall be processed in the manner provided for the issuance of the initial license, including the requirements for photographs, and must comply with and satisfy the qualification for licenses specified in this Section.

(c) Expiration of license. If the application for renewal of a license is not made during the time provided in subsection (a) herein, then the license shall expire upon the effective date, and a new license application shall then be required to reissue any expired license. The adult establishment shall remain closed from the date of expiration of the license until the date of approval of the reissuance of the adult entertainment license. No person whose entertainer license has expired may work in an adult establishment until the date of approval of the reissuance of the entertainer license.

Section 6.5.7 Prohibited Acts and Conduct

(a) Prohibited acts and conduct are outlined as follows:

(i) Minimum age for admittance. No person under the age of 21 years shall be permitted on the premises of any adult establishment.

(ii) Minimum age for licenses. No person under the age of 21 years shall be granted a license for an adult establishment business or an adult entertainer license.

(iii) Limitation on activities. No owner, operator, manager, employee or entertainer, nor any customer or patron, shall perform any specified sexual activities as defined in this section, wear or use any device or covering exposed to view which simulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities, as defined in this section, or participate in any act of prostitution while on the premises of the adult establishment.

(iv) Touching of specified anatomical areas prohibited. No owner, operator, manager, employee, entertainer, customer or patron of an adult establishment shall knowingly touch, fondle, or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle, or caress any specified anatomical area of his or hers, whether such specified anatomical areas are clothed, unclothed, covered, or exposed while on the premises of the adult establishment.

(v) Violations prohibited. No owner, operator, manager or other person in charge of the premises of an adult establishment shall knowingly allow or permit a violation of this section.

(vi) Private viewing booths. Where any adult establishment provides or contains booths designed for individual or private viewing of adult motion pictures, adult live entertainment, specified anatomical areas, or specified sexual activities, said booths must be designed and situated so that the area occupied by the patron is visible at all times from a central location within the establishment, and may not have a door, curtain, or other device that shields the patron from view.

(vii) Coverage required. Any entertainer as defined herein, must keep his or her pubic region and genital area fully and opaquely covered at all times during any adult live entertainment, exhibition, show, or performance in an adult establishment. Other employees of adult establishments must keep their specified anatomical areas fully and opaquely covered while in the public areas of the adult establishment.

(viii) Exposure prohibited. No person in an adult establishment who is not engaged in adult live entertainment, or an exhibition, show, or performance may expose any specified anatomical areas in any public area of an adult establishment.

(ix) Coverage when touching. No entertainer or other employee in an adult establishment may touch a patron unless his/her specified anatomical areas are fully and opaquely covered.

(x) Activity within same structure. No other activity associated with an adult establishment may be conducted on the same premises as the adult establishment unless said activity is conducted within the same permanent structure housing the adult establishment. This limitation shall not apply to such activities as parking, building maintenance, and other common incidents of premises use and occupancy.

(xi) Alcoholic beverages. No alcoholic beverages of any type shall be sold, served, possessed, or consumed in or on the property of an adult establishment.

Section 6.5.8 Reserved

DRAFT

VII

Signs

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Article VII. SIGNS

Section 7.1 General Provisions

(a) **Purpose and Intent**

(i) The purpose of this Article is to guide and regulate the construction and placement of off-premise signs in the County. It is the intent of this Article to preserve and maintain the scenic and aesthetic environment of the County in order to protect and promote the tourist industry and the quality of life of the County's residents and visitors; to improve safety for local and visiting motorists and pedestrians in the County by reducing the distracting influence of uncontrolled off-premise signs; to minimize the possible adverse effect of off-premise signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign regulations.

(b) **Applicability**

(i) An off-premise sign may be erected, placed, established, painted, created or maintained in the jurisdiction of this article only in conformance with the standards, procedures, exemptions and other requirements of this article.

(ii) For the regulation of signs for adult businesses, refer to Section 6.5.

(iii) For on-premise and off-premise signs in Regulated Districts, refer to Sections 9.3.11, 9.4.9, and 9.5.8.

(c) **Permit Required - Compliance**

(i) Except as specifically exempted, prohibited or regulated but not requiring a permit in this section, all off-premise signs or sign components constructed, reconstructed, placed, relocated or maintained shall require a permit in accordance with the provisions of Section 3.4, Common Review Procedures. All off-premise advertising signs permitted by this Section shall be constructed and erected in accordance with State Building Codes, as amended.

(d) **Administration and Enforcement**

(i) The Planning Director shall be responsible for the administration and enforcement of this article per Section 2.1 of the UDO.

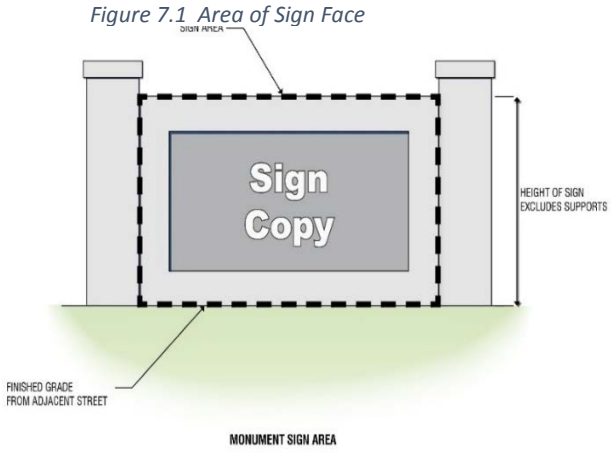
(ii) Refer to Article X: Violations and Enforcement for the standards regarding violations, citations, and penalties.

Section 7.2 Off-Premise Sign Computations

(a) **Area**

(i) The area of a sign face shall be computed by means of the smallest square or rectangle, that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display used to differentiate the sign from the backdrop against which it is placed, but not including any supporting framework or bracing which is clearly incidental to the display itself.

Figure 7.1 Area of Sign Face

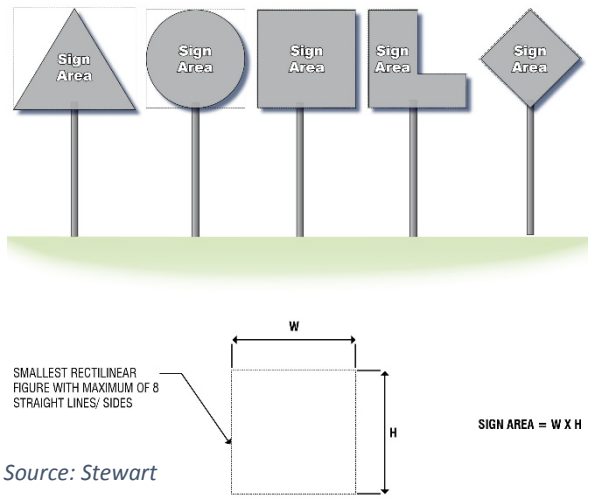


(b) **Height**

(i) The height of a freestanding off-premise sign shall be computed as the vertical distance from the point on the sign that is level with the highest paved portion of the street right-of-way or recorded access easement to the top of the highest attached component of the sign. The highest paved portion of the street right-of-way or recorded access easement shall be measured along the frontage of the property where the sign shall be located.

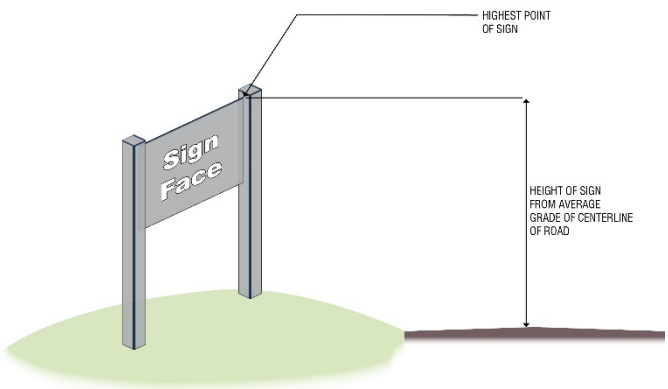
Source: Stewart

Figure 7.2 Sign Measurement



Source: Stewart

Figure 7.3 Sign Height



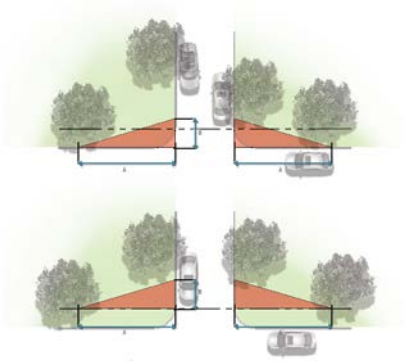
Source: Stewart

(c) **Clear Sight Distance Required**

(i) Clear sight distance at street intersections is required.

(ii) Signs shall be located outside the required sight triangle as detailed in Figure 7.4 Sight Triangle.

Figure 7.4 Sight Triangle



Source: Stewart

Section 7.3 Off-Premise Signs Regulated

(a) The following off-premise signs are regulated under this section but do **not** require a permit:

(i) Directional Signs, governmental signs, warning signs posted by utility or construction company, flags or insignia of any governmental or non-profit organization, commemorative tablets, markers, or monuments constructed by or with the permission of the Board of Commissioners

1) Off-premise directional signs as defined in this Ordinance shall not exceed a maximum of 16 square feet in area per directional flow of traffic and eight feet in height.
2) Not more than two directional signs shall contain directions or reference the same activity or business.
3) Off-premise directional signs shall be non-illuminated and located outside of any sight distance triangle.

(ii) Temporary Signs

1) Temporary signs not exceeding a maximum of 32 square feet in area.

Section 7.4 Prohibited Signs

(a) The following off-premise signs and off-premise sign features or components are prohibited:

(i) Signs obstructing the view of motorists entering or exiting roads or highways, or interfering with the driver's view of approaching, merging or intersecting traffic.

(ii) Animated signs and signs with direct illumination or signs with indirect illumination which direct or allow a lighting source to direct light on any residential dwelling or at any portion of a roadway with an intensity which may impair a driver's vision.

(iii) Any non-governmental sign resembling a public safety warning or traffic signal.

(iv) Signs constructed or maintained upon trees and utility poles or painted or drawn upon rock formations or other natural features.

(v) Off-premise signs along federal or state scenic byways, and local scenic byways designated by the Board of Commissioners.

(vi) Portable off-premise signs without permanent foundations, such as shown in Figure 7.5.

(vii) Off-premise roof signs and attached signs.

Figure 7.5 Type of Portable Off-Premise Sign

Source: Stewart

Section 7.5 Off-Premise Signs (Billboards)

(a) The following regulations shall be applicable to all off-premise signs as herein defined and as shown on Table 7.1. Any sign not specifically allowed is prohibited.

(b) Size

(i) No off-premise sign permitted by this section shall exceed the following maximum sign area:

1) A maximum of 300 square feet per directional flow of traffic on roads with four or more lanes.
2) A maximum of 150 square feet per directional flow of traffic on roads with fewer than four or more lanes.
   a) A maximum of two faces per sign structure is allowed, positioned either back to back or V-shaped, such that only one face is allowed per side. Both sides of a double-faced or V-shaped sign shall be of equal size. In no case shall there be more than one face per directional flow of traffic.

(c) Height

(i) No off-premise sign permitted by this section shall exceed the following maximum sign height.

1) A maximum height of 40 feet for signs 300 square feet in area.
2) A maximum height of 20 feet for signs less than 300 square feet in area.

Table 7.1 Area and Height Allowances for Off-Premise Signs

Number of Traffic Lanes	Maximum Allowed Area	Maximum Allowed Height
4 or more	300 SF	40 FT
Fewer than 4	150 SF	20 FT

(d) Spacing
   (i) The minimum spacing between off-premise signs as measured along the same side of the nearest edge of the adjacent roadway shall be 500 linear feet.
   (ii) A minimum spacing of 250 feet is required between an off-premise sign and the nearest point of any church or place of worship and school buildings and playgrounds located within 600 feet of the public right-of-way where said sign is proposed to be located.

(e) Setbacks
   (i) Off-premise signs shall meet the following setback requirements:
      1) The setback shall be ten feet from the right-of-way of any adjacent road but shall be no closer than 30 feet from the edge of the traveled way of any road and outside of all sight triangles.
      2) All off-premise signs shall be located at least ten feet from any abutting property lines.

(f) Extensions
   (i) No off-premise sign shall have any extensions, additions or copy that cause the sign to exceed the maximum permitted size, height, or setback.

(g) Illumination
   (i) Off-premise signs may be indirectly illuminated or non-illuminated. No off-premise sign shall contain any animated features as defined in Article XI: Definitions, or any form of direct illumination per NCAC 19A.2E.0203.

(h) Digital Displays Allowed
   (i) Off-premise signs containing digital LED displays shall be allowed when in compliance with the following regulations:
      1) Any modernization of an off-premise sign occurs as described in Section 7.6(d).
      2) Off-premise signs with digital displays shall meet the minimum North Carolina Department of Transportation requirements for illumination, animation, and message duration contained in NCAC 19A.2E.0203.

Section 7.6 Maintenance

(a) All signs and their structures shall be maintained in good repair and safe condition and shall conform to the standards in this section. Maintenance carried out in accordance with this section shall not require a sign permit, provided the sign is not enlarged, moved or altered in any manner which would create or increase a nonconforming condition. Any sign violating the following requirements shall be repaired or removed as required:
   (i) No sign shall be allowed to have more than 50 percent of its total surface area covered with disfigured, cracked, ripped or peeling paint or poster paper, or any combination of these conditions for more than 30 consecutive days.
   (ii) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts which cause the sign to stand more than 15 degrees from the perpendicular more than 30 consecutive days.
   (iii) No sign shall be allowed to have weeds, vines or other vegetation growing on more than 20 percent of the sign face for more than 30 consecutive days.
   (iv) No illuminated sign shall be allowed to stand with only partial illumination for more than 30 consecutive days.
   (v) If a non-conforming sign is damaged such that more than 50 percent of the sign's value, as defined in Article VIII: Nonconformities, Section 8.8; is lost, as determined by the Planning Director, said sign shall be required to be brought into conformance within 60 days.

(b) Vegetation Removal

(i) No person may, for the purpose of increasing or enhancing the visibility of any sign, damage, trim or remove any trees, shrubs, or other vegetation located within any publicly owned road or highway right-of-way outside the maximum removal zone as described in NCGS 136-133.1, except as permitted through the North Carolina Department of Transportation per NCGS 136-133.4.

(c) Reconstruction of Damaged Signs

(i) Any conforming sign that has been damaged may be repaired and used as before, provided all repairs are initiated within 30 working days and completed within 60 working days of receipt of notification of such damage. However, if the sign should be declared unsafe by Planning Director, the owner of the sign, or the owner of record of the real property whereon the sign is located shall immediately correct all unsafe conditions to the satisfaction of the Planning Director.

(d) Modernization

(i) So long as the square footage of the advertising surface is not increased, repairs, reconstruction, and/or modernization of any off-premise advertising signs shall be permitted per NCGS 136-131.2.

Section 7.7 Revocations

(a) Valid sign permits for new signs may be revoked for any one of the following reasons:

(i) Misrepresenting material facts by the applicant on the permit.

(ii) Failing to construct the sign and affix the permanent emblem within 180 days from the permit issue date.

(iii) Altering, enlarging or relocating a permitted sign or a nonconforming sign, except in conformance with the requirements of this chapter.

(iv) Allowing a sign to remain blank for a period of 180 consecutive days or reaching a state of dilapidation or disrepair as determined by the Planning Director.

(v) Any violation of Sign Nonconformities in Section 8.8.

Section 7.8 Nonconformities

For the regulation of nonconforming signs, see Section 8.8 Nonconforming Signs.

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VIII

Nonconformities

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Article VIII. NONCONFORMITIES

Section 8.1 Purpose and Intent

The regulations of this Article govern nonconformities, which are lots, uses, developments, or signs that were lawfully established but because of the adoption of new or amended regulations or right-of-way acquisitions no longer comply with one or more requirements of this ordinance. The regulations of this Article are also intended to:

(a) Recognize the interest of landowners in continuing to use their property for uses and activities that were lawfully established.
(b) Promote maintenance, reuse, and rehabilitation of existing structures.
(c) Place reasonable limits on nonconformities that have the potential to adversely affect the health, safety, and welfare of surrounding properties or the community as a whole.

Section 8.2 General Provisions and Applicability

(a) Administration.
   (i) The Planning Director and the Permitting and Code Enforcement Director shall be responsible for the administration of this Section, unless otherwise stated.
(b) Upon the effective date of this Ordinance, and any amendment thereto, pre-existing structures or lots of record and existing and lawful uses of any building or land which do not meet the minimum requirements of this Ordinance or which would be prohibited as development in the Regulated District in which they are located shall be considered as nonconforming.
(c) It shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity or a nonconforming situation except as specifically provided below:
   (i) A nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this Ordinance, was clearly designed or arranged to accommodate such uses. However, a nonconforming use may not be extended to additional building or to land outside the original buildings.
   (ii) Minor repairs and routine maintenance of property where nonconforming situations exist are permitted and encouraged.
(d) Change in Tenancy or Ownership.
   (i) Nonconforming status runs with the land and is not affected by changes of tenancy, ownership, or management.

Section 8.3 Authority to Continue

Any nonconformity that existed on the effective date of this Ordinance or any situation that becomes nonconforming upon adoption of any amendment of this ordinance may be continued in accordance with the regulations of this section.

Section 8.4 Loss of Nonconforming Status

(a) A nonconforming use shall be presumed discontinued when any of the following has occurred:
   (i) A conforming use has replaced the original nonconforming use
   (ii) The building or structure housing the nonconforming use has been removed

(iii) The owner has physically changed the building, structure, or its permanent equipment in such a way as to indicate clearly a change in use or activity to something other than the nonconforming use

(iv) The property, structure, or use has been vacant or completely inactive for one year, unless otherwise stated.

Section 8.5 Expansion of Use

A nonconforming use may not be enlarged or expanded unless such expansion eliminated or reduces the nonconforming aspects of the situation, or the expansion is into a part of a building or structure that was lawfully and manifestly designed or arranged for such use.

Section 8.6 Nonconforming Lots, Sites, Structures and Uses

Section 8.6.1 Airport Hazard Zoning Area

(a) **Regulations not Retroactive**

(i) The regulations prescribed in Section 9.2, Airport Hazard Zoning Area, shall not be construed to require the removal, lowering, or other change or alteration of any structure or trees not conforming to the regulations as of the effective date of this Ordinance, or amendments thereto, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of the Ordinance and is diligently prosecuted.

(b) **Marking and Lighting**

(i) Notwithstanding the provisions of Section 9.2 the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the administrating agency to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction.

Section 8.6.2 Nonconforming Lots, Structures, Uses, and Access in Regulated Districts

(a) Regulated Districts – All - unless otherwise noted.

(i) General.

1) Continuation of nonconforming situations. Any nonconforming use, structure, or lot that lawfully existed as of the effective date of this ordinance and that remains nonconforming and any use, structure, or lot that has become nonconforming as a result of the adoption of this ordinance or any subsequent rezoning or amendment to the text of this ordinance or the official zoning map may be continued and maintained only in accordance with the terms of this ordinance.
2) Variances. This subsection shall not apply to any feature that is the subject of a variance from particular standards that has been granted by the Cashiers Area Community Planning Council subsequent to the adoption of this ordinance. When a variance has been granted for a feature that does not otherwise conform to the requirements of this ordinance, that feature shall be deemed conforming.

(ii) Nonconforming lots.

1) A nonconforming lot is a lot that existed, recorded by plat or description in the Office of the Register of Deeds for Jackson County, at the time of adoption of this ordinance but that does not meet the dimensional requirements for the district in which it is located. A nonconforming lot may be used for any of the uses permitted by this ordinance provided that all other minimum requirements for the district are met.

(iii) Nonconforming structures.

1) A nonconforming structure is a structure that was in existence prior to the adoption of this ordinance that does not meet the minimum requirements for the district in which it is located. Any nonconforming structure may be occupied, without expansion, by a conforming use or may be improved or expanded provided any improvement or expansion meets the minimum standards of this ordinance or a variance must be obtained from these standards.

(iv) Nonconforming uses.

1) A nonconforming use of a structure is a use, located in a structure, that was in existence prior to the adoption of this ordinance that is not permitted by this ordinance in the district in which it is located. A legally established nonconforming use may be continued subject to the following limitations:
   a) When a nonconforming use of a structure has been changed to a conforming use, it may not later be used for any nonconforming use.
   b) A nonconforming use may be enlarged or extended only into portions of the structure in which it is located that existed at the time the use became nonconforming. No structural alterations are allowed to any structure containing a nonconforming use except where such alteration does not enlarge the structure, or where the alteration is required by law or an order from the Jackson County Planning Department to ensure the safety of the structure.
   c) A nonconforming use of a structure that is abandoned for a continuous period of more than 180 days may not be re-established and all subsequent uses of the structure must be in conformance with the standards of the district in which it is located.
2) A nonconforming use of a structure may not be converted to another nonconforming use.

(v) Maintenance and repair of nonconforming structures.

1) Maintenance or required alterations or remodeling. Structural alterations or remodeling of nonconforming structures that are required by any public law, and so ordered by a public officer in authority, shall be permitted. Routine maintenance shall also be permitted for nonconforming situations so long as no expansion of the nonconformity occurs as a result of the maintenance.
2) Repair of damaged structures. Any nonconforming structure that is damaged by fire or other casualty may be repaired, provided such repair is accomplished:
   a) Without any increase in the cubical content or floor area.
   b) Without any change in location except to provide greater conformance with the requirements of this ordinance.
   c) Within one year of the fire or other casualty.
   d) That the use of the structure after repair does not result in a change from one nonconforming use to another nonconforming use.

(b) US 441 Gateway District Only

(i) Nonconforming access.

1) Access points along US 441 that do not conform to the standards set forth in this ordinance shall be designated as nonconforming access features and shall be brought into compliance with applicable standards only under the following scenarios:
   a) When a new access connection permit is requested as part of any permit application.
   b) A change in land use, or substantial enlargement or improvement to an existing land use, is made subject to the requirements set forth in Section 9.5.11.
   c) As road improvements are made within the public right of way for US 441 adjacent to the property.
   d) A nonconforming access is abandoned for a continuous period of more than 180 days, unless otherwise exempted by the county or NCDOT.
2) Normal maintenance and/or repair of an existing access connection shall not be considered a physical change in access that triggers compliance with this ordinance.
3) Notwithstanding the foregoing, NCDOT may prohibit, restrict, or modify the placement of any connection, at any time, to a single property in the interest of public safety and mobility.

Section 8.6.3 Scotts Creek Water Quality Protection District

(a) Structures which existed on or before the effective date of this Ordinance, or immediately preceding any applicable amendment thereto, shall be deemed in compliance with the standards found in Section 5.2, except in the following cases:
   (i) Additions
      1) If an addition is made to any existing structure or premises, such addition shall not increase the degree of nonconformity.
   (ii) Alterations or Repairs
      1) If alterations or repairs in excess of 50 percent of the physical value of an existing structure are made to that structure within one year, such structure and premises shall be made to conform to the current requirements of Section 5.2.
(b) The Permitting and Code Enforcement Director shall be charged with administration of this subsection.

Section 8.7 Nonconforming Manufactured Home Parks

(a) Manufactured home parks legally existing at the time of the adoption of this Ordinance with spaces completed, ready for occupancy, and/or occupied shall be deemed conforming.
(b) Manufactured home parks shall not be allowed to expand or increase in any manner after the effective date of this Ordinance, unless such expansion meets the requirements of Section 6.3.
(c) For the purpose of this section, a manufactured home park is “expanded” only when the total number of units in the manufactured home park increases.
   (i) The manufactured home park is considered expanded whether by the same or different owner where the new park is owned by a person or entity who is related to or has any interest whether actual, apparent, implied or constructive in the old park.
   (ii) A manufactured home park is not expanded when a unit existing at the time of the initial passage of this Ordinance is replaced with a different unit.
(d) Replacement of manufactured homes in Regulated Districts.
   (i) Dimensional or use nonconformities associated with manufactured homes shall be addressed in the following manner.

1) Replacement of one single wide manufactured home with another manufactured home in a lawfully established manufactured housing park. Such replacement shall be permitted without regard to dimensional nonconformity provided that the replacement manufactured home meets the definition and standards for a Class B manufactured home as set forth in this ordinance, the replacement manufactured home is no older and no smaller than the existing manufactured home, and that replacement home is located on existing spaces ready for occupancy and/or occupied. In all other situations, replacement shall be prohibited.
2) Manufactured home parks that have abandoned their use for a period of one year or more may only be reestablished in conformance with existing regulations. For the purposes of this subsection, a manufactured home park is deemed to be abandoned when all spaces vacant, or when all manufactured homes located on the sites are vacant and unfit for human habitation (i.e. vegetation growing through the unit, roof is collapsed, home is not set-up or hooked to water and sewer)
3) Replacement of one single-wide manufactured home with another manufactured home in areas other than a lawfully established manufactured housing park.
   a) Such replacement shall be permitted provided that new dimensional nonconformities are not created, the replacement manufactured home meets the definition and standards for a Class B manufactured home on an individual lot as set forth in this ordinance, the replacement manufactured home is no older and no smaller than the existing manufactured home, the replacement home is placed in the same location as the original home, and such replacement occurs within 180 days of the last day of occupancy of the original manufactured home. In all other situations, replacement shall be prohibited.

Section 8.8 Nonconforming Signs

Section 8.8.1 Nonconforming Off-Premise Signs

(a) Per NCGS 160A-199, all nonconforming signs legally in existence prior to the effective date of the Ordinance are permitted to continue, provided that no such sign shall be:
   (i) Changed, altered or expanded in any way which increases the sign's nonconformity
   (ii) Replaced by another nonconforming sign, except that copy may be changed on an existing sign
   (iii) Relocated, except in conformance with the requirements of this Section
   (iv) Reestablished after it has been removed or abandoned for 180 days or more
(b) If a nonconforming sign is damaged or destroyed such that the damage to the sign exceeds 50 percent of the sign's value as herein defined, the sign may be reconstructed at the same location to the same size, height, setbacks, lighting, and orientation of the damaged sign before the damage or destruction occurred, provided the sign shall not be reconstructed in any way which increases the sign's nonconformity. The Planning Director shall determine the extent of damage to the sign.

Section 8.8.2 Nonconforming On-Premise Signs in Regulated Districts

(a) Nonconforming signs – Cullowhee Community Planning District.
   (i) All signs or sign structures that existed prior to the adoption of this ordinance and made nonconforming by the requirements of this ordinance shall be allowed to remain, but may not be:

1) Changed to or replaced by another non-conforming sign or sign structure.
2) Structurally altered, except to meet safety requirements.
3) Altered so as to increase the degree of nonconformity of the sign or sign structure.
4) Expanded in sign area or structure.
5) Re-established after its discontinuance for 60 days.
6) Continued in use after cessation of the business it advertises.
7) Re-established after damage or destruction due to factors other than vandalism or other criminal acts if the estimated cost of reconstruction exceeds 50 percent of its present value, as determined by the Jackson County Planning Department.

(b) Nonconforming signs – US 441 Gateway District.

(i) All signs or sign structures that existed prior to the adoption of this ordinance and made nonconforming by the requirements of this ordinance shall be allowed to remain, but may not be:

1) Changed to or replaced by another nonconforming sign or sign structure.
2) Structurally altered, except to meet safety requirements.
3) Altered so as to increase the degree of nonconformity of the sign or sign structure.
4) Expanded in sign area or structure, provided that an existing multipole structure that has a valid NCDOT permit may be changed to a new monopole structure.
5) Reestablished after its discontinuance for 60 days.
6) Continued in use after cessation of the business it advertises.
7) Billboards that do not have a valid NC DOT permit may not be re-established after damage or destruction due to factors other than vandalism or other criminal acts if the estimated cost of reconstruction exceeds 50 percent of its present value, as determined by the Jackson County Planning Department. Billboards that do have a valid NC DOT permit may be reestablished after damage or destruction.

(c) Nonconforming signs – Cashiers Regulated District

(i) Signs for nonconforming uses, where the nonconforming use may continue, shall be permitted provided the signs comply with all regulations for signs set forth in section 9.3.11.

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IX

Regulated Districts

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Article IX. REGULATED DISTRICT STANDARDS

Section 9.1 Introduction and General Provisions

(a) **Authority and Purpose**

(i) It is the purpose of this Article to provide standards to regulate development in specific regulated districts pursuant to the authority vested in Jackson County by the General Assembly of the State of North Carolina in provisions of the North Carolina General Statutes, which include NCGS 153A, Article 18 as amended.

(ii) These regulations which apply to the regulated districts promote the health, safety, and general welfare of the community; to provide for sound and orderly development; to facilitate the adequate provision of transportation, water and sewer utilities, schools, and parks; to promote the economic prosperity of the community; to preserve the community's unique scenic quality; to conserve the natural resources and environmental quality of the community; and to protect and conserve the heritage.

(b) **Jurisdiction**

(i) Standards in this Article apply only to lands within the regulated districts which may be modified by map amendment in accordance with NCGS 160A-360 and Section 3.7.12.

(ii) The location and boundaries of the regulated districts established by this Ordinance are shown on a geographic coverage layer that is maintained as part of the County's geographic information system (GIS) as detailed in Section 1.8 Identification of Regulated Districts Maps.

(iii) The boundaries of the regulated districts shall be interpreted by the Planning Director per Section 1.9 of this Ordinance.

(c) **Administration**

(i) For the purposes of the regulated districts contained in this Section, the Planning Director or the Permitting and Code Enforcement Director shall, as defined in Article II: Administration, be responsible for administering the UDO within the Regulated Districts.

Section 9.2 Airport Hazard District

(a) **Authority**

(i) The Board of Commissioners in accordance with the requirements of NCGS Article 4 of Section 63 established the Airport Hazard Zoning Regulations of Jackson County within the bounds of the Jackson County Airport Hazard Zoning Area as delineated on the Jackson County Airport Zoning map on file in the Jackson County Planning Department and the Jackson County Airport Authority's office, and as adopted by the Jackson County Board of Commissioners.

(b) **Purpose**

(i) The purpose of the regulations is to consider the flying operations to be conducted at the Jackson County Airport (airport), nature of terrain surrounding the airport, height of objects around the airport and possibility of lowering such, and compliance with the comprehensive plan approved by the Federal Aviation Administration (FAA) for future development and operations of the airport.

(ii) This section regulates the development, growth, or construction of objects that may become hazards to air traffic utilizing the Jackson County Airport and that would endanger the lives and property of users of the airport and of occupants of land in its vicinity.

(c) **Use Restrictions**

(i) Notwithstanding any other provisions of the section, no use may be made of land or water within any zone established by this section in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(d) **Airport Zones**

(i) In order to carry out the provisions of this section, there are hereby created and established certain zones which include all of land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Jackson County Airport. Such zones are shown on the airport hazard zoning map located in the Jackson County Planning and Land Records Departments, which is made part of this section by reference. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various surfaces and zones are hereby established and defined as follows:

1) Utility runway visual approach zone. The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2) Utility runway non-precision instrument approach zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3) Runway larger than utility visual approach zone. The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
4) Runway larger than utility with a visibility minimum greater than three-fourths mile non-precision instrument approach zone. The inner edge of this zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
5) Runway larger than utility with a visibility minimum lower than three-fourths mile non-precision instrument approach zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
6) Precision instrument runway approach zone. The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of

50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

7) Transitional zones. The transitional zones are the areas beneath the transitional surfaces.
8) Horizontal zone. The horizontal zone is established by swinging arcs of 5,000 feet radii for all runways designated utility or visual and 10,000 feet for all others from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
9) *Conical zone.* The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward there from a horizontal distance of 4,000 feet.

(e) **Airport Zone Height Limitation**

(i) Except as otherwise provided in this section, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this section to a height in excess of the applicable height herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1) Utility runway visual approach zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2) Utility runway non-precision instrument approach zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3) Runway larger than utility visual approach zone. Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
4) Runway larger than utility with a visibility minimum greater than three-fourths mile non-precision instrument approach zone. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
5) Runway larger than utility with a visibility minimum lower than three-fourths mile non-precision instrument approach zone. Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
6) Precision instrument runway approach zone. Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
7) Transitional zones. Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface and extending to a height of 150 feet above the airport elevation, which is 2,857 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and the same elevation as the approach surface and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each

foot upward beginning at the sides of and the same elevation as the approach surface and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

8) Horizontal zone. Established at 150 feet above the airport elevation or at a height of 3,007 feet above mean sea level.
9) Conical zone. Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
10) Excepted height limitations. Nothing in this section shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 50 feet above the surface of the land.

(f) **Enforcement**

(i) It shall be the duty of the Jackson County Planning Department to administer and enforce the regulations prescribed herein per Article X: Violations and Enforcement**.**

(g) **Appeals**

(i) Decisions of the Planning Department under this section may be appealed to the Board of Adjustments pursuant to the provisions of Section 3.7.3 Administrative Appeals of this Ordinance.

Section 9.3 Cashiers Commercial Area

Section 9.3.1 General Provisions

(a) **Authority; Title.**

(i) This Ordinance is adopted pursuant to the authority vested in Jackson County by the General Assembly of the State of North Carolina in provisions of the North Carolina General Statutes, which include N.C.G.S.153A, Article 18 as amended.

(b) **Jurisdiction**

(i) The provisions of this section shall apply within the area defined as the Cashiers Commercial Area, as defined on the map so labeled. This map shall filed in the office of the Jackson County Planning Department.

(c) **Official Map, Rules of Construction**

(i) Official Zoning Map. The boundaries of the zoning districts are effective at the same time this section is effective by the adoption by the Jackson County Board of Commissioners of a map entitled "Cashiers Commercial Area Zoning Map" (hereafter "zoning map"). The zoning map, together with all amendments adopted by the Jackson County Board of Commissioners, are incorporated herein by reference as if fully set forth herein. The zoning map shall be maintained in the office of the Jackson County Planning Department.

(ii) Interpretation of district boundaries.

1) The following rules of interpretation shall apply to the zoning map:
   a) District Designation. A district name on the zoning map indicates that the regulations pertaining to that district extend throughout the whole area bounded by the district boundary lines within which the name is shown.
   b) District Boundary Determination. Where uncertainty exists with respect to the boundaries of the various districts shown on the zoning map, the following rules shall be used to interpret the zoning maps:

i) Where a district boundary is shown to coincide approximately with a property line, the property line shall be considered to be the district boundary, unless otherwise noted.

ii) Where a district boundary is located within a roadway or public right-of-way or easement, it will be considered to be in the center of the roadway or public right-of-way or easement.

iii) Where a district boundary is shown dividing a lot, each part of the lot shall conform with the standards of the district in which that part is located.

(d) **Conflict or Inconsistency with Covenants, or Deed Restrictions**

(i) Conflicts with covenants, deed restrictions, etcetera. This section is not intended to abrogate any covenant, deed restriction, or other private agreement. Where regulations of this section impose higher standards or requirements than covenants, deed restrictions, or other private agreement, then the requirements of this section shall govern.

Section 9.3.2 Procedures

(a) In addition to information contained in Section 9.3, refer to the following sections for procedures relative to the Regulated District.

(i) Design review - see Article III, 3.7.4.
(ii) Sign permits - see Article III, Section 3.4.
(iii) Special use permit - see Article III, Section 3.7.15.
(iv) Temporary use permit and procedures, see Article III, Section 3.7.18.
(v) Text amendment - see Article III, Section 3.7.19.
(vi) Map amendment- see Article III, Section 3.7.12.
(vii) Zoning permits - see Article III, Section 3.7.21.
(viii) Variance- see Article III, Section 3.7.20.
(ix) Administrative Appeal procedure - see Article III, Section 3.7.2 (c).

Section 9.3.3 District Regulations

(a) **District Descriptions**

(i) Criteria for Zoning Districts. For the purposes set forth in Article I: General Provisions, the Cashiers Commercial Area is divided into zoning districts taking into account the design, size, and/or location of one or more of the following:

1) Transportation facilities
2) Schools, parks, and other public facilities
3) Availability of emergency services
4) Water supplies for purposes of fire protection and consumption
5) Availability of sanitary sewer and/or septic systems
6) Access to and location of other utility services
7) Potential hazards from fire and flooding
8) Access to light and air from buildings
9) Topography and other natural features
10) Current uses of land and buildings for residences, businesses, churches, schools, and for other uses, and height of buildings, the size and location of yards, and the density of development in each of the zoning districts hereinafter mentioned.

(b) **Enumeration and Description of Zoning Districts**. The following general use districts are established in this article and described below and in Figures 9.1 and 9.2.

(i) **Village Center District (VC)** in which a variety of retail, office, and residential uses are permitted at a density that will preserve and enhance the central commercial area of Cashiers.

(ii) **General Commercial District (GC)** in which a variety of retail, office, and residential uses are permitted at a scale and density appropriate for areas located outside the village center, which serves automobile traffic.

(c) **Designation of Districts on Official Zoning Map.** Each district shall be shown on the Official Zoning Map of the Village of Cashiers, North Carolina, a copy of which is located in the Jackson County Planning Department. Said map, and all district designations, boundaries, figures, letters, and symbols shown on the map, are hereby declared to be a part of this section.

(d) **Village Center District (VC)**

(i) Purpose. The Village Center District is established to provide an area for development that will enhance the traditional commercial core of the village. Ease of access between businesses and the sharing of parking are encouraged through the standards established for the Village Center District. Development in this district should be sensitive to and accommodate pedestrians and also provide for adequate and safe vehicular access. Maintaining the traditional scale of development in the village center is an important goal of this district.

(ii) Permitted and prohibited uses. For a list of permitted and prohibited uses, see Table 9.1.

(iii) Unlisted uses. In the case of uses not listed in Table 9.1, the Planning Director will make a determination of the group appropriate for such uses. In reaching the determination, the Planning Director must determine the most similar use that has comparable impacts.

(iv) Uses by right, subject to special requirements. The uses listed below are permitted provided the specific requirements identified for each use are met.

1) Antenna.
   a) Must comply with all FCC and FAA rules and regulations.
   b) Shall not interfere with usual and customary radio and television reception.
   c) Structures on which amateur radio facilities are mounted shall not exceed 100 feet in height.
   d) Antennas for receiving microwave or satellite signals shall not exceed four feet in height or diameter and shall be mounted on support structures less than 12 feet in height.
2) Car washes.
   a) Only one entrance/exit permitted.
   b) Entrance(s) and exit(s) to wash bays shall be perpendicular to the street/road.
   c) Vehicular use area shall be screened from roads by an "A" buffer as described in Section 9.3.7.
3) Distributive businesses.
   a) Building and site design shall comply with the Cashiers Commercial Area Design Guidelines
   b) No outdoor storage of materials, goods, etc. permitted.
      All loading and service facilities shall be located at the rear of the building and screened from adjacent properties, roads, and public rights-of-way with a "B" buffer as described in Section 9.3.7.
4) Drive-through facilities.
   a) Shall be located at the side or rear of the principal structure.
   b) Maximum of two lanes providing drive through services permitted.
5) Motor vehicle repair.
   a) No storage of abandoned or inoperable motor vehicles shall be permitted.

Figure 9.1 Village Center District Standards

Cashiers Village Center (VC) District

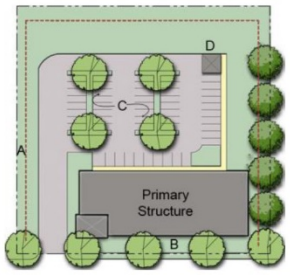
Intent and Character

The VC Village Center District is established to provide an area for development that will enhance the traditional commercial core of the Village. Ease of access between businesses and the sharing of parking are encouraged through the standards established for the Village Center District. Development in this district should be sensitive to and accommodate pedestrians and also provide for adequate and safe vehicular access. Maintaining the traditional scale of development in the Village Center is an important goal of this district.

DEVELOPMENT STANDARDS

** Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.*

LANDSCAPE/BUFFERS



A. Bufferyard required along property lines, except street front when adjacent to dissimilar uses.

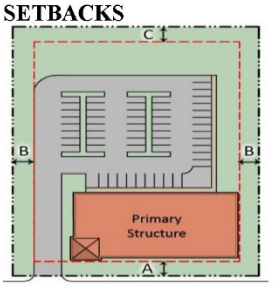
B. Street trees required along street frontage

C. Parking Lot/Vehicle Use Area landscaping is required.

D. Dumpsters must be screened

Note: See Sec. 9.3.7 for landscaping details.

SETBACKS

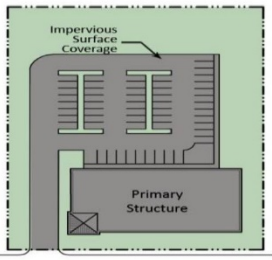


A. Maximum Front Building Setback: 20 feet

B. Corner Lot, Street Side: 20 feet.

Note: Buffering requirements in Section 9.3.7 may require an additional setback.

ENVIRONMENTAL STANDARDS



Maximum Impervious Surface Coverage: 70%

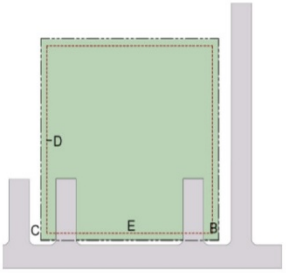
Parking Lots: Refer to Sec 9.3.6 of the Ordinance

Stream Buffers: 30 feet

Stormwater Management: 1,000-5,000 square feet of impervious surface requires stormwater management plan concepts

5,000 or more requires a Stormwater Management Plan (See Sec 9.3.10 and Article V).

ACCESS POINTS



A. Maximum/Minimum Width:
Maximum One-Way: 20 ft
Minimum One-Way: 14 ft
Maximum Two-Way: 36 ft
Minimum Two-Way: 24 ft

B. Minimum Distance from Street Intersection: 25 ft

C. Minimum Distance from Other Access Points: 25 ft

D. Minimum Distance from Property Line: 5 ft

Note: a maximum of 2 access points are permitted per parcel/development on any one street, with a minimum distance of 50' between the access points on a single parcel.

STRUCTURE SIZE:

A. Maximum Structure Size: ≤ 5,000

(Structures exceeding 1,500 square feet footprint—including decks, porches, and other add-ons-- require a conditional use permit.)

B. Maximum Structure Height: 30 Feet

ADDITIONAL DEVELOPMENT STANDARDS

Lighting..... Section 9.3.8
Landscaping and Buffering.....Section 9.3.7
Stormwater Management.....Section 9.3.10
Signage.....Section 9.3.11
Prohibited Signage.....Section 9.3.11
Parking.....Section 9.3.6

Figure 9.1 Village Center District Standards (cont)

Cashiers Village Center (VC) District

VILLAGE CENTER: PERMITTED USES

Residential:
- Accessory apartments
- Dwellings, multi-family (fewer than 3 units on a single parcel)
- Dwellings, single family detached (fewer than 3 units on a single parcel)
- Dwellings, single family attached (fewer than 3 units on a single parcel)

Recreational:
- Arboretums
- Camps, campgrounds
- Golf courses
- Greenways and pedestrian paths
- Passive parks
- Recreational uses, commercial indoor
- Recreational uses, commercial outdoor
- Recreational uses, governmental
- Recreational uses, restricted to membership, non-profit

Institutional
- Adult day care centers
- Child day care centers
- Churches
- Civic, social service, and fraternal facilities
- Colleges
- Libraries
- Medical centers
- Schools

Public/semi-public:
- Amphitheaters
- Community centers
- Conference centers
- Fire/police stations
- Museums
- Post offices
- Public utilities and related facilities

Office/business:
- Automobile service stations (storage of abandoned and inoperable vehicles prohibited)
- Bakeries
- Barber shops and salons
- Bed and Breakfast Inns
- Bicycle shops

Office/business, continued:
- Bookstores
- Candy, pastry, ice cream, and snack shops
- Clinics - medical, dental, psychiatric, optical
- Clinics – veterinary
- Convenience stores
- Copying centers
- Delicatessens
- Financial institutions
- Florists
- Gift shops
- Hardware/garden supply stores
- Health and fitness facilities
- Home occupations
- Instructional services
- Laundry and dry-cleaning establishments
- Lodging facilities
- Offices
- Pharmacies
- Plant nurseries, sales and greenhouses
- Printing and publishing
- Restaurants
- Retail gasoline sales
- Retail sales
- Studios, galleries, and workshops for artists, craftspeople, designers, and photographers
- Theaters
- Video rental stores

Other:
- Accessory structures
- Building with footprint > 1,500 square feet
- Parking lots

VILLAGE CENTER: SPECIAL USE

Residential:
- Dwellings, 3 or more units (attached or detached) on a single parcel

Other:
- Building with footprint > 1,500 square feet

VILLAGE CENTER: Additional Standards

Office/Business:
- Car washes
- Distributive businesses
- Motor vehicle repair
- Self-storage facilities

Other:
- Antenna
- Drive through facilities
- Manufacturing, assembly, or finishing operations
- Outdoor storage

*Telecommunication towers are **not** permitted in the Village Center district.*

b) All repair and service shall be conducted within an enclosed building.
c) The use shall be screened from adjacent properties with an "A" buffer as described in Section 9.3.7.

6) Manufacturing, assembly, or finishing operations.
   a) Building and site design shall comply with the Cashiers Commercial Area Design Guidelines.
   b) No outdoor storage of products, materials, etc. shall be permitted.
   c) All manufacturing, processing, assembly, and other operations shall take place within an enclosed building.
      i) All loading/unloading areas shall be screened from adjacent properties, roads, and public rights-of-way with a "B" buffer as described in Section 9.3.7.
7) Outdoor storage.
   a) Storage of items shall be ancillary to the principal use.
   b) Only items sold or serviced by the business may be stored on the site.
   c) Areas containing items stored for more than four consecutive days must be screened from adjacent properties, public rights-of-way, and roadways with an "A" buffer as described in Section 9.3.7.
8) Outdoor display. Outdoor display is made a use subject to additional requirements, with the following requirements established for this use:
   a) Location of the outdoor display. The outdoor display area should be located on the same property as the business selling the goods/items being displayed. Additional standards addressing location of outdoor display are:
      i) No outdoor display of goods shall be located in any required setback
      ii) No outdoor display of goods shall be located in required parking spaces or access ways.
      iii) Outdoor display of goods may be located in front of the building provided that pedestrian entrances and exits are maintained free and clear of any obstructions.
      iv) Outdoor display of goods shall be located within 10 feet of the structure in the village center district and within 20 feet of the structure in the general commercial district, unless screened from adjacent properties and public streets/roads.
      v) The outdoor display of goods shall not obstruct pedestrian ways, sidewalks, access points, traffic circulation, etc. or interfere with access, circulation, or landscaping.
      vi) The area occupied by the outdoor display of goods shall not exceed an area equal to 20 percent of the gross floor area of the principal structure, or portion thereof, occupied by the business displaying the goods.
      vii) The maximum height of displayed items shall be six feet, unless otherwise approved by the Director. The maximum height includes both individual items and stacked items.
      viii) Clothing shall be displayed only under the canopy of the principal building (on the porch, in an arcade, etc.).
9) Food trucks or carts. Food trucks/carts may only be allowed within the Village Center zoning district during permitted temporary events (temporary events require temporary use permit compliant with Section 3.7.18.)

(v) Special uses. Buildings with a footprint of more than 1,500 square feet; two or more residential units, commercial units or buildings, whether attached or detached, which have a total footprint

of more than 1,500 square feet, are located on a single parcel of property or on contiguous parcels owned by the same owner and are developed over a period of two years.

(vi) Development Standards.

1) Structure size standards. New structures in the Village Center District shall not exceed a footprint of 1,500 square feet unless approved as a special use in accordance with the provisions set forth in Section 3.7.15.
2) Lot size standards. There is no minimum lot size in the Village Center District.
3) Lot width standards. There is no minimum lot width in the Village Center District.
4) Setback standards. The following setbacks shall be required for structures in the Village Center District.
   a) Front: ten feet minimum, 20 feet maximum
   b) Side: None required
   c) Rear: None required
   d) Corner lot, street side: ten feet minimum, 20 feet maximum
   e) The landscape and buffering standards in Section 9.3.7 may require additional setbacks; if so, the most restrictive requirement shall apply.
5) Impervious surface standard. The maximum impervious surface coverage in the Village Center District shall be 70 percent.
6) Height standard. The maximum height in the Village Center District shall be 30 feet.
7) Landscaping/buffering standard. Landscaping and/or buffering shall be provided as required by Section 9.3.7.
8) Parking and loading standards. Parking and loading facilities shall be provided as required by Section 9.3.6. No parking shall be permitted in any required setback or in any required buffer area. Shared parking areas are encouraged in the Village Center District.
9) Access standards. Points of access shall be limited to not more than two per development along any street or road. Points of access for a development shall be at least 50 feet apart and points of access for different developments shall be at least 25 feet apart. Shared access points for adjacent developments are encouraged and should be used wherever possible.
10) Lighting standards. Lighting shall comply with the standards set forth in Section 9.3.8.

(e) **General Commercial District (GC)**

(i) Purpose. The General Commercial (GC) District is established to provide for the orderly development of properties accessed by the roads serving Cashiers. Development in this district caters to the motoring public while acknowledging the need to preserve the small-town character of Cashiers. The wide range of development permitted in this district is designed to meet the needs of residents of and visitors to Cashiers.

(ii) Permitted and prohibited uses. For a list of permitted and prohibited uses see Table 9.1. List of Permitted Uses.

(iii) Unlisted uses. In the case of uses not listed in Table 9.1, the Planning Director will make a determination of the group appropriate for such uses. In reaching the determination, the Planning Director must determine the most similar use that has comparable impacts.

(iv) Uses by right, subject to special requirements. The uses listed below are permitted provided the specific requirements identified for each use are met.

1) Antenna.
   a) Must comply with all FCC and FAA rules and regulations.
   b) Shall not interfere with usual and customary radio and television reception.
   c) Structures on which amateur radio facilities are mounted shall not exceed 100 feet in height.

Figure 9.2 General Commercial District Standards

Cashiers General Commercial (GC) District

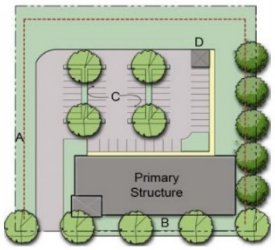
Intent and Character

The GC General Commercial District is established to provide for the orderly development of properties accessed by the roads serving Cashiers. Development in this district caters to the motoring public while acknowledging the need to preserve the small-town character of Cashiers. The wide range of development permitted in this district is designed to meet the needs of residents of and visitors to Cashiers.

DEVELOPMENT STANDARDS

* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

LANDSCAPE/BUFFER



E. Bufferyard required along property lines, except street front when adjacent to dissimilar uses.

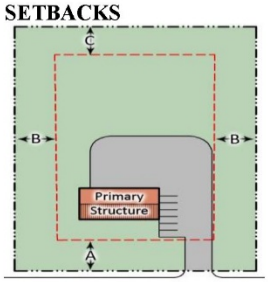
F. Street trees required along street frontage.

G. Parking Lot/Vehicle Use Area landscaping is required.

H. Dumpsters must be screened

Note: See Sec. 9.3.7 for landscaping details.

SETBACKS

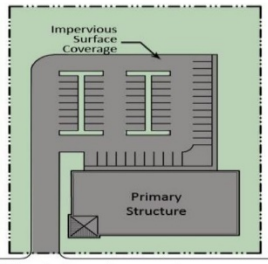


B. Maximum Front Building Setback: 20 feet

B. Corner Lot, Street Side: 20 feet.

Note: Buffering requirements in Section 9.3.7 may require an additional setback.

ENVIRONMENTAL STANDARDS



Maximum Impervious Surface Coverage: 70%
Paved or gravel, included building, driveway, & parking.

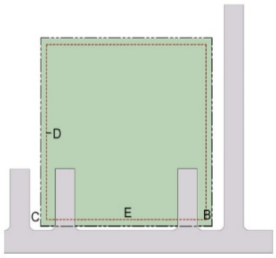
Parking Lots: Refer to Section 9.3.6 of the Ordinance

Stream Buffers: 30 feet

Stormwater Management: 1,000-5,000 square feet of impervious surface requires stormwater management plan concepts

5,000 or more requires a Stormwater Management Plan (See Sec 9.3.10 and Article V).

ACCESS POINTS



A. Maximum/Minimum Width:
Maximum One-Way: 20 ft
Minimum One-Way: 14 ft
Maximum Two-Way: 36 ft
Minimum Two-Way: 24 ft

B. Minimum Distance from Street Intersection: 25 ft

C. Minimum Distance from Other Access Points: 25 ft

D. Minimum Distance from Property Line: 5 ft

Note: a maximum of 2 access points are permitted per parcel/development on any one street, with a minimum distance of 100' between the access points on a single parcel.

STRUCTURE SIZE:

A. Maximum Structure Size:
≤ 5,000
(Structures exceeding 1,500 square feet footprint—including decks, porches, and other add-ons-- require a conditional use permit.)

B. Maximum Structure Height: 30 Feet

ADDITIONAL DEVELOPMENT STANDARDS

Lighting..... Section 9.3.8
Landscaping and Buffering.....Section 9.3.7
Stormwater Management.....Section 9.3.10
Signage.....Section 9.3.11
Prohibited Signage.....Section 9.3.11
Parking..... Section 9.3.6

d) Antennas for receiving microwave or satellite signals shall not exceed four feet in height or diameter and shall be mounted on support structures less than 12 feet in height.

2) Drive through facilities.
   a) Shall be located at the side or rear of the principal structure.
   b) Maximum of two lanes providing drive through services permitted.
3) Outdoor display. Outdoor display is made a use subject to additional requirements, with the following requirements established for this use:
   a) Location of the outdoor display. The outdoor display area should be located on the same property as the business selling the goods/items being displayed. Additional standards addressing location of outdoor display are:
      i) No outdoor display of goods shall be in any required setback.
      ii) No outdoor display of goods shall be in required parking spaces or access ways.
      iii) Outdoor display of goods may be in front of the building provided that pedestrian entrances and exits are maintained free and clear of any obstructions.
      iv) Outdoor display of goods shall be located within ten feet of the structure in the Village Center District and within 20 feet of the structure in the General Commercial district, unless screened from adjacent properties and public streets/roads.
   b) The outdoor display of goods shall not obstruct pedestrian ways, sidewalks, access points, traffic circulation, etc. or interfere with access, circulation, or landscaping.
   c) The area occupied by the outdoor display of goods shall not exceed an area equal to 20 percent of the gross floor area of the principal structure, or portion thereof, occupied by the business displaying the goods.
   d) The maximum height of displayed items shall be six feet, unless otherwise approved by the Planning Director. The maximum height includes both individual items and stacked items.
   e) Clothing shall be displayed only under the canopy of the principal structure (on the porch, in an arcade, etc.).
4) Outdoor storage.
   a) Storage of items shall be ancillary to the principal use.
   b) Only items sold or serviced by the business may be stored on the site.
   c) Areas containing items stored for more than four consecutive days must be screened from adjacent properties, public rights-of-way, and roadways with an "A" buffer as described in Section 9.3.7.
5) Self-service storage facilities.
   a) Shall be screened from adjacent properties, public rights-of-way, and roadways with a "B" buffer as described in Section 9.3.7.
   b) Unenclosed storage of vehicles, campers, etc. shall be located at the rear of the property.
   c) All vehicles stored on the property shall be licensed and operable.
6) Telecommunication tower
   a) Towers shall not exceed 100 feet in height.
   b) Tower shall be a monopole.
   c) Tower and equipment shall be screened from adjacent properties, roads, and rights-of-way with a "B" buffer as described in Section 9.3.7.
   d) Tower shall be setback a minimum of 50 feet from any residential property.
   e) Towers shall comply with the standards in Article VI: Development Standards.
7) Food trucks or carts.

a) Food trucks/carts shall only be permitted to operate from dawn to dusk. Food trucks/carts shall not operate after dark and shall not be on the permitted property when not in operation.
b) Food trucks/carts shall not have permanent accessory structures associated with their food vending business (bathrooms, picnic tables, storage, etc.
c) Food trucks/carts shall not have signage displayed that is not permanently attached to the vehicle (truck/cart). Temporary signage attached to the food truck/cart will not be permitted.
d) Food trucks/carts may have accessory lighting that is specific to the safe travel of their patrons (vehicles pathways). All accessory lighting will be operated by the food truck/cart and not a permanent service.
e) Food trucks/carts must have a minimum property area (lot size) of 0.40 acres to operate their business and a minimum of four parking stalls (for the first food truck/cart).
f) Each additional food truck/cart on the same property will be required to have an additional area of 0.25 acres and two additional parking stalls. There shall not be more than four food trucks/carts permitted on one lot at any time.
g) Food trucks/carts must be entirely self-contained. Temporary or permanent electrical services will not be permitted unless required by the North Carolina State Building Code.

8) Special uses.
   a) Buildings with a footprint of more than 1,500 square feet; or two or more commercial units or buildings, whether attached or detached, which have a total footprint of more than 1,500 square feet, are located on a single parcel of property or on contiguous parcels owned by the same owner and are developed over a period of two years.
   b) Animal boarding kennels meeting the following conditions:
      i) The lot on which the boarding kennel is located shall be a minimum of one acre.
      ii) Any building or pen housing animals shall be located a minimum of 150 feet from any residentially developed or zoned property.
      iii) All activities, with the exception of animal exercise areas, shall be conducted within an enclosed sound proof building.
      iv) Areas used for exercising of animals shall be securely fenced to prevent the animals from straying.
      v) All animal food and refuse shall be kept in airtight containers. Refuse shall be disposed of on a regular basis.
      vi) Animal waste shall not be stored within 150 feet of any property line or water course unless the storage is located indoors.
      vii) The total number of kennels shall not exceed 30.
      viii) The kennels shall not permit sound to constitute a nuisance to neighboring properties.
      ix) No odors greater than ambient odors shall be detectable at the lot boundaries of the lot containing the kennels.
      x) Animals shall be kept indoors between the hours of 9:00 p.m. and 7:00 a.m.
      xi) An attendant must be with the animal(s) at all times when the animal(s) are outside.
      xii) Animals boarded shall be limited to dogs and cats.

9) Development standards.
   a) Structure size standards. New structures in the General Commercial District shall not exceed a footprint of 1,500 square feet unless approved as a special use in accordance with the provisions set forth in Section 3.7.15.
   b) Lot size standards. There is no minimum lot size in the General Commercial District.

c) Lot width standards. The minimum lot width in the General Commercial District shall be 50 feet.
d) Setback standards. The following setbacks shall be required for structures in the General Commercial District.
   i) Front: 15 feet minimum, 25 feet maximum
   ii) Side: None required
   iii) Rear: None required
   iv) Corner lot, street side: 15 feet minimum, 25 feet maximum
   v) The landscape and buffering standards (Section 9.3.7) may require additional setbacks; if so, more restrictive requirements shall apply.
e) Impervious surface standard. The maximum impervious surface coverage in the General Commercial District shall be 70 percent.
f) Height standard. The maximum height in the General Commercial District shall be 30 feet.
g) Landscaping/buffering standard. Landscaping and/or buffering shall be provided as required by section 9.3.7.
h) Parking and loading standards. Parking and loading facilities shall be provided as required by section 9.3.6. No parking shall be permitted in any required buffer area. Shared parking areas are encouraged in the General Commercial District.
i) Access standards. Points of access shall be limited to not more than two per development along any street or road. Points of access for a development shall be at least 100 feet apart and points of access for different developments shall be at least 25 feet apart. Shared access points for adjacent developments are encouraged and should be used wherever possible.
j) Lighting standards. Lighting shall comply with the standards set forth in Section 9.3.8.

Table 9.1: List of Permitted Uses

P = Permitted Use **SR = Use Permitted, Subject to Special Requirements** **S = Special Use;** see Section <> for detailed requirements **N = Not Permitted**	**Zoning District Land Use**	
	Village Center	**General Commercial**
Residential		
Accessory apartments	P	P
Dwellings, multi-family (fewer than 2 units on a single parcel or on contiguous parcels owned by the same owner, and are developed over a period of two (2) years)	P	P
Dwellings, single family detached	P	P
Dwellings, single family attached	P	P
Recreational		
Arboretums	P	P
Camps, campgrounds	P	P
Golf courses	P	P
Greenways and pedestrian paths	P	P
Passive parks	P	P
Recreational uses, commercial indoor	P	P
Recreational uses, commercial outdoor	P	P
Recreational uses, governmental	P	P
Recreational uses, restricted to membership, non-profit	P	P
Institutional		
Adult day care centers	P	P
Child day care centers	P	P
Churches	P	P
Civic, social service, and fraternal facilities	P	P
Colleges	P	P
Libraries	P	P
Medical centers	P	P
Schools	P	P
Public/semi-public	P	P
Amphitheaters	P	P
Community centers	P	P
Conference centers	P	P
Fire/police stations	P	P
Museums	P	P
Post offices	P	P
Public utilities and related facilities	P	P
Office/Business		
Animal boarding kennel	N	P
Automobile service stations (storage of abandoned and inoperable vehicles prohibited)	P	P
Bakeries	P	P
Barber shops and salons	P	P
Bed and Breakfast Inns	P	P

Bicycle shops	P	P
Bookstores	P	P
Candy, pastry, ice cream, and snack shops	P	P
Car washes	SR	P
Clinics - medical, dental, psychiatric, optical	P	P
Clinics - veterinary	P	P
Convenience stores	P	P
Copying centers	P	P
Delicatessens	P	P
Distributive businesses	SR	P
Financial institutions	P	P
Florists	P	P
Fruit and vegetable markets	P	P
Gift shops	P	P
Hardware/garden supply stores	P	P
Health and fitness facilities	P	P
Home occupations	P	P
Instructional services	P	P
Laundry and dry-cleaning establishments	P	P
Lodging facilities	P	P
Motor vehicle repair	SR	P
Offices	P	P
Pharmacies	P	P
Plant nurseries, sales and greenhouses	P	P
Printing and publishing	P	P
Restaurants	P	P
Retail gasoline sales	P	P
Retail sales	P	P
Self-storage facilities	SR	SR
Studios, galleries, and workshops for artists, craftspeople, designers, and photographers	P	P
Theaters	P	P
Video rental stores	P	P
Other		
Accessory structures	P	P
Antenna	SR	SR
Building or multiple buildings or units with footprint > 1500 square feet located on a single parcel of property or on contiguous parcels owned by the same owner and developed over a period of two (2) years.	S	S
Drive through facilities	SR	SR
Manufacturing, assembly, or finishing operations	SR	P
Outdoor storage	SR	SR
Parking lots	P	P
Telecommunication towers	N	SR
Food trucks/carts	SR	SR

Section 9.3.4 Development Standards

(a) **Required Setbacks; Encroachments Permitted into Required Setbacks**

(i) General. A building, structure, or lot shall not be developed, used, or occupied unless it meets the minimum setback requirements set forth in Section 9.3.3 for the use district in which it is located, except as otherwise established in this section for particular uses or for encroachments as set forth in Section 9.3.4 (vi)*(*6) below.

(ii) Method for calculating setbacks.

1) Minimum setback. Minimum setback is the distance determined by measuring perpendicularly from and along the entire boundary of the property (property line) to the building line. Front setbacks shall be measured from the edge of pavement of the street fronting the property, provided that no structure or building is placed within the street or road right-of-way. In no case shall the minimum setback be closer to the street than the right-of-way line. A setback may be the front, rear, or side setback. Except for through lots as noted in Section 9.3.4 (iv) below, there shall be one front setback area for each property.
2) Overlap of setbacks. When more than one setback depth applies, the greatest setback dimension must be met.

(iii) Corner lots - setbacks*.* Unless otherwise specified in the zoning district regulations, the second street side of a corner lot shall have a setback requirement of 50 percent of the front setback requirements in that district.

(iv) Through lots - setbacks*.* Unless otherwise specified in the zoning district regulations, both street sides of through lots shall be considered a front yard and shall conform to the front setback regulations or the established building lines in the area per Section 9.3.4 (vi)(5) below.

(v) Adjusting building lines. Where there are lots that comprise 50% or more of the entire length of street frontage on the same side of the street, located on the same block, and that are developed such that buildings on those lots have front setbacks that do not vary more than ten feet, no building hereafter erected or structurally altered shall be required to have a front setback greater than the average front setback depth of those lots. Provided further, no front setback need exceed the average setback of the adjoining buildings on either side, if the adjoining buildings are less than 250 feet apart.

(vi) Allowable encroachments into required setbacks*.* The following buildings and structures may encroach into required setbacks as set forth below unless specifically prohibited elsewhere in this section.

1) Sills, cornices, and similar ornamental features projecting from a building may encroach up to 18 inches into any required setback.
2) Bay windows, balconies, and similar features projecting from a principal building may encroach up to three feet into any required setback.
3) Decks, steps, covered and uncovered porches, patios, and terraces may encroach into a required rear setback, but no closer than six feet to the rear property line.
4) Decks, steps, covered and uncovered porches, patios, and terraces may encroach up to ten feet into a required front setback.
5) Accessory buildings and structures may encroach into any required rear setback, but no closer than five feet to the rear property line.
6) Fences and walls may be located within the required minimum front or rear setback, provided the fence or wall does not exceed six feet in height.
7) Ramps for handicap accessibility and fire escapes required by the North Carolina State Building Code may encroach into any required setback.

Section 9.3.5 Site and Building Design Standards

(a) **Building Architecture**

(i) Building design and architecture are critical components for quality development. Building and architecture design standards are intended to promote compatibility within a development and throughout the Cashiers Commercial Area, allow creativity and diversity of design, protect property values and neighborhood quality, and provide a safe and attractive environment for residents and visitors alike to uses in the community.

(b) **Building Materials and Color**

(i) Materials.

1) All buildings shall be constructed of stone, exposed timber, fiber cement siding, wood siding, shingle siding, or other high-quality masonry material. No building shall be covered with sheet or corrugated metal or with vinyl siding.
2) Exterior building materials shall be continued to finished grade of any elevation in accordance with minimum manufacture specifications.
3) Cornices shall be constructed of brick, stone, wood, pre-cast concrete, or other high quality, long-lasting material.
4) Architectural accent materials located above the roof line shall be constructed of brick, stone, wood, pre-cast concrete, architectural quality steel, fiber cement siding or other high quality, long-lasting material.

(ii) Colors.

1) Color schemes used for buildings shall aesthetically integrate building elements together, relate separate (free-standing) buildings on the same lot or parcel to each other, and be used to enhance the architectural form of the building.
2) Exterior colors for new buildings and structures, including roofs, shall be coordinated with the predominant colors of the surrounding landscape to minimize contrast between the structure and the natural environment. It is strongly encouraged that dark or earth-tone colors be used to make the building or structure less conspicuous as seen from off site.
3) All building projections, including, but not limited to, chimneys, flues, vents, and gutters, shall match or complement in color the permanent color of the surface from which they project.

(c) **Building Massing and Configuration**

(i) Building scale. Buildings shall be small in scale and shall not exceed 30 feet in height. Buildings located on steep areas shall conform to hillside topography by stepping or staggering the mass of the proposed structure up or down the slope.

(ii) Visibility. Buildings with visibility from the public right-of-way or public street or pedestrian walkway in the Cashiers Commercial District shall be designed with the following specific limitations:

1) The height of a wall plane, including foundation and other continuous components, shall not exceed 24 feet, with the following exceptions:
   a) Architectural elements where the façade dimension for the architectural element does not exceed 15 horizontal feet, or
   b) Multiple such components (15 horizontal feet maximum) where combined horizontal dimension does not exceed 25 percent of the total horizontal dimension of the façade. This limitation may be waived during the design review process for wall planes having demonstrably low visibility from the public right-of-way.
   c) Building masses shall maintain a balance of scale and proportion using design components which are harmonious with natural landforms and landscaping.

d) Proposed structures shall not be sited atop peaks or silhouetted against the sky when viewed from any designated public right-of-way.
e) Retaining walls visible from the valley floor shall not exceed ten feet in height as measured from grade at face to top of wall. Multiple "stepped" retaining walls whose total height exceeds ten feet must each be offset by at least six horizontal feet. Visible walls shall be colored and textured to complement the background land and vegetation.

(d) **Building Façade Character**

(i) Elements of articulation shall be employed on any building visible from the public right-of-way or public street or pedestrian walkway to reduce the apparent bulk and uniform appearance of large buildings, provide visual interest and variety, and reinforce local architecture.

(ii) Building scale

1) Buildings containing nonresidential uses. The following requirements apply to any building containing nonresidential uses, regardless whether the building also contains residential uses:
   a) The distance between required offsets shall be every 40 feet. A building façade that is less than or equal to the height of the building shall not require an offset.
   b) The depth or projection of the offset shall be at least two feet.
   c) The change in wall plane (i.e., offset) shall extend at least 20 percent of the length of the façade wall.
2) Buildings containing residential uses. The following requirements apply to any building containing only residential uses:
   a) The distance between required offsets shall be 16 feet, provided that a building façade that is less than 20 feet in length shall not require an offset.
   b) The depth or projection of the offset shall be at least two feet regardless of the length of the adjacent façade walls.
   c) The change in wall plane (i.e., offset) shall extend at least 20 percent of the length of the façade wall.

(iii) Minimum wall articulation. Any building greater than 40 feet in length, measured horizontally, that faces a public right-of-way, private street or pedestrian walkway shall include at least three of the following features:

1) Change in texture or masonry pattern
2) Change in color
3) Windows
4) Dormers
5) Trellises with vegetation
6) Covered porch
7) Balconies
8) Parapet walls designed to meet the minimum requirements set forth of Section 9.3.5 (e) below
9) All sides of the building shall include articulation, materials, and design characteristics consistent with those on the primary front façade in terms of quality and detail, unless the public's view of a rear or side building elevation from a public right-of-way or private street or pedestrian walkway is blocked by intervening buildings, topography, a solid screen wall at least six feet high built using materials consistent with the building, or landscaping measuring at least 15 feet in height at maturity.

(iv) Customer entrance. All customer entranceways shall be clearly defined, highly visible, and feature no less than three of the following:

1) Canopies or porticos;

2) Overhangs;
3) Recesses or projections;
4) Arcades;
5) Arches;
6) Outdoor patios;
7) Windows;
8) Awnings;
9) Architectural features that are integrated into the building structure or design; or
10) Planters or wing walls that incorporate landscaped areas or places for sitting.

(e) **Roof Form and Articulation**

(i) The roof of any building shall present a distinctive profile and add interest to larger buildings and complement the character of other buildings included on the same lot or parcel.

1) Flat roof buildings.
   a) The roof of any building with a flat roof shall include parapets to conceal the roof and roof-top equipment from public view. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall, unless required for in Section 9.3.5 (f) Rooftop Equipment Screening, and such parapets shall not at any point exceed one-third of the height of the supporting wall.
   b) Parapets used to conceal the roof and roof-top equipment for any building shall not extend a constant height for more than 100 feet in length.
2) Slope roof buildings. The roof of any building with a slope roof shall include at least two of the following to maintain proportional building architecture:
   a) Three or more roof slope planes;
   b) Overhanging eaves, extending no less than one foot past the supporting wall;
   c) Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run and less than or equal to one foot of vertical rise for every one foot of horizontal run.
3) Additional requirements.
   a) Consistent roof treatments, whether flat or sloping, shall be provided on all sides of the building.
   b) The back side of all cornices, parapets, and roofline that are visible from an adjacent public right-of-way shall be finished with materials consistent with the associated building.

(f) **Rooftop Equipment Screening**

(i) Screen requirements. All rooftop mechanical equipment and vents greater than eight inches in diameter shall be:

1) Screened from the line of sight of public rights-of-way, private roads, parking lots, public sidewalks, greenways, and internal pedestrian ways except for instances where site topography precludes reasonable compliance with the minimum screening requirement;
2) Screened by either a parapet wall along the building edge or a freestanding screen wall on the roof of a material, color, and design architecturally compatible with the building, that is at least as high as the equipment and vents for which the screening is designed to hide.

(g) **Franchise Architecture**

(i) To maintain the unique character of the Cashiers District, buildings shall not be constructed or renovated using franchise architecture. Franchise or national chains may be permitted in the Cashiers District but must follow the standards of this section to create a building that is compatible with the Cashiers District.

(h) **Architectural Unity**

(i) All buildings within the same lot or parcel shall be architecturally unified. Architectural unity means that buildings shall be related and compatible in style, color, scheme, quality, and type of exterior building materials.

Section 9.3.6 Parking, Loading, and Access Standards

(a) Purpose. Off-street parking, loading, and access standards are established for the following purposes:

(i) To ensure the uniform development of parking areas throughout the commercial area of the Village of Cashiers.

(ii) To provide for safe and adequate space for the temporary parking of vehicles.

(iii) To promote the efficient use of parking areas.

(iv) To ensure the safety of vehicles entering and exiting parking areas from and to the public road system.

(b) Parking lot design. The following standards shall be met in designing off-street parking facilities.

(i) Parking aisles shall have a minimum width of eight feet for one-way traffic and 16 feet for two-way traffic.

(ii) Parking spaces shall be a minimum of nine feet by 18 feet, except handicapped spaces. Handicapped spaces shall comply with the standards set forth in the North Carolina Accessibility Code.

(iii) Parking lots with more than 50 spaces shall provide channelized automobile storage space with a length of 50 feet at all entrances from public rights-of-way.

(iv) Parking spaces and corresponding access drives required by this section shall be constructed of a material that will prevent the exposure of subsoil. Suitable materials for parking areas include, but are not limited to, porous asphalt, concrete, compacted stone, gravel, and aggregates such as bituminous surface treatment and chip and seal. Given the rustic character of Cashiers, gravel is recommended as the preferred material for parking areas.

(v) No access to individual off-street parking spaces shall be allowed directly from the public right-of-way. Public rights-of-way shall not be used for maneuvering in the process of entering or leaving individual off-street parking spaces.

(c) Off-street parking requirements.

(i) Number of spaces required. The requirements for off-street parking are set forth in the table below. For uses not listed in the Table 9.2 Off-Street Parking Requirements, the Jackson County Planning Department shall determine the appropriate minimum and maximum number of parking spaces based on the needs of the proposed use and the general guidelines below, referencing the American Planning Association Planning Advisory Service Report Number 432 (Off-Street Parking requirements).

(ii) Parking areas exceeding the required number of spaces. The number of parking spaces for proposed use may exceed the required number of spaces identified for that use; however, if the number of parking spaces exceeds the required number of spaces for that use by more than 50 percent, the required landscaping for the parking area shall be 150 percent of that required by section 9.3.7.

Table 9.2: Off-Street Parking Requirements

TYPE OF LAND USE	ONE PARKING SPACE REQUIRED FOR EACH
Residential:	
Multi-family dwellings	1 bedroom
Public Facilities and Institutions:	
Adult care facilities	2 employees plus 1 space per 6 adults
Amphitheaters	4 seats
Child care facilities	2 employees plus 1 space per 10 children
Churches	1 per 3 seats in sanctuary
Civic, social service and fraternal facilities	350 sq. ft.
Colleges	1 per employee plus 1 space per 3 full time students
Community centers	350 sq.ft.
Fire/police stations	5 per bay
Libraries	350 sq.ft. plus 1 space per 2 employees
Medical centers	250 sq.ft.
Museums	350 sq.ft. plus 1 space per 2 employees
Parks	half acre of park land
Post Offices	500 sq.ft. of floor area
Schools	0.5 classroom plus 1 space per 5 students in high school
Office, Business & Industrial Uses:	
Automobile service stations and auto repair garages	1 service bay plus 1 space per 2 employees
Bakeries	2 employees plus 1 space per 3 seats
Barber shops and salons	0.5 operator stations plus 1 space per 2 employees on shift of greatest employment
Bed and breakfast inn	1 room plus I space for the owner and 1 space for each employee
Car wash	0.5 wash bays plus 2 stacking spaces per wash bay
Clinics, veterinary	250 sq.ft
Clinics	200 sq.ft.
Conference center	200 sq. ft
Convenience store with gas pumps	300 sq. ft (spaces at gas pumps are not recognized as parking spaces)
Financial institutions	300 sq.ft.
Health and fitness facilities	200 sq.ft
Instructional Services	200 sq.ft.
Laundry & dry cleaning	300 sq.ft.
Lodging facilities	2 guest rooms plus additional spaces as required for other uses within the hotel/motel
Manufacturing, assembly, or finishing operations	2 employees
Offices	300 sq.ft.
Restaurants (plus 8 spaces for drive-thru)	3 seats plus 1 space per 2 employees on shift of greatest employment
Retail sales	300 sq.ft.

Studios, galleries, and workshops	2 employees plus 1 space per 350 sq. ft of retail floor space for artists, craftspeople, designers
Theaters	4 seats
Self-service storage facilities	10 storage units plus 1 space per 2 employees

(d) Shared and remote parking.

(i) Shared parking. The Jackson County Planning Department shall approve the joint use of up to 100 percent of the required parking spaces for two or more uses located on the same or adjacent parcels, provided that the developer can demonstrate that the spaces provided will meet the need for parking. This may be done by demonstrating that an adequate number of spaces are provided for all uses or by demonstrating that the uses will not overlap in hours of operation or in demand for the shared spaces. Any sharing of required parking spaces by uses located on different parcels shall be guaranteed by a written agreement between the owner of the parking area and the owner of any use located on a different parcel and served by the parking area.

(ii) Remote parking. If the required number of parking spaces for any land use cannot be reasonably provided on the same lot on which the principal use is located, the parking spaces may be provided on any land within 500 feet of the property on which the principal use is located. The zoning district regulations for the property on which the parking is located must permit the principal use, which the parking spaces serve. Any remote parking spaces located on a different parcel than the use served shall be guaranteed by a written agreement between the owner of the remote parking area and the owner of the principal use.

(e) Access point requirements. The following standards shall be met when designing vehicular access points from public streets to individual nonresidential properties.

(i) Width of access points. See Table 9-3: Access Point Width below.

(ii) Distance from street intersections. The minimum distance between access points and street intersections shall be 25 feet.

(iii) Distance from other access points. The minimum distance as measured along the right-of-way line, or the edge of the roadway for private streets, between the edge of adjacent access points (on different properties) shall be 25 feet.

(iv) Distance from property line. Unless the access point is shared between two or more adjoining properties, all access points shall be located at least five feet from all property lines perpendicular to the road/street.

Table 9.3: Access Point Width

Street Configuration	Minimum	Maximum
One-way	14 ft.	20 ft.
Two-way	24 ft.	36 ft.

Section 9.3.7 Landscaping and Buffering Standards

(a) Purpose. The abundant and diverse tree and vegetative cover found in the Cashiers area contributes to the aesthetic quality of the community and provides numerous economic and ecological benefits. The landscaping and buffering standards set forth below require landscaping between dissimilar uses, along streets and roads, and in parking areas in order to:

(i) Encourage the preservation of existing trees and vegetation and replenish removed vegetation.

(ii) Maintain and improve the visual quality of the Village of Cashiers and minimize potential negative impacts of development such as noise, dust, glare of lights, parking lots, heat, and odor.

(iii) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and preserve the character and value of a property and provide a sense of privacy.

(iv) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants to assure a high level of quality in the appearance of Cashiers while allowing flexibility to promote well designed and creative landscape plantings.

(v) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater run-off, decreased erosion, improved water and air quality, and protection of wildlife habitat.

(b) General Information.

(i) Applicability.

1) Bufferyard plantings, street trees, and parking lot trees and shrubs are required for developments within the Cashiers Commercial area. The following developments must bring the entire site into compliance with the requirements of Section 9.3.7 (d):
   a) Any new private or public commercial/nonresidential development.
   b) Renovations with a total cost exceeding 50 percent of the assessed value of the building, according to Jackson County tax records.
   c) Expansions exceeding 50 percent of the pre-expansion floor area or paved surface.
   d) Existing unpaved parking lots that are paved over or existing paved lots that are demolished and repaved.
   e) Expansions or additions that are less than 50 percent of the pre-expansion floor area and/or pavement surface must meet the landscaping requirements only in the area around the addition that is parallel to any edge of the expansion area and extending to the property line or street pavement edge.

(ii) Landscape plan required. Applicants are encouraged to meet with Jackson County Planning Department staff prior to submitting a site plan to discuss applicable landscape requirements, other section requirements, and coordination of plantings with other construction activity. A landscape plan drawn to scale must be submitted with the site plan and prepared in accordance with site plan requirements.

(iii) Alternative compliance. The landscape requirements are intended to set minimum standards for quality development and environmental protection; they are intended to be arbitrary or to inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternative method of compliance with the landscape requirements. The Jackson County Planning Department staff may alter the landscape and buffering requirements as long as existing or added landscape features of the development site comply with the intent of this section. Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

1) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements;
2) Space limitations, zero lot line development, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding area (such as the use of a specific type of vegetation) may justify alternative compliance when changing the use of an existing building in a developed area; or

3) An alternative compliance proposal is equal to or better than normal compliance in its ability to fulfill the intent of these landscape requirements and exhibits superior design quality.

(iv) The property owner or developer must submit a plan of the area for which alternative compliance is requested to the Jackson County Planning Department. The site plan shall show the existing site features and any additional material the property owner or developer will plant or construct to meet the intent of the landscape and buffer requirements of this section. A section drawing may be required if there are grade changes that affect the character of the buffer and landscape requirements. In addition, the applicant must submit a written statement describing the need for alternative compliance. The planning department shall render a decision approving, approving with conditions, or denying the request within ten working days of reviewing the request for alternative compliance.

(c) **Existing Vegetation**

(i) Preservation of existing vegetation. Preserving existing trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to the proposed development. It is recommended that groups of trees be preserved as well as individual trees. Existing trees and shrubs that are preserved may be credited toward required buffer trees, street trees, and parking lot trees as specified in Section 9.3.7 (c)(ii).

(ii) Credits and other incentives to preserve existing vegetation. Existing trees that are preserved may be credited for required trees as follows:

Table 9.4: Tree Preservation Credit

Existing Tree Caliper	Credit
2"—6"	1 new tree
7"—12"	2 new trees
13"—18"	3 new trees
19"—24"	4 new trees
25+"	5 new trees

(vii) In order to receive credit, existing vegetation that is preserved must be in good health and condition. Trees designated to be preserved must be indicated on the landscape plans. Protective barriers must be shown on the landscape and grading plans in accordance with the requirements of Section 9.3.7 (c)(vii)(1). If a preserved tree dies within 24 months of completion of the project, it must be replaced with the total number of trees that were credited to the existing one.

1) Protection of existing trees during construction.
   a) No grading or other land-disturbing activity can occur on a site with existing trees that are designated to be preserved in order to meet the landscape requirements until protective barriers are installed by the developer. Trees designated for preservation that are counted toward the landscape requirement must be protected by barriers, while trees designated for protection that do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of existing trees to be preserved and the location of the protective barriers must be shown on the landscape and grading plans, with the dimension between the tree trunk and the barrier indicated.
   b) Barricades or barriers must be placed around the critical root zone of any existing trees to be preserved that are within 50 feet of any grading or construction activity. The

critical root zone is a circle extending around the tree with a one-foot radius for every one-inch of tree diameter. For example, an eight-inch diameter tree would have a barricade surrounding it located eight feet from the trunk of the tree. All protective barriers must be maintained throughout the building construction process.

c) Protective barriers shall consist of either:
   i) A fence that is at least three feet high and constructed in a post and rail configuration; or
   ii) A fence with posts placed no further than ten feet apart covered with a foot of orange polyethylene laminar safety fencing.

d) All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection area including:
   i) Grading;
   ii) Filling, unless an aeration system that is certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist is installed to protect the tree from suffocation;
   iii) Parking;
   iv) Storage of debris or material, including topsoil;
   v) Disposal of hazardous waste or concrete washout;
   vi) Attaching of nails, ropes, cables, signs, or fencing to any tree to be preserved.
   vii) If any area within the critical root zone will be disturbed for any reason, measures must be taken to minimize any potential impact. The developer should coordinate with utility companies early in the design process to resolve any potential conflict regarding the placement of utilities and landscape requirements. If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of the tree protection zone in order to prevent sediment from accumulating in the critical root zone area.

(d) **Bufferyard Requirement**

(i) Requirement. Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. Bufferyards shall be required between a proposed development and a dissimilar existing land use to provide a transition between them. The bufferyard width and number of plantings required will vary based upon the size of the proposed and existing land uses. Information on determining bufferyard width is provided in Section 9.3.7 (d)(v).

(ii) Responsibility for bufferyard. The required bufferyard shall be the responsibility of the property owner developing the property or changing the land use. Bufferyards must be located on the property being developed or on which the land use is changing, between the property lines and any vehicle use areas, buildings, storage, service areas, or any other area of activity. The bufferyard shall extend along the entire property line that abuts the incompatible land use up to any required street tree planting strip.

(iii) Setbacks. If a setback requirement is less than the minimum buffer requirement, the bufferyard width requirement shall override the setback requirement.

(iv) Use of bufferyards. Required bufferyards shall not be disturbed for any reason except for approved driveway openings, pedestrian or bicycle paths, designated trails or greenways, utilities, drainage ways, walls, fences, and other passive or minor uses compatible with the general separation of land uses and provided that the total number of required plantings are still met. Utility easements may be included in the width of the bufferyard with the following conditions:

1) Utility lines should be located to cross perpendicular to a bufferyard, if possible, to minimize the impact.

2) If utility lines must run with a bufferyard, they must be located along the edge of the bufferyard.
3) The developer should minimize the number of plantings in the utility easement area so that they will not have to be removed or pruned if the utility line needs maintenance. If the developer plans to plant in the utility easement, approval must be obtained from the affected utility companies to ensure that the plantings will not interfere with the installation, operation, or maintenance of the utility lines. Trees and shrubs planted within the utility easement will not count toward the bufferyard planting requirement unless they are approved by the utility companies.

(v) Placement of bufferyard plantings. The exact placement of the required plants shall be the decision of the developer or designer but shall be approved by the Jackson County Planning Department. Plants shall be placed in a manner to serve as an effective screen year-round when viewed from an area accessible to the public or from adjacent properties. Trees and shrubs should be planted at least five feet from the property line to ensure maintenance access and to avoid encroachment onto neighboring property.

(vi) Determination of bufferyard requirements. To determine if a bufferyard is required between two adjacent land uses and, if so, what bufferyard width and planting density is required, the following procedure should be used:

1) Identify the proposed land use and the adjacent land use(s) on the list of permitted uses found in Table 9.1. Note the category under which the proposed use is listed (for example, post office is listed under the category of Public/semipublic and restaurant is listed under the category office/business).
2) Identify the size (acreage) of the property being developed and of the abutting properties.
3) In the General Commercial district bufferyards are required as set forth in Section 9-10(d)(10).

(vii) Mixed uses. When a lot has a combination of different land uses, the buffer is calculated based upon the category of land use occupying the greatest percentage of the lot.

(viii) Buffer not required when a street separates incompatible land uses. If a street or road is located between two land uses that would require a buffer between them, no buffer shall be required along the street or road frontage of the property being developed; however, street trees are required along the property to be developed.

(ix) Buffer requirement when development site abuts a vacant lot. If the property to be developed abuts a vacant lot, an "A" buffer shall be provided on the property to be developed per Table 9.6.

Table 9.6: Buffer Description Table

	Buffer	
Minimum buffer width	**10 feet**	
Total number plants per 100 linear feet	15	
Number of evergreen trees	4	
Number of large deciduous trees	2	
Number of small deciduous trees	2	
Number of shrubs (at least 75% must be evergreen)	6	

(x) Existing vegetation in the buffer. Existing vegetation in the buffer area may be counted toward the required plantings according to Section 9.3.7 (c). The planning department staff must approve the use of existing vegetation to meet the buffer requirement.

(e) **Buffer reductions with fence or wall.** The width of the buffer may be reduced up to 50 percent with the use of a fence or wall. Fences and walls must meet the following standards:

(i) Fences or walls shall be constructed of wood, brick, stone, or other masonry (except plain block) and be architecturally compatible with the proposed structure. Seventy-five percent of the fence or wall must be opaque with any spaces evenly distributed. A detailed drawing of the fence or wall must be shown on the site or landscape plan and approved by the Jackson County Planning Department staff.

(ii) Fences and walls shall be a minimum of six feet tall;

(iii) The finished side of the fence or wall shall face the abutting property; and

(iv) A planting strip with a minimum width of five feet shall be located between the fence or wall and the property line. The strip shall be planted with trees and/or shrubs on the side that faces the abutting property. The trees and/or shrubs shall be spaced no further than eight feet apart in order to screen at least 50 percent of the fence or wall at maturity.

(v) Screening of dumpsters, loading docks, outdoor storage areas, and utility structures. All dumpsters, loading docks, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening building or bufferyard. Landscaping shall not interfere with the access and operation of any such structure or facility. All unenclosed outdoor storage areas greater than 15 square feet shall also be screened from adjacent properties and streets. Screen types include:

1) A continuous hedge of evergreen and/or densely twigged shrubs planted in a five-foot strip with plants spaced no more than five feet apart or a row of evergreen trees planted no more than eight feet apart.
2) A fence or wall with a minimum height of six feet with the finished side of the fence or wall facing the abutting property or the street.

(f) **Street trees.**

(i) Street trees are required for all new nonresidential development. Street trees shall be required at the rate of one large maturing (over 35 feet in height at maturity) for every 40 linear feet of property abutting a street or road or 1 small maturing tree (less than 35 feet in height at maturity) for every 30 linear feet of property abutting a street or road, if overhead utility lines are present. This does not imply that trees must be spaced exactly 30 feet or 40 feet apart but

may be clustered together with a minimum spacing of 15 feet. Trees should be spaced no more than 65 feet apart.

(ii) Street trees shall be placed in a planting strip on private property and not within the street or road right-of-way. No street tree can be located farther than 20 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary but the minimum width cannot be less than seven feet and the average width shall be at least ten feet. The planting area must be covered with living material, including ground cover and shrubs, or mulch so that no soil is exposed. No stone mulch is permitted in the planting area.

(g) **Parking Lot Landscaping.**

(i) Requirements for new developments. Trees and shrubs are required in and around parking lots with more than six spaces to enable the parking areas to blend in with the natural appearance of Cashiers, to provide attractive views from roads and adjacent properties, to reduce stormwater runoff, and to help filter exhaust from vehicles. There are three parking lot planting requirements that may apply to a development depending upon its relation to other properties and public rights-of-way.

(ii) Perimeter and interior plantings. Parking lots, loading areas, and other vehicle use areas must be planted with one deciduous tree and two shrubs for every 2,000 square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas (including gravel surfaces). At least 75 percent of the required deciduous parking lot trees must be large-maturing trees. Trees and shrubs must be placed within 20 feet of the vehicular use area to count as parking lot landscaping.

1) When four or more trees are required in a parking lot with interior rows, 50 percent of the trees and shrubs must be planted in islands or medians located within the parking lot. Each parking space shall be located within 45 feet of a tree. In calculating this distance, measurements shall be taken from the trunk of the tree to the closest point of the parking space. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow. Trees and shrubs shall not impede vehicular or pedestrian visibility.

(iii) Planting strip. A planting strip with a minimum width of five feet shall be planted between the vehicular use area and the abutting property when any vehicular use area is located within 50 feet of an abutting property and no buffer is required, except for driveway openings that run perpendicular to the planting strip. This planting strip shall ensure that parking lots are separated from one another. One large evergreen or deciduous tree and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in subsection a. (above) if the planting strip is located within 20 feet of the vehicle use area. Adjacent businesses on separate properties that share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the use of the shared parking or driveway.

(iv) Size of planting islands. Tree planting islands within vehicular use areas shall be a minimum of 150 square feet and have no width less than nine feet.

(v) Protection of trees. Planting areas and islands shall be protected by curbing, bollards, or parking barriers if a tree or shrub is within six feet of the edge of the pavement. Trees in islands should be set back at least four feet from the edge of the island so as not to interfere with car doors opening.

(h) **Compliance and Maintenance.**

(i) Certificate of occupancy. Landscaping must be installed and inspected prior to receiving a certificate of occupancy for the construction. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant materials.

If the season or weather conditions prohibit planting the materials, the developer may provide a bond, an irrevocable letter of credit, or other financial surety in the amount of 150 percent of the cost of installing the required landscaping to guarantee the completion of the required planting. Upon approval of the financial surety, the certificate of occupancy shall be issued. The financial surety shall be canceled and/or returned upon completion of the required landscaping.

(ii) Maintenance. The owner or lessee of the property on which landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Failure to maintain or to replace dead, damaged, or diseased plant material or to replace a broken fence or wall shall constitute a violation of this section and shall be subject to the penalty provisions set forth in Article X if no corrective action is taken within 30 days of receiving notice. If an act of God or other catastrophic event occurs that destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material must comply with the minimum size, spacing, and quantity standards of this section.

(i) **Plant Specifications**

(i) Recommended plant species (Appendix 9.3.2). The use of plant materials that are indigenous to the region and readily available from local nurseries is encouraged. Native plant materials are acclimated to the area, are better suited for survival, and maintain the character and appearance of the Village of Cashiers.

(ii) Minimum Plant Size Requirements.

1) Large maturing deciduous tree: Greater than 35 feet in height at maturity. Minimum size at planting shall be two inches caliper with a 12 to 14-foot height.
2) Small maturing deciduous tree: Less than 35 feet in height maturity. Minimum size at planting shall be one-half inches in caliper with an eight to ten-foot height.
3) Evergreen tree: Minimum height at planting shall be six feet.
4) Deciduous shrub: Minimum size at planting shall be a three-gallon container or ten-inch root ball with a height of 18 inches.
5) Evergreen shrub: Minimum size at planting shall be a three-gallon container or ten-inch root ball with a height of 18 inches.

(iii) Plant standards. All plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock, ANSI 260.1. Plants must be healthy, well-branched, and free of disease and insect infestation.

Section 9.3.8 Lighting Standards

(a) **Purpose**. The purpose of these standards is to protect the public health, safety, and general welfare through the establishment of standards for outdoor lighting in order to reduce or prevent glare and light trespass.

(b) **General Standards for Outdoor Lighting**

(i) The maximum light level shall be 2.0 maintained foot-candles at any public right-of-way and 0.5 maintained foot-candles at the property line of any residential property unless otherwise specified below.

(ii) All floodlights shall be installed such that the fixture is aimed down at least 45 degrees from (the vertical) an upright position. Flood lights 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 the right-of-way, with a side to side horizontal aiming tolerance not to exceed

15 degrees from a line drawn through the location of the light perpendicular to the right-of-way.

(iii) All flood lamps emitting 1,000 or more lumens shall be aimed at least 60 degrees down from a horizontal line or shielded such that the main beam from the light source is not visible from adjacent properties or the public street right-of-way.

(iv) All wall pack fixtures shall be full cutoff fixtures according to industry standards.

(c) **Road Lighting Standards**

(i) Pole heights are not to be more than 25 feet above finished grade unless otherwise approved by the Community Planning Council.

(ii) Lumens are not to exceed 5,000 for residential uses and 18,000 for commercial uses.

(iii) All fixtures shall be installed at a 90-degree angle from the vertical position and shall be full-cutoff fixtures.

(d) **Lighting in Parking Lots and Outdoor Areas**

(i) Other than flood lights and flood lamps, all outdoor area and parking lot lighting fixtures of more than 2,000 lumens shall be cutoff fixtures.

(ii) The fixture mounting height of all outdoor lighting, except outdoor sports field and outdoor performance area lighting, shall not exceed 25 feet above finished grade unless approved by the Community Planning Council as having no adverse impact.

(e) **Lighting for Vehicular Canopies**. Areas under a vehicular canopy shall have an average maximum horizontal luminance of 20 foot-candles. Areas outside the vehicular canopy shall comply with the standards for lighting of parking lots and outdoor areas. Lighting under vehicular canopies shall be designed so as not to create glare off-site. Acceptable methods include the following:

(i) Recessed fixtures incorporating a lens cover that is either recessed or flush with the bottom surface (ceiling) of the vehicular canopy that provides a cutoff or shielded light distribution.

(ii) Surface mounted fixture incorporating a flat glass that provides a cutoff or shielded light distribution.

(f) **Outdoor Sports Field/Outdoor Performance Area Lighting**

(i) The mounting height of outdoor sports field and outdoor performance area lighting shall not exceed 80 feet from finished grade unless approved by the Community Planning Council.

(ii) All outdoor sports field and outdoor performance area lighting fixtures shall be equipped with a glare control package (louvers, shields, or similar devices). The fixtures must be aimed so that their beams are directed and fall within the primary playing or performance area.

(iii) The hours of operation for the lighting system for any game or event shall not exceed one hour after the end of the event.

(g) **Lighting of Buildings and Landscaping**

(i) Lighting fixtures shall be selected, located, aimed, and/or shielded so that direct illumination is focused exclusively on the building facade, plantings, and other intended site features and away from adjoining properties and the public street right-of-way.

(ii) Maximum illumination on any vertical surface or angular surface shall not exceed an average maintained illumination of 5.0 footcandles (average maintained).

(iii) All permitted residential spot or flood lamps are to be aimed no higher than 45 degrees above straight down (half-way between straight down and straight to the side).

(h) **Signs**

(i) Lighting fixtures illuminating signs shall be carefully located, aimed, and shielded so that light is directed only onto the sign face and glare is significantly reduced. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.

(ii) Internally illuminated signs are prohibited.

(iii) Lighting of off-site commercial signs is prohibited.

(iv) Upward lighting of signs is prohibited unless otherwise approved by the Community Planning Council

(i) **Permits**. The applicant for any permit required for work involving outdoor lighting shall submit documentation at the time of site plan approval that the lighting plan complies with the provisions of these standards. This documentation shall be:

(i) A written statement that the lighting plan complies with these standards.

(ii) A description of the illuminating devices, fixtures, lamps, poles, and other devices, and a point-by-point foot-candle array in a printout format indicating the location and aiming of illuminating devices. The printout shall indicate compliance with the maximum maintained foot-candles required by this code and shall identify both initial and future lighting levels.

Section 9.3.9 Flexible Development Standards

(a) **Purpose**. This section provides the Jackson County Planning Department with the authority to permit deviations from the development standards for setbacks, lot width, and number of parking spaces required by this section, provided certain conditions are met. The flexible development standards shall be administered in order to promote the orderly development and redevelopment of property within the Village of Cashiers. Decisions shall be in writing and conditions may be placed on the approval of flexible development standards to ensure that the intent of this section is achieved. Decisions of the planning department may be appealed to the Cashiers Area Community Planning Council as outlined in Section 3.7.2.

(b) **Flexible Standards Permitted**. The Jackson County Planning Department may approve the following flexible development standard.

(i) Setbacks. The Planning Department is authorized to approve deviations from the required setbacks set forth in Section 9.3.4 (a) by up to two feet, provided there are site or structural conditions that preclude strict adherence to the setback requirements or the proposed location of the structure will allow preservation of existing vegetation.

(ii) Parking. The Planning Department is authorized to approve parking lots for uses that have up to 25 percent less than the required number of spaces set forth in Section 9.3.6, provided that the applicant provides proof that the proposed number of spaces will meet the needs of the use; the project is a redevelopment of an existing structure and there is insufficient space on the site to accommodate the required parking; or the reduced parking will permit the preservation of existing vegetation.

(iii) Lot dimension. The planning department is authorized to approve deviations of up to 10 percent in the required lot widths set forth in Section 9.3.3 (d)(vi) and Section 9.3.3 (e)(iv)9), provided the reduced lot width will not inhibit the reasonable use of the lot.

Section 9.3.10 Stormwater Management Standards

(a) **Purpose**. The stormwater standards set forth below are provided to protect life and property and minimize nuisances by limiting destructive runoff and flooding generated by impervious surface areas; and to protect water quality and natural ecosystems by requiring the filtering of sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons.

(b) **General Information**

(i) Applicability. The requirements set forth in this section shall apply to new and existing development as follows:

1) New development.

a) For new development where the impervious surface is between 1,000-5,000 square feet, a stormwater management system concept plan is required that follows design guidelines given in the most recent edition of the Stormwater Best Management Practices Manual published by the North Carolina Department of Environmental Quality.
b) For new development where the amount of impervious surface being created is 5,000 square feet or more, the requirements for a stormwater management plan set forth in subsections (b)(iii-iv) of this section shall apply.

2) Existing development.
a) For existing development where the amount of impervious surface is being expanded by 25 percent or more of the original amount and the total amount of impervious surface is less than 5,000 square feet, a stormwater management system concept plan is required that follows the design guidelines given in the most recent edition of the Stormwater Best Management Practices Manual published by the North Carolina Department of Environmental Quality.
b) For existing development where the impervious surface is being expanded and the total amount is over 5,000 square feet, the requirements for a stormwater management plan set forth in subsections (b)(ii-iii) this section shall apply.

(ii) Administration. The Permitting and Code Enforcement Director has responsibility for compliance with stormwater management regulations.

(iii) Stormwater management measures required.
1) For projects meeting the thresholds identified in Section 9.3.10(b), the property owner and/or developer shall provide a stormwater management plan that accommodates the stormwater run-off generated by a ten-year, 24-hour rain event or, if the property is located within a designated Outstanding Water Resource Area, the 25-year storm. Stormwater measures shall be designed to remove, at a minimum, 85 percent of the total suspended solids (TSS) from the first inch of rainfall of any rain event. Stormwater measures shall have a drawdown of at least 48 hours, but not more than 120 hours.
2) Stormwater measures shall be designed by an appropriately qualified engineer, landscape architect or other appropriately qualified professional, and shall be constructed and maintained in accordance with commonly accepted best practices. Innovative designs that utilize "low impact" and nonstructural control and treatment measures are encouraged.
3) Stormwater measures may be located off-site provided such measures are located within a parcel of land under the same ownership as the affected property or within a common area under the management of a property owners' association or similar entity.

(iv) Stormwater management plan requirements. The stormwater management plan shall show:
1) The existing site topography and proposed site drainage improvements in sufficient detail to facilitate plan review and construction. The plan drawings shall be presented at a scale no larger than one inch = 50 feet.
2) Engineering drawings showing plan, profile and details of piping, drainage structures, swales, and channels tying into a network of pre-existing manmade or natural channels.
3) Written project specifications governing work performance and materials.
4) Computations and assumptions sufficient to support the design of piping, drainage structures, retention/detention ponds, and permanent erosion control measures.
5) Location of proposed structural stormwater controls
6) Low impact design elements
7) Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains
8) Flow paths

9) Location of floodplain/floodway limits
10) Relationship of site to upstream and downstream properties and drainages
11) Location of proposed stream channel modifications, such as bridge or culvert crossings
12) Whatever other narrative statements are necessary to adequately describe the proposed site improvements.

(v) The stormwater management plan shall be filed with the Jackson County Permitting and Code Enforcement Department, and a copy shall be simultaneously submitted to the Jackson Soil and Water Conservation District, at least 30 calendar days prior to the commencement of the proposed activity.

(c) **Stormwater Permit Required**

(i) The Permitting and Code Enforcement Director shall review all stormwater plans required by this Section to ensure compliance therewith. In making this determination, the county shall use the Stormwater Best Management Practices Manual published by the North Carolina Department of Environmental Quality or other commonly accepted information and engineering data. The county will review each complete plan submitted to them and within 30 calendar days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Incomplete plans shall be returned for completion. The 30-day review period will not begin until all required items are submitted. The erosion control officer shall have five business days to check the plans for completeness. Failure to approve, approve with modifications, or disapprove a complete Stormwater Management System Concept Plan within 30 calendar days of receipt shall be deemed approval. Disapproval of a plan must specifically state, in writing, the reasons for disapproval. The county must approve, approve with modifications, or disapprove a revised plan within 15 calendar days of receipt, or it is deemed to be approved. If, following commencement of a land-disturbing activity pursuant to an approved plan, the county determines that the plan is inadequate to meet the requirements of this section, the county may require any revision of the plan that is necessary to comply with this section. Failure to approve, approve with modifications, or disapprove a revised Stormwater Management System Concept Plan within 15 calendar days of receipt shall be deemed approval of the plan. The County shall establish an expiration date of three years for Stormwater Management System Concept Plans approved under this section. Fees as established by the Jackson County Board of Commissioners shall be due and payable upon submission of the application. If a person initiates land-disturbing activity which would have required a permit without obtaining such a permit, the erosion control officer is authorized to double the regular permit fee.

(d) **As-Built Plans and Final Approval**

(i) For all developments subject to these standards, upon completion of a project, and before final approval or a certificate of occupancy may be granted, the applicant shall certify that the completed project has been built in accordance with the approved stormwater management plans and designs. The applicant shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed. The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this section. A final inspection and approval by the county is necessary prior to the issuance of any certificate of occupancy, release of improvement guarantee, or other final approval.

(e) **Inspection and Maintenance of Measures**

(i) All stormwater improvements must be maintained so they will continue to serve their intended functions. If the stormwater improvements are to be turned over to a property owners association or a property owner, the developer must maintain stormwater improvements until accepted by a property owners association or property owner. The developer must disclose which party will be responsible for continued maintenance on the record plat and on the stormwater management plan. The developer will be responsible for the installation, operation, and maintenance of the stormwater controls until ownership is conveyed. The responsibility and agreement for operation and maintenance for the stormwater system is transferred with title, as each property is conveyed.

(ii) The county shall have the right to demand an inspection report at any time should there be reasonable belief that any stormwater structure or feature is constructed or being maintained in violation of this section. Such inspection report shall be prepared by a registered North Carolina professional engineer, surveyor, or landscape architect performing services only in their area of competence. The report shall contain the following:

a) The name and address of the land owner.
b) The recorded book and page number of the lot of each stormwater control.
c) A statement that an inspection was made of all stormwater controls and features.
d) The date the inspection was made.
e) A statement that all inspected controls and features are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this section.
f) The signature and seal of the engineer, surveyor, or landscape architect.

2) Should the stormwater inspection reveal substantial maintenance or repair recommendations, it shall be the owner's responsibility to retain a registered professional engineer or landscape architect competent in the area of stormwater management to develop plans and specifications for such repairs within 30 days from finding that substantial maintenance or repair recommendations are necessary. Maintenance or repair work must commence within 60 days, and be completed within a reasonable amount of time, from finding that that substantial maintenance or repair recommendations are necessary. The owner of each stormwater measure, whether structural or nonstructural in design, shall maintain it so as not to create or permit a nuisance condition.

Section 9.3.11 Sign Regulations

(a) **Purpose and Scope**

(i) The purpose of this section is to provide sign standards and regulations that permit the adequate identification of activities and businesses while at the same time promoting signs that do not unduly detract from the aesthetics and natural appeal of the Village of Cashiers; that reduce intrusions and protect property values; that provide for improved public safety while minimizing undue distraction of the motoring public; that provide standards for the erection and maintenance of signs; that provide for the protection and enhancement of the tourist industry by promoting a more harmonious and pleasing community image; and that generally enhance and strengthen the long term economic viability of the Village of Cashiers.

(ii) The provisions of this section shall apply to the erection and maintenance of all signs and sign structures within the Cashiers Commercial Area, and it shall be unlawful following the effective

date of this section to erect, maintain, or alter any sign or sign structure except in conformance with the provisions of this article.

(b) **General Provisions**

(i) Permit requirement. Except as otherwise provided in Section 9.3.11(b)*(ii-iii)*, it shall be unlawful to erect or maintain any sign or sign structure without first obtaining a sign permit. Application for the permit shall be made in writing on forms provided by the Jackson County Planning Department. The procedure for applying for a sign permit is found in Section 3.4 of this Ordinance. Failure to obtain a sign permit shall constitute a violation of this Ordinance.

(ii) Signs exempt from regulation. Unless otherwise prohibited in this or other applicable regulations, the following signs are exempt from regulation under this section:

1) Signs that are not designed to be visible beyond the boundaries of the property upon which they are located and/or from any public thoroughfare or right-of-way, except as such signs may be permitted hereafter.
2) Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs and signs posted under governmental authority that note the donation of buildings, structures, or streetscape materials (such as, but not limited to, benches, trash cans, lampposts, and park facilities).
3) Flags of the United States, the State of North Carolina, Jackson County, any religious, fraternal, or civic organization, or any educational or cultural facility and/or any one corporate flag per lot provided that they do not exceed five feet × eight feet or 40 square feet in area, that they are displayed on flagpoles not exceeding 25 feet in height, that no more than one flagpole is located on a lot of less than one acre and that all flagpoles are setback at least the height of the flagpole from all property lines. Flagpoles may be roof or wall-mounted provided the size, height, and setback requirements as established in this exemption are met.
4) Decorative and incidental flags identifying that the business establishment is open or serving as a decorative feature provided that the area of any single flag does not exceed 12 square feet not to exceed two flags per lot.
5) Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables and gas lines, and similar devices and signs providing direction around such conditions.
6) Signs displayed on trucks, buses, trailers, or other vehicles that are being operated in the normal course of a business, such as signs indicating the name of the owner or business and that are affixed or painted onto moving vans, delivery trucks, contractor's vehicles and equipment and the like, are exempt from regulation provided that, when not being operated, the vehicles are parked or stored in areas appropriate for their use as vehicles and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent possible. All such vehicles must have current and valid registration and inspection.
7) Signs required for or specifically authorized for a public purpose by any law, statute, or section. These signs may be of any type, number, and area, height above grade, location, or illumination authorized by law, statute, or section under which such signs are required or authorized.
8) Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular property and that are located on the property to which the information pertains. No advertising may be affixed to such a sign.

(iii) Temporary Signs. The following signs are permitted in any location and do not require a sign permit. However, the signs must conform to the requirements set forth below as well as to other applicable requirements of this section.

1) Residential Property
   a) Temporary signs allowed providing the signs are not illuminated and do not exceed two signs per lot, do not exceed four feet in height, and do not exceed four square feet per face. All such signs shall be removed within seven days of the conclusion of the event.
2) Commercial Property
   a) Temporary signs allowed providing they do not exceed eight feet in height and 32 square feet per face. All such signs shall be removed within seven days of the conclusion of the event.

(c) **Prohibited Signs**

(i) The following signs and/or sign features shall not be erected or maintained with the Cashiers Commercial Area. The Cashiers Area Community Planning Council shall not have authority to grant variances to permit prohibited signs to be installed.

a) Signs on roadside appurtenances. On- or off-premises signs on roadside appurtenances, including, but not limited to, utility poles, planters, trees, and refuse containers, with the exception of governmental or commemorative signs.
b) Signs located in public road rights-of-way. Signs, whether temporary or permanent, within any public road right-of-way with the exception of governmental notices or signs, unless an encroachment for the sign has been approved by the NCDOT and a sign permit issued by the Jackson County Planning Department. No traffic control device or its support shall bear any advertising or commercial signage or any message that is not essential to traffic control. Any unauthorized sign placed within NCDOT right-of-way by a private organization or individual is prohibited as outlined in the North Carolina Administrative Code 19A NCAC 2E.0415 (Advertising Signs Within Right-of-Way).
c) Signs on vehicles. Signs placed on vehicles or trailers that are parked or located for the primary purpose of displaying the sign are prohibited. Any such vehicle must have current and valid registration and inspection. The vehicle must be parked so as to minimize its visibility from the street to the greatest extent possible.
d) Roof signs. Roof signs are prohibited. However, signs on the surface of a mansard roof and on parapets are permitted provided the signs do not extend above the mansard roof or parapet to which they are attached.
e) Wind signs. Wind signs as defined in Article XI: Definitions are prohibited.
f) Off-premise signs. Off-premise signs are prohibited.
g) Signs of illusion. Signs with optical illusion of movement by means of a design that represents a pattern capable of reversible perspective, giving the illusion of movement.
h) Signs resembling traffic signals. Signs displaying intermittent light resembling the flashing light used in traffic signals or any word, phrase, symbol, or character in a manner that might be misconstrued as a public safety warning or traffic sign.
i) Animated signs and flashing lights.
j) Abandoned signs or sign structures.
k) Portable or moveable display signs.
l) Signs obstructing access. Signs that obstruct free access to or from a driveway or a required door, window, fire escape, or other required exit way.
m) No inflatable images, signs, or shapes such as balloons, beer cans, gorillas, etc. shall be permitted.

(d) **On-Premise Signs**

(i) General provisions for permitted on-premise signs.

(ii) Computation of sign area.

1) The surface of a sign shall include the entire display area, including any border or accessory area, but excluding any base supports, posts, roofs, or other structural elements provided they do not serve primarily to attract attention and shall be calculated in inches or feet as the width multiplied by the height. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.
2) The space between one identification sign and one changeable copy sign on a signpost or structure or attached to a building shall not be included in the total square footage if both signs serve a single business located on the lot. The space between two or more changeable copy components of a sign or between two or more permanent copy components of a sign shall be included in the total square footage of sign area allowed.
3) Where three-dimensional figures are used as signs, the area shall be the total of all sides of the figure used in conveying the intended message.

(iii) Encroachment into right-of-way. No part of any sign shall be located on or extended into a public right-of-way except as permitted for projecting signs in this article.

(iv) Time/date/temperature signs. Time/date/temperature signs that do not exceed ten square feet per face shall not be included in the allowable sign area. However, if an existing freestanding sign is located on the lot, then the time/date/temperature sign must be incorporated into the existing freestanding sign.

(v) Signs for nonconforming uses. Signs for nonconforming uses, where the nonconforming use may continue, shall be permitted provided the signs comply with all regulations for signs set forth in this section.

(vi) Illumination. Illuminated signs shall be subject to the following conditions:

1) Lighting fixtures illuminating signs shall be carefully located, aimed, and shielded so that light is directed only onto the sign face and glare is significantly reduced. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.
2) Internally illuminated signs are prohibited.
3) Lighting of off-site commercial signs is prohibited.
4) Upward lighting of signs is prohibited unless otherwise approved by the Community Planning Council.

(vii) Visibility. No sign or structure shall be erected or maintained to impede safe and adequate visibility from vehicles or for pedestrians.

(e) On-premise signs for single tenant development. The following regulations shall apply to all signs for single tenant development within the Cashiers Commercial Area. Any sign not specifically allowed shall be deemed as prohibited.

(i) Permitted sign types include:

1) Freestanding
a) Pole
b) Ground
c) Changeable copy
d) Menu board
e) Sandwich board
2) Attached
a) Projecting
b) Window

c) Wall
d) Awning/canopy
e) Suspended or transom
f) Changeable copy
g) Menu board

(ii) The sign(s) shall meet the following requirements set forth in Table 9.7 based on the district in which it is located:

Table 9.7: Sign Size On-premise signs single tenant

District	Maximum Height	Maximum Size per Face
Village Center	8 feet	32 square feet
General Commercial	8 feet	32 square feet

(iii) Two business or product identification signs are permitted per lot, only one of which may be a free-standing sign. The allowed square footage for attached signs may be divided into a maximum of four signs. Corner lots are permitted one additional free-standing sign on separate street/road frontages.

(iv) If the free-standing sign is less than the maximum square footage permitted for the district in which it is located, then the difference may be used to increase the size of the attached signage by that difference.

(v) Setbacks for free-standing pole or ground signs shall be a minimum of ten feet.

(vi) Signs shall not be located in any public right-of-way and shall not be located within a sight visibility triangle.

(vii) Projecting signs (excluding awning/canopy signs) shall not project more than three feet from the facade of the building. Clearance over sidewalks and pedestrian walkways shall be at least seven feet and clearance over streets, roads, or driveways shall be at least 14 feet. Signs shall not project above the building soffit, eave line, or building parapet.

(viii) Suspended or transom signs shall have a minimum clearance of seven feet over sidewalks and pedestrian walkways.

(ix) Wall signs shall not project more than 12 inches from the wall.

(x) One external menu board with one face is allowed per restaurant (in addition to permitted signage previously described). The total sign area shall not exceed 12 square feet. The sign shall not be located so that the copy is designed to be visible to vehicular traffic from the roadway.

(f) On-premise signs for multiple tenant development. The following regulations shall apply to all signs for multiple tenant development located in the Cashiers Commercial Area. Any sign not specifically permitted is prohibited.

(i) Multiple tenant developments may erect either a development identification sign or joint identification sign. In addition, tenant identification signs for individual businesses within a development are allowed. Multiple tenant developments are allowed one identification sign, maximum of two faces per sign, for each property boundary with street frontage with a maximum of two identification signs per development.

(g) Development and Joint Identification Signs

(i) Where a development or joint identification sign is selected, the sign may be of the following types:

1) Freestanding
a) Pole
b) Ground
c) Changeable copy

d) Attached

2) Attached
   a) Wall
   b) Projecting
   c) Changeable copy
   d) Window
   e) Awning/canopy
   f) Suspend or transom

(ii) The sign(s) shall meet the following requirements based on the district in which it is located per Table 9.8.

Table 9.8: Sign Size Joint Identification Signs

District	Maximum Height	Maximum Size per Face	
		Single Tenant	Multiple Teant
Village Center	12 feet	32 square feet	40 square feet
General Commercial	12 feet	32 square feet	40 square feet

(iii) Setbacks for freestanding development or joint identification signs shall be ten feet. Signs shall not be located within any public right-of-way and shall not be located within a sight visibility triangle.

(h) **Tenant Identification Signs**

(i) Tenants may have the following types of attached identification signs:
1) Wall
2) Awning/canopy
3) Projecting
4) Window
5) Suspended or transom
6) Changeable copy

(ii) One attached sign is allowed per exterior public business entrance. The total allowable sign area for the building frontage having the primary business entrance shall be 20 square feet. Each secondary business entrance shall be allowed a sign not exceeding 12 square feet in area.

(iii) Where two tenants share a common entrance, each tenant shall be allowed one attached sign, not to exceed 20 square feet, on the portion of the building that the tenant occupies.

(iv) Where more than two tenants share a common entrance, each tenant shall be allowed one attached or window sign, not to exceed 15 square feet.

(v) Maximum projection for wall signs shall be 12 inches.

(vi) Projecting signs (excluding awning/canopy signs) shall not project more than three feet from the facade of the building.
1) Clearance over sidewalks and pedestrian walkways shall be a minimum of seven feet and clearance over streets, roads, and driveways shall be a minimum of 14 feet.
2) Signs shall not project above the building soffit, eave line, or building parapet.

(vii) Suspended or transom signs shall have a minimum clearance of seven feet over sidewalks and pedestrian walkways.

(viii) Stationary sandwich board. Each tenant in a multi-tenant development may have one stationary sandwich board or stationary vertical sidewalk sign immediately adjacent to their place of business. The sign shall not impede the flow of pedestrian traffic, impede sightlines of motor vehicles or be placed in the public right-of-way.

1) The signage shall not exceed a height of 60 inches or a width of 30 inches with no more than two surface areas.
2) The structure (frame) shall be of a standard wooden design approved by the Jackson County Planning Department. Signs shall be self-supporting; signs that are supported by stakes, posts, buildings or other structure, will not be permitted. Signage shall be constructed of materials that do not rapidly deteriorate, easily deface, degrade, or become a hazard to the safety and general welfare of the public in any way.
3) The face of the sign shall be black or chalkboard paint with the lettering/logo color of the merchant's choosing.
4) Signs may only be displayed during business hours. Permits for the placement of signage shall be issued by the Jackson County Planning Department and a sign permit fee set by the Jackson County Board of Commissioners shall be applied.

(j) **Automatic teller machine signs.**

(i) Signs on automatic teller machines shall not exceed 15 square feet in area per machine.

(i) **Community Identification Signs**

(i) General. Signs located at the entrance to residential communities shall be permitted identification signage in accordance with the standards below. The computation of sign area shall be as set forth elsewhere in this section. No portion of any sign shall encroach into the right-of-way. Approval by the Cashiers Community Planning Council and sign permits are required for community identification signs.

(ii) On-premise signs. Residential communities abutting a public road and with an entrance from the public road are permitted one community identification sign per entrance from a public road. The sign shall meet the following requirements:

1) Type — the sign may be a pole sign or a monument sign.
2) Height — the maximum height of the sign shall be six feet.
3) Size — the maximum size of the sign shall be 24 square feet per face, with each sign permitted two faces.
4) Setback — signs shall be setback such that the closest edge of the sign is a minimum of five feet from any property line.
5) Only one sign shall be permitted at any location.
6) Proposed on-premise community identification signs shall be reviewed and approved by the Cashiers Community Planning Council.

(j) **Maintenance**

(i) General. To ensure that signs are erected and maintained in a safe and aesthetic manner, all signs designed to be visible from any public street or road within the Cashiers Commercial Area shall be properly permitted and inspected for compliance with the applicable codes of the State of North Carolina and Jackson County and other applicable sections of this section.

(ii) Maintenance requirements. The following maintenance requirements shall be observed for all signs visible from any public street or road within the Cashiers Commercial Area.

1) No sign shall have more than 20 percent of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 successive days.
2) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts, or be allowed to stand more than 15 degrees away from the perpendicular for a period of more than 30 successive days.
3) No sign shall be allowed to have weeds, vines, or other vegetation growing upon it and obstructing its view from the roadway from which it is to be viewed for a period of more than 30 successive days.

4) No internally lit sign shall be allowed to stand with only partial illumination for a period of more than 30 successive days.
5) If a sign or sign structure is damaged due to factors other than vandalism or other criminal acts such that more than 50 percent of the value is lost, with such determination made by the Jackson County Planning Department, any repair or replacement must be done in conformance with this section. If a sign or sign structure is damaged due to vandalism or other criminal act, it may be repaired or replaced, regardless of cost, but it must be repaired or replaced to the same specifications to which and with the same materials of which the sign was constructed prior to the act that caused the damage.
6) All banners, flags, and similar items shall be maintained so as to be free of tears, rips, discoloration, and/or fading. Any banner, flag, or similar item not so maintained may be removed without notice by the Planning Director.

(iii) Inspection. The staff of the Jackson County Planning Department may inspect all signs for compliance with these maintenance requirements.

(k) **Structural and Construction Requirements**

(i) All on-premises signs allowed by this article shall be constructed in accordance with the requirements of the North Carolina State Building Code.

(l) **Variances**

(i) Requirements for variances. The Cashiers Area Community Planning Council has the authority to hear and act upon applications for variances as set forth in Section 3.7.20 of this Ordinance.

Section 9.3.12 Nonconformities

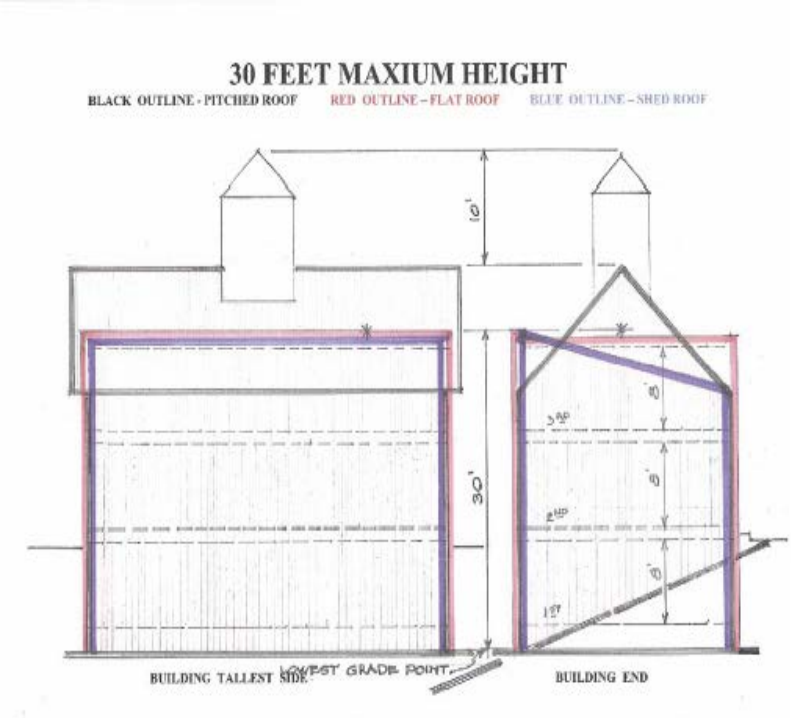
Nonconforming uses and structures shall comply with the regulations established in Section 8.8.2.

Section 9.3.13 Violations and Enforcement

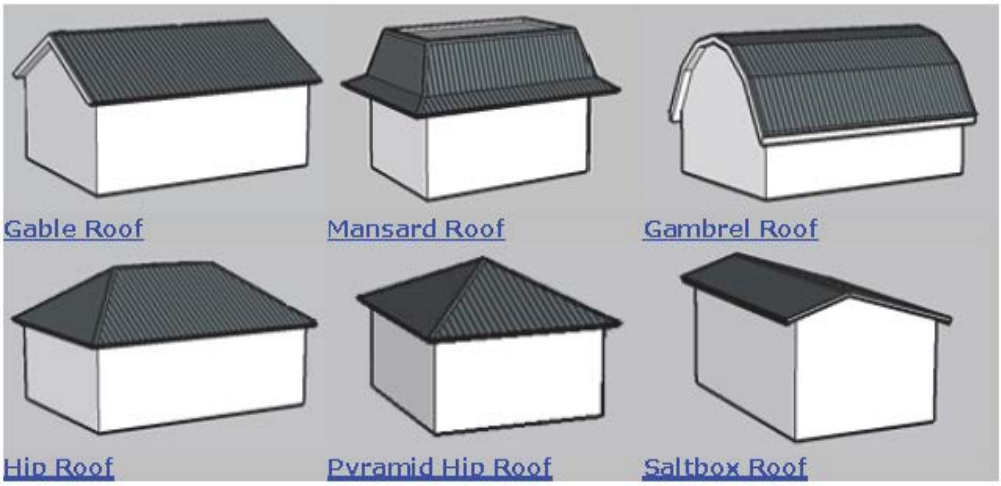
(a) **Duties Regarding Enforcement**

(i) The Planning Director shall enforce the standards set forth in this section in accordance with the provisions of Article X: Violations and Enforcement.

Appendix 9.3.1 Cashiers Commercial District Height Measurement and Roof Types



Roof Type Examples



Source: Jackson County Cashiers Commercial Area Ordinance, Amended 2009

Appendix 9.3.2 Cashiers Planting List

USDA HARDINESS ZONE 5"		
Common Name	**Scientific Name**	**Plant Notes**
Trees, Deciduous Large Shade Trees		
Bald Cypress (N)	*Taxodium distichum*	Tolerant of wet soil types.
Beech, American (N)	*Fagus grandifolia*	Large shade tree.
Beech, European	*Fagus sylvatica*	Green, purple, copper forms avail.
Birch, River (N)	*Betula nigra*	Large tree, tolerant of wet soils.
Black Gum, Tupelo (N)	*Nyssa sylvatica*	Adaptable; excellent fall color.
Elm, American (N)	*Ulmus americana*	Use only new resistant hybrids.
Elm, Chinese or Lacebark	*Ulmus parvifolia*	Adaptable; Fall color and bark interest.
Hornbeam, European	*Carpinus betulus*	Large shade tree. Adaptable.
Linden, Littleleaf and Silver	*Tilia cordata,T. tomentosa*	Large shade tree. Dark green leaves.
Honeylocust, Thornless (N)	*Gleditsia triacanthos var. inermis*	Cultivars available.
Maple, Red (N)	*Acer Rubrum*	Adaptable, excellent fall color.
Maple, Sugar(N)	*Acer saccharum*	Good soils; excellent fall color.
Oak, Pin (N)	*Quercus palustris*	Adaptable; fast for an oak.
Oak, Red (N)	*Quercus rubra*	American classic.
Oak, Swamp White (N)	*Quercus bicolor*	Tolerant of wet soil types.
Oak, White (N)	*Quercus alba*	Transplants best as small tree.
Persian Ironwood	*Parrotia persica*	Tough; fall color; bark interest.
Poplar, Yellow (Tuliptree) (N)	*Liriodendron (tulipifera)*	Adaptable, large shade tree
Sycamore, American (N)	*Plantus occidentalis*	Adaptable, large shade tree
Willow, Weeping	*Salix babylonica*	Likes wet soils
Shrubs, Deciduous		
Azalea, Native Species (N)	*Rhododendron vaseyi, R. calendulaceum, etc.*	Require good drainage.
Blueberry, Highbush and Lowbush (N)	*Vaccinium corymbosum, V. angustifolium*	Many culitvars available.
Blue-Mist Shrub	*Caryopteris x clandonensis*	Summer flowers in blue.
Buckeye, Bottlebrush (N)	*Aesculus parviflora*	Very showy summer flowers.
Burning Bush	*Euonymus alatus*	Could be invasive by seeding in.
Butterfly Bush	*Buddleia davidii*	Many colors available.

Buttonbush (N)	*Cephalanthus occidentalis*	Tolerant of wet soil types.
Chokeberry, Red (N)	*Aronia arbutifolia*	Fall color and fruit bonus.
Dogwood, Redtwig or Yellowtwig (N)	*Cornus sericea*	Winter twig color; adaptable.
Forsythia, Yellowbells	*Forsythia x intermedia*	Many cultivars available.
Holly, Winterberry (N)	*Ilex verticillata*	Tolerant of wet soil types.
Hydrangea, Smooth (N)	*Hydrangea arborescens*	Several culitvars available.
Hydrangea, Paniculata Group	*Hydrangea paniculata*	Many culivars available.
Hydrangea, Oakleaf (N)	*Hydrangea quercifolia*	Shade-tolerant.
Lilac, Manchurian	*Syringa patula*	Better than Common Lilac.
Ninebark (N)	*Physocarpus opulifolius*	Colorful foliage forms; wet-tolerant.
Potentilla, Cinquefoil	*Potentilla fruticosa*	Many colors available.
Cotoneaster, Rockspray	*Cotoneaster horizontalis*	Fall color, winter texture.
Rose, Rugosa (N)	*Rosa rugosa*	Most trouble-free rose.
Rose, Hybrid Shrub Rose	*Rosa x hybrida*	Choose cold-hardy varieties.
Rose-of-Sharon	*Hibiscus syriacus*	Many flower colors available.
St. Johnswort (N)	*Hypericum frondosum*	Sunburst' and others; Summer bloom.
Southern Bush-Honeysuckle (N)	*Diervilla sessilifolia*	Adaptable; Summer bloom, fall color.
Spirea, Japanese and Hybrids	*Spirea x bumalda*	Many cultivars available.
Sweetshrub, Carolina Allspice (N)	*Calycanthus floridus*	Fragrance and fall color.
Viburnum, American Cranberrybush (N)	*Viburnum trilobum*	Edible fruit; Wildlife plant.
Viburnum, Doublefile	*Viburnum plicatum var. tomentosum*	Excellent flowers, fast growth.
Viburnum, European Cranberrybush	*Viburnum opulus*	Tolerant of wet soil types.
Viburnum, Arrowwood and Blackhaw (N)	*Viburnum dentatum, V. prunifolium*	Tough, wildlife, screening.
Summersweet Clethra	*Clethra alnifolia*	Fragrance and fall color.
Virginia Sweetspire (N)	*Itea virginica*	Summer bloom, fall color.
Weigela, Old-Fashioned	*Weigela florida*	Adaptable; summer bloom.
Witch Alder, Fothergilla (N)	*Fothergilla major*	Spring flowers, Fall color.
Flowering and Small Trees		
Cherry, Flowering	*Prunus spp.*	Yoshino, Kwanzan, Autumnalis
Crabapple, Hybrid and Sargent's	*Malus x hybrida, M. sargentii*	Choose disease-resistant varieties.
Dogwood, Flowering (N)	*Cornus florida*	Only for full sun; fungus problems.

Dogwood, Chinese or Kousa	*Cornus kousa*	Best in full sun; resistant species.
Dogwood, Hybrid	*Cornus x rutgersensis*	C. florida x C. kousa
Hawthorn, 'Winter King' (N)	*Crataegus viridis 'Winter King'*	Winter fruit display excellent.
Hawthorn, Washington	*Crataegus phaenopyrum*	Deciduous, small tree
Hornbeam, American (N)	*Carpinus caroliniana*	Tolerant of wet soil conditions.
Magnolia, Sweetbay (N)	*Magnolia virginiana*	Tolerant of wet soil conditions.
Maple, Japanese	*Acer palmatum, A. japonicum*	Good, well-drained soil; Many types.
Maple, Paperbark	*Acer griseum*	More cold-hardy than Japanese maple.
Plum, Purple-leaf	*Prunus cerasifera*	Adaptable; susceptible to blight.
Redbud, Eastern (N)	*Cercis canadensis*	Several cultivars available. Fast growth.
Serviceberry (N)	*Amelanchier x grandiflora, A. arborea, A. laevis*	Early white bloom, fall color.
Silverbell, Carolina (N)	*Halesia tetraptera*	Bells in spring; Requires good drainage.
Fringetree, White (N)	*Chionanthus virginicus*	Late spring bloom; very hardy.
Smoketree, European and Native	*Cotinus coggygria, C. obovatus*	Full sun, good drainage; Colorful leaves.
Sourwood (N)	*Oxydendrum arboreum*	Summer flowers, fall color.
Witchhazel, Common (N)	*Hammamelis virginiana*	Late fall blooms w/ fall color.
Witchhazel, Hybrid	*Hammamelis x intermedia*	Winter blooms and fall color.
Yellowwood, American (N)	*Cladrastis kentukea*	Can grow quite large with time.
Trees, Evergreen Large		
Arborvitae, Eastern (N)	*Thuja occidentalis*	Sun; Adaptable; Many forms available.
Arborvitae, Western Red Cedar	*Thuja plicata*	Sun or shade; Good hedge and screen.
Fir, White	*Abies concolor*	Peforms better than blue spruce.
Fir, Nordmann	*Abies nordmanniana*	Large tree; Shade-tolerant.
Hemlock, Eastern	*Tsuga canadensis*	Not recommended; must be treated.
Juniper, Eastern Red Cedar	*Juniperus virginiana*	Sun; Adaptable; Many forms available.
Leyland Cypress	*Xcupressocyparis leylandii*	Fast grower, weak in snow and ice.

Pine, Austrian	*Pinus nigra*	Tough, adaptable.
Pine, Eastern White	*Pinus strobus*	Large tree; Large-Scale Screening.
Spruce, Black Hills	*Picea glauca var. densata*	Tough, adaptable smaller conifer.
Spruce, Colorado Blue	*Picea pungens*	Requires treatment to look best.
Spruce, Norway	*Picea abies*	Adaptable; Large; Many forms available.
Spruce, Oriental	*Picea orientalis*	Graceful form, dark-green color.
Spruce, Serbian	*Picea omorika*	Sun only; Adaptable; Blue color.
Evergreen Shrubs		
Andromeda, Japanese	*Pieris japonica*	Many cultivars and sizes.
Azalea, Japanese Hybrids	*Rhododendron x hybrids*	Use only cold-hardy cultivars.
Boxwood, Many Cultivars	*Buxus x sempervirens*	Many cultivars and sizes.
Cotoneaster, Spreading	*Cotoneaster dammeri*	Several species and varieties.
Doghobble (N)	*Leucothoe fontanesiana*	Good drainage; Spreads over time.
Inkberry, Gallberry (N)	*Ilex glabra*	Compact cultivars available.
Juniper, Rug and Groundcover Types	*Juniperus horizontalis, J. conferta, J. procumbens*	Low groundcover, wide-spreading.
Juniper, Chinese	*Juniperus chinensis*	Many cultivars and sizes.
Juniper, Common (Some N)	*Juniperus communis*	Several cultivars and forms.
Laurel, Cherry or Schip	*Prunus laurocerasus var. schipkaensis*	Only hardy variety in group.
Mountain Laurel (N)	*Kalmia latifolia*	Requires good soil drainage.
Mugo Pine	*Pinus mugo*	Full sun, good drainage.
Yew, Anglojap and Japanese Spreading	*Taxus x media, T. baccata 'Repandens'*	Requires good soil drainage.
Holly, Japanese	*Ilex crenata*	Choose cold-hardy forms.
Holly, Blue Hybrids	*Ilex x meserveae*	More cold-hardy than Japanese.
Rhododendron, Hybrids	*Rhododendron x hybrids*	Choose H-1 Cold Hardy Varieties.
Rhododendron, Rosebay (N)	*Rhododendron maximum*	Best in shade, good drainage.
Spruce, Bird Nest	*Picea abies 'Nidiformis'*	Several dwarf spruces are available.
Evergreen Small Tree		
Alaska Cedar, Nootka Falsecypress	*Chamaecyparis nootkatensis*	Graceful weeping branches.
Hinoki Falsecypress	*Chamaecyparis obtusa*	Many cultivars available; shade-tolerant.

Holly, American	*Ilex opaca*	Most cold-hardy of hollies. Slow growth.
Holly, Hybrids 'Foster's #2' & 'Nellie R Stevens'	*Ilex x attenuata 'foster's #2', I. x hybrid 'Nelli R Stevens'*	Less cold-hardy; give protection.
Japanese Falsecypress, Goldthread Cypress	*Chamaecyparis pisifera*	Includes golden threadbranch types.
Juniper, Chinese	*Juniperus chinesis*	Hetzii Columnaris' and many others.
Pine, Japanese Red, Japanese White	*Pinus densiflora, P. parviflora*	Several cultivars and forms.
Vines		
Akebia, Fiveleaf	*Akebia quinata*	Rapid growth; Keep contained.
Boston Ivy	*Parthenocisus tricuspidata*	Fall color; Self-climbing; Vigorous.
Clematis, Sweet Autumn	*Clematis paniculata*	Fast, late summer bloom.
Honeysuckle, Trumpet or Red (N)	*Lonicera sempervirens*	Long-Blooming; Hummingbirds love it.
Trumpetcreeper (N)	*Campsis radicans*	Fast and large-growing; Tough.
Virginia Creeper (N)	*Parthenocisus quinquefolia*	Fall color; Self-climbing; Vigorous.
Wisteria, Native (N)	*Wisteria frutescens*	Smaller, later bloom than Oriental types.

Section 9.4 Cullowhee Community Planning District

Section 9.4.1 General Provisions

(a) **Authority**

(i) This section is adopted pursuant to the authority vested in Jackson County by the General Assembly of the State of North Carolina in provisions of the North Carolina General Statutes, which include NCGS 153A, Article 18 as amended. This section is entitled Cullowhee Community Planning Area Development Standards.

(b) **Purpose**

(i) These regulations have been adopted in accordance with NCGS 153A-342 in order to promote the health, safety, and general welfare of the community; to provide for sound and orderly development; to facilitate the adequate provision of transportation, water and sewer utilities, schools, and parks; to promote the economic prosperity of the community; to preserve the community's unique scenic quality; to conserve the natural resources and environmental quality of the community; and to protect and conserve the heritage of the community.

(c) **Jurisdiction**

(i) General. The provisions of this section shall apply within the area defined as the Cullowhee Planning Area, as defined on the map so labeled. This map shall filed in the office of the Jackson County Planning Department.

(d) **Official Map; Rules of Construction**

(i) Official Zoning Map. The boundaries of the zoning districts are effective at the same time this section is effective by the adoption by the Jackson County Board of Commissioners of a map entitled "Cullowhee Planning Area Zoning Map" (hereafter "zoning map"). The zoning map, together with all amendments adopted by the Jackson County Board of Commissioners, is incorporated herein by reference as if fully set forth herein. The zoning map shall be maintained in the office of the Jackson County Planning Department.

Section 9.4.2 Procedures and Administration

(a) **Procedures**. In addition to information contained in Section 9.4, refer to the following Sections for procedures relative to the Regulated District.

(i) Design review - see Article III, Section 3.7.4.
(ii) Sign permits - see Article III, Section 3.4.
(iii) Special use permit - see Article III, Section 3.7.15.
(iv) Temporary use permit and procedures, see Article III, Section 3.7.18.
(v) Text amendment - see Article III, Section 3.7.19.
(vi) Map amendment- see Article III, Section 3.7.12.
(vii) Zoning permits - see Article III, Section 3.7.21.
(viii) Variance- see Article III, Section 3.7.20.
(ix) Administrative Appeal Decision - see Article III, Section 3.7.2 (c).

(b) **Administration**

(i) For the purposes of the regulated districts contained in this section, the Planning Director or the Permitting and Code Enforcement Director shall, as defined in Article 2.1, be responsible for administering the UDO within the regulated districts.

Section 9.4.3 General and Special Use Districts

(a) **Permitted and Prohibited Uses.**

(i) Permitted and prohibited uses are denoted in the Table 9.9: List of Permitted Uses.

(ii) For uses subject to additional standards, refer to Table 9.9: List of Permitted Uses.

(b) **Unlisted uses.**

(i) In the case of uses not listed in Table 9.9: List of Permitted Uses, the Planning Director will make a determination of the group appropriate for such uses. In reaching the determination, the Planning Director must determine the most similar use that has comparable impacts.

(c) **Enumeration and Description.**

(i) Criteria for zoning districts. The Cullowhee Planning Area is divided into zoning districts taking into account the design, size, and/or location of one or more of the following:

1) Transportation facilities.
2) Schools, parks, and other public facilities.
3) Availability of sanitary sewer and/or septic systems.
4) Access to and location of other utility services.
5) Potential hazards from fire and flooding.
6) Access to light and air from buildings.
7) Topography and other natural features.
8) Current uses of land and buildings for residences, businesses, churches, schools, and for other uses, and height of buildings, the size and location of yards, and the density of development in each of the zoning districts hereinafter mentioned.

(ii) Enumeration and description of zoning districts. The following general use districts are established in this article:

1) Commercial
2) Institutional
3) Multi-Family Residential High Density
4) Multi-Family Residential Medium Density
5) Multi-family Residential Low Density
6) Single Family Residential
7) Single Family Residential — Manufactured Home
8) Parks/Open Space

(iii) Watershed area. Certain properties within the Cullowhee Planning Area are located within a designated Watershed Protected Area or Watershed Critical Area, as noted on the District Map. These areas are subject to additional development standards as set forth in Section 5.3 Watershed Protection.

(b) **Commercial District (C)**

(i) Purpose. The purpose of the Commercial District is to provide opportunities for commercial development with standards to assure that the development is sustainable and maintains the character of the community.

(ii) Special uses. See Table 9.9: List of Permitted Uses. Also, any development or redevelopment that exceeds 75,000 square feet in gross floor area.

(iii) Development Standards.

1) Lot size standards. New lots in the Commercial District shall not be less than 0.25 acres (10,890 square feet).
2) Lot width. New lots in the Commercial District shall not be less than 50 feet in width.

3) Density. There shall be no greater than 30 dwelling units per acre on any lot in the Commercial District.
4) Building height. New structures in the Commercial District shall not exceed 40 feet in height.
5) Setback. The following minimum setbacks shall be required for structures in the Commercial District:
   a) Front: 15 feet.
   b) Side: 10 feet; a reduction in the side setback may be approved by staff if NC Building Code requirements are met.
   c) Rear: 10 feet.
   d) Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
6) Impervious surface. The maximum impervious surface coverage of a lot in the Commercial District shall be 70 percent. An increase in the impervious area may be permitted if best management practices are used to address stormwater runoff under the provisions set forth in Section 5.5.
7) Landscaping/buffering. Landscaping and/or buffering shall be provided as required by Section 9.4.5 (g).
8) Parking and loading. Parking shall be provided as required by Section 9.4.6. There shall be a maximum of two rows of parking permitted in front of building(s). Parking shall be permitted beside and behind buildings. No parking shall be permitted in required buffers, side and/or rear setbacks, or open space.
9) Pedestrian facilities. A sidewalk meeting NCDOT standards shall be required along all street and road frontages. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for the proposed development.
10) Open space. Lots in the Commercial District shall contain at least ten percent open space, which must be maintained in a vegetated, natural state.

(c) **Institutional District (INST)**

(i) Purpose. The purpose of the Institutional District is to provide areas for the development of institutional facilities in an environment that supports their functions and provides for the infrastructure needed to serve the development.

(ii) Special uses. See Table 9.9: List of Table of Permitted Uses. Also, any development or redevelopment that exceeds 75,000 square feet in gross floor area.

(iii) Development.

1) Lot size standards. New lots in the Institutional District shall not be less than 0.25 acres (10,890 square feet).
2) Lot width. New lots in the Institutional District shall not be less than 50 feet in width.
3) Density. There shall be no greater than 20 dwelling units per acre on any lot in the Institutional District.
4) Building height. New structures in the Institutional District shall not exceed 40 feet in height.
5) Setback. The following minimum setbacks shall be required for structures in the Institutional District:
   a) Front: 25 feet.
   b) Side: 10 feet.
   c) Rear: 20 feet.
   d) Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.

6) Impervious surface. The maximum impervious surface coverage of a lot in the Institutional District shall be 70 percent. An increase in the impervious area may be permitted if best management practices are used to address stormwater runoff under the provisions set forth in Section 5.5.
7) Landscaping/buffering. Landscaping and/or buffering shall be provided as required by section 9.4.5 (g).
8) Parking and loading. Parking shall be provided as required by Section 9.4.6. No parking shall be permitted in required buffers, side and/or rear setbacks, or open space.
9) Pedestrian facilities. A sidewalk meeting NCDOT standards shall be required along all street and road frontages. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for the proposed development.
10) Open space. Lots in the Institutional District shall contain at least ten percent open space, which must be maintained in a vegetated, natural state.

(d) **Multifamily Residential—High Density District (MFH)**

(i) Purpose. The Multifamily Residential High-Density District is established to provide standards for high density development that minimizes the impact on surrounding properties in areas that have the infrastructure necessary to serve the development.

(ii) Special uses. See Table 9.9: List of Table of Permitted Uses. Also, any development or redevelopment that contains more than 200 bedrooms.

(iii) Development standards.

1) Lot size. New lots in the MFH District shall not be less than five acres for townhomes and apartments. For single family dwellings, lot sizes shall be those set forth in Section 9.4.3 (g).
2) Lot width. New lots, other than those for single family home development, in the MFH District shall not be less than 500 feet in width. Single family home lots shall have a minimum width of 50 feet.
3) Density. There shall be no greater than twenty-four (24) bedrooms per acre on any lot in the MFH District. Single family density shall be determined by permitted lot size.
4) Building height. New structures in the MFH District shall not exceed 40 feet in height. This height requirement may be increased up to 80 feet provided that for each additional one foot in building height, the building is set back an additional two feet from the setback required by Section 9.4.3 (d)(vi)(5)(b) below.
5) Setback. The following minimum setbacks shall be required for structures in the MFH District:
   a) Front: 40 feet.
   b) Side: 25 feet.
   c) Rear: 30 feet.
   d) Multi-family developments of more than 12 units shall be setback a minimum of 50 feet from the Tuckasegee River. No parking, grading, or activity other than passive recreation shall occur within this setback.
   e) Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
   f) No parking, vehicular access areas, or structures shall be located within the required setbacks. Driveways may cross the setbacks. Recreational facilities may be located within the setback upon approval by the Cullowhee Community Planning Council.

6) Distance between buildings. When located on the same property, the minimum distance between buildings shall be equal to the side setback set forth in Section (d)(vi)(5)(b) above plus one foot for each one foot in building height above 35 feet.
7) Impervious surface. The maximum impervious surface coverage of a lot in the MFH District shall be 70 percent.
8) Landscaping/buffering. Landscaping and/or buffering shall be provided as required by Section 9.4.5 (g). No grading shall occur within the required buffer other than that required for access drives.
9) Parking and loading. Parking shall be provided as required by Section 9.4.6. No parking shall be permitted in required buffers, setbacks, or open space.
10) Pedestrian facilities. A sidewalk meeting NCDOT standards shall be required along all street and road frontages. A sidewalk connection shall be provided from each building to the street or road providing primary access to the property. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for the proposed development. This standard shall not apply to single family home developments of less than 12 lots/homes.
11) Open space. Lots in the MFH District shall contain at least 10 percent open space, which must be maintained in a vegetated, natural state.

(e) **Multi-Family Residential—Medium Density District (MFM)**.

(i) Purpose. The Multi-Family Residential—Medium Density District is created to provide opportunities for development of medium density residential uses and supporting uses in areas with infrastructure to serve the uses where the development will not adversely impact surrounding properties.

(ii) Special uses. See Table 9.9: List of Permitted Uses. Also, any development or redevelopment that contains more than 120 bedrooms.

(iii) Development standards.

1) Lot size. New lots in the MFM District shall not be less than two acres for townhomes and apartments. For single family dwellings, lot sizes shall be those set forth in Section 9.4.3 (g).
2) Lot width. New lots, other than those for single family homes, in the MFM District shall not be less than 200 feet in width. Single family home lots shall have a minimum width of 50 feet.
3) Density. There shall be no greater than 18 bedrooms per acre on any lot in the MFM District. Single family density shall be determined by permitted lot size.
4) Building height. New structures in the MFM District shall not exceed 40 feet in height. This height requirement may be increased up to 80 feet provided that for each additional one foot in building height, the building is set back an additional two feet from the setback required by Section 9.4.3 (d)(vi)(5)(e) below.
5) Setback. The following minimum setbacks shall be required for structures in the MFM District:
   a) Front: 35 feet.
   b) Side: 25 feet.
   c) Rear: 25 feet.
   d) Multi-family developments of more than 12 units shall be setback a minimum of 50 feet from the Tuckasegee River. No parking, grading, or activity other than passive recreation shall occur within this setback.

e) Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
f) No parking, vehicular access areas, or structures shall be located within the required setbacks. Driveways may cross the setbacks. Recreational facilities may be located within the setback upon approval by the Cullowhee Community Planning Council.

6) Distance between buildings. When located on the same property, the minimum distance between buildings shall be equal to the side setback set forth in Section 9.4.3(e)(vi)(5)(b) above plus one foot for each one foot in building height above 35 feet.
7) Impervious surface. The maximum impervious surface coverage of a lot in the MFM District shall be 60 percent.
8) Landscaping/buffering standard. Landscaping and/or buffering shall be provided as required by Section 9.4.5(g). No grading shall occur within the required buffer other than that required for access drives.
9) Parking and loading. Parking shall be provided as required by Section 9.4.6. No parking shall be permitted in required buffers, setbacks, or open space. A maximum of two rows of parking is permitted in front of any building(s). Parking is permitted beside and behind any building(s).
10) Pedestrian facilities. A sidewalk meeting NCDOT standards shall be required along all street and road frontages. A sidewalk connection shall be provided from each building to the street or road providing primary access to the property. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for the proposed development. This standard shall not apply to single family home developments of less than 12 lots/homes.
11) Open space standard. Lots in the MFM District shall contain at least 10 percent open space, which must be maintained in a vegetated, natural state.

(f) **Multifamily Residential—Low Density District (MFL)**

(i) Purpose. The Multifamily Residential—Low Density District is established to provide opportunities for low density multi-family development in areas that can serve as a transition between higher intensity and lower intensity uses.

(ii) Special uses. See Table 9.9: List of Permitted Uses. Also, any development or redevelopment that contains more than 75 bedrooms.

(iii) Development standards.

1) Lot size. New lots in the MFL District shall not be less than one acre for multifamily. For single family dwellings, lot sizes shall be those set forth in Section 9.4.3(g) below.
2) Lot width. New lots, other than those for single family home development, in the MFL District shall not be less than 100 feet in width. Single family home lots shall have a minimum width of 50 feet.
3) Density. There shall be no greater than 12 bedrooms (multi-family developments) per acre on any lot in the MFL District. Single family density shall be determined by permitted lot size.
4) Building height. New structures in the MFL District shall not exceed 40 feet in height.
5) Setback. The following minimum setbacks shall be required for structures in the MFL District:
   a) Front: 20 feet.
   b) Side: 15 feet.

c) Rear: 15 feet.
d) Multi-family developments of more than 12 units shall be setback a minimum of 50 feet from the Tuckasegee River. No parking, grading, or activity other than passive recreation shall occur within this setback.
e) Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
f) No parking, vehicular access areas, or structures shall be located within the required setbacks. Driveways may cross the setbacks. Recreational facilities may be located within the setback upon approval by the Cullowhee Community Planning Council.

6) Distance between buildings. When located on the same property, the minimum distance between buildings shall be equal to the side setback set forth in Section 9.4.3 (f)(vi)(5)(b) plus one foot for each one foot in building height above 35 feet.
7) Impervious surface. The maximum impervious surface coverage of a lot in the MFL District shall be 50 percent.
8) Landscaping/buffering. Landscaping and/or buffering shall be provided as required by Section 9.4.5 (g). No grading shall occur within the required buffer other than that required for access drives.
9) Parking and loading. Parking shall be provided as required by Section 9.4.6. No parking shall be permitted in required buffers, setbacks, or open space. No parking is permitted in front of any building(s) for townhomes. Parking is permitted beside and behind building(s).
10) Pedestrian facilities. A sidewalk meeting NCDOT standards shall be required along all street and road frontages for multifamily projects. A sidewalk connection shall be provided from each building within a multifamily development to the street or road providing primary access to the property. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property to be developed for townhomes on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for the proposed development. This standard shall not apply to single family home developments of less than 12 lots/homes.
11) Open space. Lots in the MFL District shall contain at least ten percent open space, which must be maintained in a vegetated, natural state.

(g) **Single Family Residential District (SF)**

(i) Purpose. The Single Family Residential District is established to preserve areas for the development or single-family residences and related uses.

(ii) Special uses. See Table 9.9: List of Permitted Uses.

(iii) Development standards.

1) Lot size. Lots that are served by public water and sewer shall not be less than 0.20 acres (8,712 square feet). Lots that are served by either public water or public sewer (not both) shall not be less than 0.5 acres (21,780 square feet). Lots that are not served by public water or public sewer shall be no less than 1.0 acre (43,560 square feet).
2) Lot width. New lots in the Single- Family District shall not be less than 50 feet in width.
3) Density. On lots served by both public water and public sewer, there shall be no more than five dwelling units per acre. On lots served by either public water or public sewer but not both, there shall be no more than two dwelling units per acre. On lots not served by public sewer or public water, there shall be no more than one dwelling unit per acre.
4) Building height standard. New structures in the SF District shall not exceed 40 feet in height.
5) Setback. The following minimum setbacks shall be required for structures in the SF District:

a) Front: 20 feet.
b) Side: 10 feet.
c) Rear: 10 feet.
d) Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.

6) Impervious surface. The maximum impervious surface coverage of a lot in the SF District shall be as required by Section 5.5 Water Recharge.
7) Landscaping/buffering. Landscaping and/or buffering shall be provided as required by Section 9.4.5 (g). No grading shall occur within the required buffer other than that required for access drives unless approved by the Cullowhee Community Planning Council.
8) Parking and loading. Parking shall be provided as required by Section 9.4.6.
9) Pedestrian facilities. A sidewalk meeting NCDOT standards shall be required along all street and road frontages for subdivisions of more than 12 lots/homes. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval for subdivisions of more than 12 lots/homes. The dedication of the easement(s) shall count toward the open space requirements for proposed subdivision development.
10) Open space. Developments in the SF District shall contain open space as required by the Jackson County Subdivision Section.

(h) **Single Family Residential—Manufactured Home District (SF-MH)**

(i) Purpose. The Single Family Residential — Manufactured Home District is established to preserve areas for the development or single-family residences, including manufactured homes, and related uses.

(ii) Special uses. See Table 9.9: List of Permitted Uses.

(iii) Development standards.

1) Lot size. Lots that are served by public water and sewer shall not be less than 0.20 acres (8,712 square feet). Lots that are served by either public water or public sewer (not both) shall not be less than 0.5 acres (21,780 square feet). Lots that are not served by public water or public sewer shall be no less than 1.0 acre (43,560 square feet).
2) Lot width standards. New lots in the SF—MH District shall not be less than 50 feet in width.
3) Density. On lots served by both public water and public sewer, there shall be no more than five dwelling units per acre. On lots served by either public water or public sewer but not both, there shall be no more than two dwelling units per acre. On lots not served by public sewer or public water, there shall be no more than one dwelling unit per acre.
4) Building height. New structures in the SF-MH District shall not exceed 40 feet in height.
5) Setback. The following minimum setbacks shall be required for structures in the SF-MH District:
   a) Front: 20 feet.
   b) Side: 10 feet.
   c) Rear: 10 feet.
   d) Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
6) Impervious surface. The maximum impervious surface coverage of a lot in the SF-MH District shall be as required by Section 5.5 Water Recharge.
7) Landscaping/buffering. Landscaping and/or buffering shall be provided as required by Section 9.4.5 (g). No grading shall occur within the required buffer other than that required for access drives unless approved by the Cullowhee Community Planning Council.

8) Parking and loading. Parking shall be provided as required by Section 9.4.6.
9) Pedestrian facilities standards. A sidewalk meeting NCDOT standards shall be required along all street and road frontages for subdivisions of more than 12 lots/homes. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval for subdivisions of more than 12 lots/homes. The dedication of the easement(s) shall count toward the open space requirements for proposed subdivision development.
10) Open space. Developments in the SF-MH District shall contain open space as required by the Jackson County Subdivision Section.

(iv) Replacement of manufactured homes.

1) Dimensional or use nonconformities associated with manufactured homes shall be addressed in the following manner.
   a) Replacement of one single wide manufactured home with another manufactured home in a lawfully established manufactured housing park. Such replacement shall be permitted without regard to dimensional nonconformity provided that the replacement manufactured home meets the definition and standards for a Class B manufactured home as set forth in this Ordinance, the replacement manufactured home is no older and no smaller than the existing manufactured home, and that replacement home is located on existing spaces ready for occupancy and/or occupied. In all other situations, replacement shall be prohibited.
      i) Manufactured home parks that have abandoned their use for a period of one year or more may only be reestablished in conformance with existing regulations. For the purposes of this subsection, a manufactured home park is deemed to be abandoned when all spaces vacant, or when all manufactured homes located on the sites are vacant and unfit for human habitation (i.e. vegetation growing through the unit, roof is collapsed, home is not set-up or hooked to water and sewer)
   b) Replacement of one single wide manufactured home with another manufactured home in areas other than a lawfully established manufactured housing park. Such replacement shall be permitted provided that new dimensional nonconformities are not created, the replacement manufactured home meets the definition and standards for a Class B manufactured home on an individual lot as set forth in this Ordinance, the replacement manufactured home is no older and no smaller than the existing manufactured home, the replacement home is placed in the same location as the original home, and such replacement occurs within 180 days of the last day of occupancy of the original manufactured home. In all other situations, replacement shall be prohibited.

(i) **Parks/Open Space District (P/OS)**

(i) Purpose. The Parks/Open Space District is created to preserve publicly owned parks and open space properties.

(ii) Special uses. See Table 9.9: List of Permitted Uses.

(iii) Development standards.

1) Lot size standards. New lots in the P/OS District shall be no less than 0.25 acres (10,890 square feet).
2) Lot width standards. New lots in the P/OS District shall not be less than 40 feet in width.
3) Density standard. There is no minimum or maximum density in the P/OS District.
4) Building height standard. New structures in the P/OS District shall not exceed 40 feet in height.

5) Setback standards. The following minimum setbacks shall be required for structures in the P/OS District:
   a) Front: 20 feet.
   b) Side: 15 feet.
   c) Rear: 20 feet.
   d) Should greater setbacks be required for buffering from streams or rivers, for landscaping, or other reasons, the greater setback shall prevail.
6) Impervious surface. The maximum impervious surface coverage of a lot in the P/OS District shall be as required by Section 5.5 Water Recharge.
7) Landscaping/buffering. Landscaping and/or buffering shall be provided as required by Section 9.4.5 (g). No grading shall occur within the required buffer other than that required for access drives unless approved by the Cullowhee Community Planning Council.
8) Parking and loading. Parking shall be provided as required by Section 9.4.6.
9) Pedestrian facilities. A sidewalk meeting NCDOT standards shall be required along all street and road frontages. In lieu of sidewalks, trails may be provided upon approval by the Community Planning Council. If a greenway route is indicated as crossing the property on Jackson County's Greenway Master Plan, the easement for the greenway shall be dedicated to Jackson County as a condition of project approval. The dedication of the easement(s) shall count toward the open space requirements for proposed development.
10) Open space. For projects involving construction of buildings and/or parking areas, 40 percent of the site must be preserved as open space, which should be maintained in a vegetated state natural to the region of Western North Carolina.

Table 9.9: List of Permitted Uses.

Zoning District Key:

C = Commercial District
INST = Institutional District
MFH = Multifamily High Density District
MFM = Multifamily Medium Density District
MFL = Multifamily Low Density District
SF = Single Family District
SF-MH = Single Family Manufactured Home District
P/OS = Park/Open Space District

P = Permitted Use U= Use Permitted, Subject to Additional Standards S = Special Use N = Not Permitted								
See Section 9.4.3 & 9.4.4 for detailed requirements for Uses Permitted, Subject to Special Requirements and for Special Uses	**Zoning District**							
Land Use Type	**C**	**INST**	**MFH**	**MFM**	**MFL**	**SF**	**SF-MH**	**P/OS**
Residential								
Accessory apartments	P	P	P	P	P	U	U	N
Fraternity and Sorority Dwelling	N	N	U	U	U	N	N	N
Dwellings, single family attached (duplex)	N	N	P	P	P	U	U	N
Dwellings, multi-family	P	P	P	P	P	N	N	N
Dwellings, single family detached	P	P	P	P	P	P	P	N

Manufactured homes, Class A	N	N	U	U	U	N	U	N
Manufactured home, Class B	N	N	U	U	U	N	U	N
Manufactured home parks	N	N	U	U	U	N	N	N
Student rentals	P	P	P	P	U	U	U	N
Recreational								
Arboretums	P	P	N	N	N	N	N	P
Camps, campgrounds	P	N	N	N	N	N	N	P
Golf courses	P	N	P	P	P	P	P	P
Recreational uses, commercial indoor	P	N	N	N	N	N	N	N
Recreational uses, commercial outdoor	P	N	N	N	N	N	N	N
Recreational uses, governmental	P	N	P	P	P	N	N	P
Recreational uses, restricted to membership, non-profit	P	P	P	P	P	N	N	P
Public/Semi-public								
Adult day care centers	P	P	P	P	N	N	N	N
Amphitheaters	P	P	N	N	N	N	N	P
Child day care centers	P	P	P	P	N	N	N	N
Churches	P	P	P	P	P	P	P	N
Civic, social service, and fraternal facilities	P	P	P	P	N	N	N	N
Colleges	P	P	N	N	N	N	N	N
Community centers	P	P	P	P	P	P	P	N
Community gardens	U	U	U	U	U	U	U	P
Conference centers (large)	P	P	P	N	N	N	N	N
Conference/Meeting center (small)	P	P	P	U	U	N	N	N
Fire/police stations	P	P	P	P	P	N	N	N
Libraries	P	P	P	P	N	N	N	N
Medical centers	P	P	N	N	N	N	N	N
Museums	P	P	N	N	N	N	N	N
Post offices	P	P	N	N	N	N	N	N
Public utilities and related facilities	P	P	P	U	U	U	U	N
Schools	P	P	N	N	N	N	N	N
Office/Business								
Automobile service station (storage of abandoned and inoperable vehicles prohibited)	P	N	N	N	N	N	N	N
Barber shops and salons	P	N	N	N	N	N	N	N
Bars, nightclubs	S	N	N	N	N	N	N	N
Bed and Breakfast	P	N	P	P	U	U	U	N
Bookstores	P	N	N	N	N	N	N	N
Brew Pub/Microbrewery	P	N	N	N	N	N	N	N
Candy, pastry, ice cream, coffee, and snack shops	P	N	N	N	N	N	N	N
Car washes	U	N	N	N	N	N	N	N
Convenience stores	P	N	N	N	N	N	N	N
Delicatessens	P	N	N	N	N	N	N	N
Distributive businesses	U	N	N	N	N	N	N	N

Drive through facilities	U	U	N	N	N	N	N	N
Event venues	U	N	U	U	N	N	N	N
Financial institutions	P	P	N	N	N	N	N	N
Florists	P	N	N	N	N	N	N	N
Fruit and vegetable markets	P	N	N	N	N	N	N	N
Gift shops	P	N	N	N	N	N	N	N
Hardware/garden supply stores	P	N	N	N	N	N	N	N
Health and fitness facilities	P	P	N	N	N	N	N	N
Home occupations	P	P	U	U	U	U	U	N
Instructional services	P	P	N	N	N	N	N	N
Laundry and dry-cleaning establishments	P	N	N	N	N	N	N	N
Lodging facilities	P	N	N	N	N	N	N	N
Motor vehicle repair	U	N	N	N	N	N	N	N
Offices	P	P	N	N	N	N	N	N
Outdoor storage	U	N	U	U	U	U	U	N
Pharmacies	P	P	N	N	N	N	N	N
Plant nurseries, sales and greenhouses	P	N	N	N	N	N	N	N
Printing and publishing	P	N	N	N	N	N	N	N
Restaurants	P	N	N	N	N	N	N	N
Retail gasoline sales	P	N	N	N	N	N	N	N
Retail sales	P	N	N	N	N	N	N	N
RV Parks	N	N	U	U	U	N	N	N
Self-storage facilities	U	N	N	N	N	N	N	N
Studios, galleries, and workshops for artists, craftspeople, designers, and photographers	P	N	N	N	N	N	N	N
Theaters	P	N	N	N	N	N	N	N
Other								
Accessory structures	P	P	P	P	P	P	P	N
Drive through facilities	U	N	N	N	N	N	N	N
Manufacturing, assembly, or finishing operations	U	N	N	N	N	N	N	N
Parking lots	P	P	P	P	P	N	N	N
Planned development	S	S	S	S	S	S	S	N
Telecommunication towers (Wireless Telecommunications Structures)	P	P	P	P	S	S	S	N

(j) **Special Zoning Districts**

(i) Special zoning districts established. Special Zoning Districts are created for the purpose of providing an optional rezoning choice where the owner of property

1) proposes to rezone property and, in order to, among other reasons, carry out the purposes of the Jackson County Comprehensive Plan, the Cullowhee Vision Plan, strategic plans, corridor plans, and other land-use policy documents
2) proposes to impose special limitations and conditions on the use of the property proposed for rezoning
3) desires increased flexibility in the use and/or development of the property.

(ii) Special Zoning Districts are zoning districts in which the development and use of the property is subject to predetermined Section standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to each individual development project.

(iii) For each General Use Zoning District, there is a corresponding Special Zoning District (CD) which corresponds to each of the districts authorized by this Section as follows: C-CD; INST-CD; MFH-CD; MFM-CD; MFL-CD; SF-CD; SF-MH-CD; and P/OS-CD.

(iv) Certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Some land uses are of a nature or scale that may have significant impacts on both the immediately surrounding area and the entire community, which cannot be predetermined or controlled by general district standards. There are also circumstances in which a general use district designation allowing such a use by right would not be appropriate for a particular property though the use could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, Jackson County Comprehensive Plan, the Cullowhee Vision Plan, strategic plans, corridor plans, and other land-use policy documents.

(v) The review process established in this section provides for the accommodation of such uses by a reclassification of property into a special zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Special Zoning District is a means by which such special conditions can be imposed in order to achieve the purpose of this section and the recommendations of the Jackson County Comprehensive Plan, the Cullowhee Vision Plan, strategic plans, corridor plans, and other land-use policy documents.

1) The Special Zoning District classification will be considered for rezoning only with the consent of the property owner.
2) 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 section that the authorization of such Special Zoning 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.

(vi) Plans and other information to accompany petition. Property may be rezoned to a Special Zoning District only in response to, and consistent with, a petition submitted by the owners of all of the property to be included in the district. A petition for special zoning must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined requirements, will govern the development and use of the property.

(vii) Approval of special zoning district. Special Zoning District decisions are a legislative process subject to judicial review using the same procedures and standard of review as applicable to general use district zoning decisions. Special Zoning District decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, Jackson County Comprehensive Plan, the Cullowhee Vision Plan, strategic plans, corridor plans, and other land-use policy documents.

(viii) Conditions to approval of petition. In approving a petition for the reclassification of property to a Special Zoning District, the Cullowhee Community Planning Council may recommend, and the Board of Commissioners may request that reasonable and appropriate conditions be attached to the approval of the petition.

1) Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to County sections and the Cullowhee Vision Plan or other land use plan, that address the impacts reasonably expected to be generated by the development or use of the site.
2) Any such conditions should relate to the impact of the proposed use on surrounding property, support facilities (such as parking areas and driveways), pedestrian and vehicular circulation systems, screening and buffering areas, timing of development, road and right-of-way improvements, water and sewer improvements, stormwater drainage, provision of open space, and other matters that the Commissioners may find appropriate or the applicant may propose. Such conditions to approval of the petition may include dedication to the County, State, or public entity, as appropriate, of any rights-of-way or easement for roads, pedestrian facilities, water, sewer, or other public utilities necessary to serve the proposed development. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. Only those conditions mutually approved by the Board of Commissioners and the applicant may be incorporated into the petition.

(ix) Effect of approval. If a petition for special zoning is approved, the development and use of the property shall be governed by the existing Section requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Official Zoning Map. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to Section 9.4.3 (j)(vi), Alterations to Approval. Changes to the site plan layout shall not increase the number of structures. Following the approval of the petition for a Special Zoning District, the subject property shall be identified on the Official Zoning Map by the appropriate district designation. A special zoning shall be identified by the same designation as the underlying general district followed by the letters "CD" (for example, "SF-CD").

(x) Alterations to approval.

1) Except as provided herein, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Official Zoning.
2) The Planning Director shall have the delegated authority to approve an amendment to an approved site plan. The standard for approving or denying such an amendment shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. Any decision must be in writing stating the grounds for approval or denial.
   a) For nonresidential development, an increase in the intensity of the development is limited to ten percent of the approved structure size or 1,000 square feet, whichever is less.
   b) For residential development, increases in density are limited to ten percent of the development or no more than ten dwelling units, whichever is less.
3) The Planning Director, however, shall have the discretion to decline to exercise the delegated authority either because of uncertainty about approval of the change pursuant to the standard or because Cullowhee Community Planning Council consideration and public hearing is deemed appropriate under the circumstances. If the Planning Director declines to

exercise this authority, the applicant may request a map amendment as permitted by this Section.

(xi) Review of approval of a special zoning district. It is intended that property shall be reclassified to a Special Zoning District only in the event of firm plans to develop the property. Therefore, no sooner than three years after the date of approval of the petition, the Cullowhee Community Planning Council may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Council determines that progress has not been made in accordance with the approved petition and conditions, the Planning Council shall forward to the Board of Commissioners a report, which may recommend that the property be classified to another district.

Section 9.4.4 Additional Standards: Special Uses

(a) **Uses by Right Subject to Additional Standards**

(i) The uses listed below are permitted provided the specific additional standards identified for each use are met.

1) Temporary Accessory Dwellings (Granny or Medical Pod, Care Home) are permitted per NCGS 160A-383.5 with the following standards.
   a) Must be a transportable residential structure that:
      i) provides an environment facilitating a caregiver's provision of care for up to one mentally or physically impaired person.
      ii) is used for activities of daily living such as bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
      iii) has no more than 300 gross square feet.
2) Bed and breakfast inns.
   a) Not more than five guest rooms.
   b) Parking must be located to the side or rear of the principal structure and screened from adjacent properties.
   c) Meals and refreshments shall be provided on a regular basis for registered guests only; activities for larger events shall be limited to 12 events per year provided a temporary use permit is obtained for such events.
   d) Owner must live on site.
   e) One sign not to exceed eight square feet per face and four feet in height is permitted
3) Community gardens.
   a) Must provide adequate parking for gardeners.
   b) Must have part-time or volunteer garden manager.
4) Conference/meeting center (small).
   a) Minimum lot size for center shall be one acre.
   b) Maximum gross square footage for the structure housing the center shall be 5,000 square feet.
   c) Parking shall be buffered from adjacent single family uses with an "A" buffer.
5) Drive-through facilities.
   a) Shall be located at the side or rear of the principal structure.
   b) Maximum of two lanes providing drive through services permitted
6) Single Family Attached (Duplex).
   a) One duplex structure permitted per parcel

b) Minimum lot size for duplex shall be 1.25 times that required for single-family dwelling.
c) No parking permitted in any setbacks.

7) Event venues.
   a) No parking permitted in setbacks in residential districts
   b) All outdoor activities must end by 10:00 p.m. Sunday—Thursday and 11:30 p.m. on Friday and Saturday
   c) Adequate facilities for safe disposal of all waste shall be provided on-site.
8) Fraternity and sorority dwelling.
   a) A Fraternity and Sorority Dwelling shall provide adequate supervision in light of the number and needs of the residents and security concerns for the use. Adequate supervision shall be a designated person on site at all times responsible for the impacts of all activities and events conducted at the Fraternity or Sorority Dwelling.
   b) A Fraternity and Sorority Dwelling is subject to Section 9.4.5 (g), Landscape Standards, including the provision of a "B" buffer along any property line abutting a residential use.
   c) A Fraternity and Sorority Dwelling shall contain a minimum of 250 square feet for each resident.
   d) A Fraternity and Sorority Dwelling shall be located within two miles of the school with which it is affiliated.
   e) The open space requirement for a Fraternity and Sorority Dwelling shall be 25 percent of the property.
9) Home occupations.
   a) Neighborhood home occupations. Customary home occupations are permitted in residential districts where such occupations are carried on in the residence and/or accessory buildings subject to the following limitations.
      i) Such occupations shall be engaged in only by residents of the premises and not more than three additional on-site employees who may be non-residents. The total number of resident and non-resident employees working on-site shall not exceed four. The use shall be clearly incidental and subordinate to its use for residential purposes by its occupants.
      ii) No more than 25 percent of the heated living space shall be used for home occupations. Basements and garages, attached or detached, may also be used for home occupations and shall not count toward the 25 percent limit specified herein.
      iii) No outdoor display of goods or materials shall be allowed on the property.
      iv) One non-illuminated sign is allowed which shall not exceed four square feet in area.
      v) No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or which causes fluctuation in line voltage off the premises.
      vi) Accessory buildings may be used for home occupations provided the building area is not larger than 1,000 square feet. If multiple buildings are used, the total combined square footage shall not exceed 1,000 square feet.
      vii) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.

viii) The customary home occupations referred to in this subsection may include the merchandising and the sale of goods and products at retail, and the manufacture and assembly of goods and products.

ix) Occupations that have no non-resident employees, no signs, no on-site retail sales, or no visits from the general public do not require a home occupation permit.

b) Rural home occupations. Rural home occupations are those, which by their nature are not compatible on small lots near other residences and may require an outdoor storage area for goods and materials associated with the business.

i) Rural home occupations may be allowed on parcels that are no smaller than three acres in size.

ii) Such occupations shall be engaged in only by residents of the premises and not more than three additional on-site employees who may be non-residents. The total number of resident and non-resident employees working on-site shall not exceed four. The use shall be subordinate to its use for residential purposes by its occupants.

iii) No more than 25 percent of the heated living space shall be used for home occupations. Basements and garages, attached or detached, may also be used for home occupations and shall not count toward the 25 percent limit specified herein.

iv) One non-illuminated sign is allowed which shall not exceed four square feet in area.

v) No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference that is a nuisance off the lot. All operations must conform to Article V. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or which causes fluctuation in line voltage off the premises.

vi) Accessory buildings may be used for home occupations provided the building is not larger than 2,500 square feet gross floor area. If multiple buildings are used, the total combined square footage shall not exceed 2,500 square feet gross floor area.

vii) Commercial driveway permits may be required to assure traffic hazards are minimized. The driveway shall be located and improved such that it provides all weather access and does not interfere with other traffic using said drive. Any need for parking generated by the conduct of such home occupation shall be met off the street.

viii) Buildings, material storage and operations used for home occupations shall be setback from side and rear property lines a minimum of 50 feet except for noise generating operations, as determined by staff, in which case the setbacks shall be a minimum of 100 feet. The front setback shall be a minimum of 40 feet and shall be measured from the property line or the edge of the road right-of-way, whichever is greater.

ix) To lessen the impact on adjacent properties, visual screening shall be installed to provide at a minimum an "A" buffer as described in Section 9.4.5 (g).

x) All required permits from Jackson County, the North Carolina Department of Transportation or other local and state agencies must be obtained prior to the issuance of the home occupation permit.

c) Special use permits for home occupations. Home occupations for which the number of non-resident and the number of total employees will exceed the standards contained in Section 9.4.4 (a)(ii) and (b)(ii), above, may be authorized by means of a special use permit issued pursuant to Section 3.7.15 of this Ordinance. In any event, the number of

non-resident employees shall not exceed six and the number of total employees shall not exceed eight.

10) Manufactured home - Class A.
    a) Shall be composed of two or more components, each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site.
    b) Shall meet or exceed the construction standards of the US Department of Housing and Urban Development.
    c) Shall conform to the following appearance criteria:
        i) The manufactured home shall have a minimum width, as assembled on the site, of 24 feet.
        ii) The tongue, axles, removable towing apparatus and transporting lights shall be removed after final placement on the site and before occupancy.
        iii) A continuous, permanent masonry curtain wall, unpierced except for ventilation and covered access, shall be installed under the unit.
        iv) The pitch of the manufactured home's roof shall be a minimum vertical rise of one foot for each four feet of horizontal rise (1:4) and finished with shingles
        v) The roof shall be finished with roofing material with a fire rating of Class C or better
        vi) The exterior siding shall consist predominantly of horizontal or vertical vinyl, aluminum, wood, or hardboard siding with reflectivity not to exceed that of flat white paint.
        vii) The primary entrance shall have a landing which is no smaller than six feet by six feet in size.
        viii) The home shall be placed on the lot such that the primary entrance faces the front of the lot.
11) Manufactured home - Class B.
    a) Must be constructed after July 1, 1976;
    b) Must exceed U.S. Department of Housing and Urban Development (HUD) standards in effect at the time of construction;
    c) Shall conform to the following appearance criteria:
        i) A continuous, permanent masonry curtain wall, unpierced except for ventilation and covered access, shall be installed under the unit;
        ii) Must have a gable roof having a pitch with a minimum vertical rise of three and one-half (3.5) feet for each 12 feet of horizontal run;
        iii) The primary entrance shall have a landing which is no smaller than six feet by six feet in size; and
        iv) The home shall be placed on the lot such that the primary entrance faces the front of the lot.
12) Manufactured home parks.
    a) Manufactured home parks shall be located on well-drained sites that shall be properly graded to ensure rapid drainage and freedom from stagnant pools of water.
    b) The minimum lot size for a manufactured home park shall be three acres.
    c) The maximum allowable density in the manufactured home park shall be 8 dwelling units per buildable acre (land area excluding floodways, wetlands, and slope in excess of 25 percent).
    d) The park shall be buffered from all adjacent uses through the installation of an "A" buffer as detailed in Section 9.4.5 (g).

e) The operator/manager of a manufactured home park shall designate and enforce a uniform type of underpinning of all manufactured homes in the community, which shall be maintained in good condition at all times.
f) The minimum land area required for any mobile home space shall be 5,000 square feet.
g) Manufactured homes in the park shall be Class B or better.
h) Each manufactured home shall be located at least 25 feet from any other manufactured home structure within the park, excluding storage buildings for use by residents of the home.
i) No permanent addition shall be constructed to any mobile home.
j) No mobile home space shall be within 25 feet of any public street right-of-way nor within 25 feet of any property line.
k) Each home shall be setback at least 20 feet from the edge of any traveled way within the park.
l) There shall be front and rear steps and/or deck for each manufactured home.
m) An acceptable plan for collection and disposal of garbage shall be included in the site plan for the manufactured home park. All garbage containers, other than those for an individual home, shall be screened and provided with an enclosure with a door or gate that can be closed.
n) Each residential unit in a manufactured home park shall be served with approved water and wastewater systems.
o) Each manufactured home space shall have a permanent site number sign that is clearly visible from the street running in front of the home.
p) A minimum of two parking spaces, located off the internal access road, shall be provided for each manufactured home.
q) A visitor parking area, consisting of one space for each two manufactured home units located within the park, shall be provided. This parking area does not have to be paved.
r) Adequate and suitable recreation facilities shall be developed within the park consisting of at least 200 square feet of recreation area for each manufactured home space in the park. Safety, convenience of the park residents, presence of existing vegetation, and good drainage are among the features that shall be considered in locating the recreational areas.
s) Street/road standards.
   i) All internal streets and roads shall be paved.
   ii) All internal streets and roads shall have a minimum travelway width of 16 feet.
   iii) Pedestrian trails or sidewalks, meeting the standards of Jackson County, shall parallel all internal streets and roads.
   iv) A sidewalk meeting NCDOT standards shall be constructed along all portions of the property abutting a public road.
   v) Street trees as required by Section 9.4.5 (g) shall be planted along both sides of all internal streets/roads and along streets/roads abutting the mobile home park.

13) Manufacturing, assembly, or finishing operations.
   a) No outdoor storage of chemicals, solvents, etc.
   b) Manufacturing, assembly, or finishing operations

14) Motor vehicle repair.
   a) No unregistered vehicles shall be stored on the property.
   b) Vehicle storage areas shall be screened from adjacent properties with an "A" buffer as described in Section 9.4.5 (g).
   c) All repair activities shall be conducted inside an enclosed building.

15) Public utilities and related facilities.
    a) Public utilities and related facilities must be screened from adjacent properties/uses by an "A" buffer as described in Section 9.4.5 (g).
    b) Permitted facilities shall be limited to switching boxes and transformer stations and buildings.
    c) No employees shall be based at the facility.
16) RV Park.
    a) The minimum parcel size for an RV Park is two acres.
    b) Each RV space must be provided water and electrical connections.
    c) An approved wastewater disposal facility must be provided for use by guests.
    d) The minimum space for each RV shall be 1,250 square feet.
    e) All internal roads within the RV Park must be a minimum of 16 feet for two-way traffic and 10 feet for one-way traffic.
    f) All internal roads within the RV Park shall be surfaced with gravel, asphalt, concrete, or other durable surface.
    g) Pedestrian trails or sidewalks, meeting the standards of Jackson County, shall abut all internal roads.
    h) Adequate and suitable recreation facilities shall be developed within the park consisting of at least 100 square feet of recreation area for each space in the park. Safety, convenience of the park residents, presence of existing vegetation, and good drainage are among the features that shall be considered in locating the recreational areas.
    i) A means for collection and disposal of garbage from each RV must be provided. All garbage containers, other than those for an individual RV site, shall be screened and provided with an enclosure with a door or gate that can be closed.
17) Outdoor storage—Commercial district.
    a) Storage of items shall be ancillary to the principal use.
    b) Storage areas shall be located to the side or rear of the principal structure
    c) Only items sold or serviced by the business may be stored on the site.
    d) Areas containing items stored for more than four consecutive days must be screened from adjacent properties, public rights-of-way, and roadways with an "A" buffer as described in Section 9.4.5 (g).
18) Outdoor storage—Residential district.
    a) Storage of items shall be ancillary to the principal use.
    b) Storage areas occupying a total area of more than 20 cubic feet shall be located to the side or rear of the principal structure
    c) No unlicensed or inoperable vehicles shall be stored on the property unless covered or located in an enclosed structure.
19) Self-service storage facilities.
    a) Self-service storage facilities shall be screened from adjacent properties, public rights-of-way, and roadways with an "A" buffer as described in Section 9.4.5 (g).
    b) Unenclosed storage of vehicles, campers, etc. shall be located at the rear of the property.
    c) All vehicles stored on the property shall be registered and operable.
20) Student rentals.
    a) Maximum number of unrelated persons in home shall be:
        i) Three unrelated persons if home is more than ¾ mile from WCU campus
        ii) Five unrelated persons if home is ¾ mile or less from WCU campus

b) Parking must be provided as required by Section 9.4.6, with no parking permitted in required setbacks.

(b) **Special Uses**

(i) The following uses require the granting of a special use permit by the Cullowhee Community Planning Council, as provided for in Section 3.7.15:

1) Bars, night clubs.
   a) All outdoor music, events, activities must end by 10:00 p.m.
   b) All lighting must comply with Section 6.1: Outdoor Lighting.
2) Cellular telecommunications towers.
   a) All telecommunications towers must be setback 200 feet from all residential structures on the same property and 200 feet from the property line of a property used for residential purposes.
   b) All cellular telecommunications towers must comply with standards set forth in Section 6.3 of this Ordinance.
   c) The Jackson County Board of Commissioners shall have final review and approval as set forth in Section 3.7.15: Special Use Permit.

(c) **Planned Developments**

(i) The goal of the Planned Development provisions is to encourage flexibility in the development of land and to provide tools and incentives for achieving this flexibility. Use of the Planned Development option will result in the more efficient and economical use of land and resources. A mixture of uses and building types is permitted in Planned Developments, subject to limitations noted below. Incentives are provided to achieve goals related to the more efficient use of resources. The Planned Development provisions allow greater flexibility in design but may have conditions attached during the approval process. Approval of planned developments by the Cullowhee Community Planning Council in accordance with the procedure set forth below is required.

(ii) Permitted use.

1) Planned Developments in nonresidential districts — any use identified as a permitted use in any district in the Cullowhee Planning Area with the exception of single family homes.
2) Planned Developments in residential districts - any use identified as a permitted use in any district in the Cullowhee Planning Area provided that the gross square footage of all nonresidential uses shall not exceed 15 percent of the total gross square footage of all uses.

(iii) Minimum lot size. The minimum lot size for a planned development shall be one acre. Within the planned development there shall be no minimum lot size for individual structures.

(iv) Density. The base residential density shall be 125 percent of the residential density of the district in which the planned development is proposed. Residential density may be increased above the permitted base residential density in accordance with the incentives identified below.

1) Open space exceeds the requirements of this section — see Section 9.4.4 (c)(xi) below.
2) Best management practices, such as bioretention and rain gardens, are used to manage stormwater quality — density increase of five percent.
3) No grading or development of areas with a slope in excess of 30 percent - density increase of five percent.
4) All residential, commercial, and/or mixed-use buildings in the planned development achieve an energy star rating — density increase of five percent.
5) Landscaping of parking areas exceeds the requirement by 50 percent — density increase of five percent.

(v) Building height. The base building height in a Planned Development shall be 40 feet. The Planning Council may approve a building height of up to 80 feet provided that the increased height is compatible with the surrounding neighborhood and does not adversely impact adjacent uses.

(vi) Setbacks. The perimeter setbacks for the Planning Development shall be the setbacks for the district in which the development is located. Within the Planned Development there shall be no setbacks other than those required by building and/or fire code standards.

(vii) Impervious surface. The Planned Development shall comply with the impervious surface limits of the district in which it is located. Impervious surfaces may be increased if best management practices (i.e. non-structural stormwater controls such as grassed swales and rain gardens) are used to manage and retain stormwater. The permitted increase in impervious surfaces shall be on a 2:1 ratio basis. For example, if ten percent of the total stormwater generated by the development's impervious surfaces is managed and retained through the use of best management practices, a five percent increase in the permitted impervious surfaces shall be allowed; if 60 percent of the total stormwater generated by the development's impervious surfaces is managed and retained, a 30 percent increase in the permitted impervious surfaces shall be permitted. This ratio ensures that there is a net decrease in the amount of stormwater and pollutants generated from a development. Stormwater retention systems shall be designed by a licensed engineer or landscape architect and their installation and construction certified by the designer. Standing water and installations that allow for water to collect and stagnate so as to provide a suitable breeding ground for vectors (e.g. mosquitoes) and pathogens should be prohibited.

(viii) Landscaping and buffering. The Planned Development shall be buffered from abutting properties as required by the landscaping standards set forth in Section 9.4.5 (g). The type of buffering required shall be determined by the use within the Planned Development that is adjacent to the abutting property. Within the Planned Development parking lots shall be landscaped and street trees provided as required by Section 9.4.5 (g). Dissimilar uses within the Planned Development shall be buffered from as each other as required by the buffering requirements of Section 9.4.5 (g).

(ix) Parking and loading. Parking and loading areas shall be provided as required by Section 9.4.6.

(x) Pedestrian facilities. A sidewalk or approved pedestrian trail shall be provided along all streets abutting the property on which the Planned Development is located. Sidewalks and/or approved pedestrian trails shall connect all uses within the Planned Development. Within parking areas constructed as part of a Planned Development, pedestrian connections shall be provided to allow the safe movement of pedestrians through the parking area. Pedestrian connections shall be provided from any sidewalk or pedestrian facility abutting a street or road to the main entrance of any nonresidential building, mixed use building, and/or any multi-family residential building.

(xi) Open space. A minimum of 15 percent of the total land area of the Planned Development shall be set aside as open space. Density bonuses shall be provided for the provision of open space exceeding the minimum amount as shown in Table 9.10:

Table 9.10: Open Space Density Bonus

Amount of site provided as open space	Density Bonus
20%—25%	5%
26%—35%	10%
36%—45%	15%
> 45%	20%

(xii) Approval process. Planned Developments shall be considered a special use and shall be subject to the approval process for special uses set forth in Section 3.7.15.

Section 9.4.5 General Standards

(a) **General**. A building, structure, or lot shall not be developed, used, or occupied unless it meets the minimum setback requirements set forth in section 9.4.3 for the use district in which it is located, except as otherwise established in this section for particular uses or for encroachments as set forth in (d) below.

(b) **Method for Calculating Setbacks**

(i) Minimum setback. Minimum setback is the distance determined by measuring perpendicularly from and along the entire boundary of the property (property line) to the building line. Front setbacks shall be measured from the edge of pavement of the street fronting the property, provided that no structure or building is placed within the street or road right-of-way. In no case shall the minimum setback be closer to the street than the right-of-way line. A setback may be the front, rear, or side setback. Except for through lots as noted in Section 9.4.5 (b)*(iv)* below, there shall be one front setback area for each property.

(ii) Overlap of setbacks. When more than one setback depth applies, the greatest setback dimension must be met.

(iii) Corner lots—Setbacks. Unless otherwise specified in the zoning district regulations, the second street side of a corner lot shall have a setback requirement of 50 percent of the front setback requirements in that district.

(iv) Through lots—Setbacks. Unless otherwise specified in the zoning district regulations, both street sides of through lots shall be considered a front yard and shall conform to the front setback regulations or the established building lines in the area (see Section 9.4.5 (c) below).

(c) **Adjusting Building Lines**. Where there are lots that comprise 50 percent or more of the entire length of street frontage on the same side of the street, located on the same block, and that are developed such that buildings on those lots have front setbacks that do not vary more than ten feet, no building hereafter erected or structurally altered shall be required to have a front setback greater than the average front setback depth of those lots. Provided further, no front setback need exceed the average setback of the adjoining buildings on either side, if the adjoining buildings are less than 250 feet apart

(d) **Allowable Encroachments into Required Setbacks**. The following buildings and structures may encroach into required setbacks as set forth below unless specifically prohibited elsewhere in this section.

(i) Sills, cornices, and similar ornamental features projecting from a building may encroach up to 18 inches into any required setback.

(ii) Bay windows, balconies, and similar features projecting from a principal building may encroach up to three feet into any required setback.

(iii) Decks, steps, covered and uncovered porches, patios, and terraces may encroach into a required rear setback, but no closer than six feet to the rear property line.

(iv) Decks, steps, covered and uncovered porches, patios, and terraces may encroach up to ten feet into a required front setback.

(v) Accessory buildings and structures may encroach into any required rear setback, but no closer than five feet to the rear property line.

(vi) Fences and walls may be located within the required minimum front or rear setback, provided the fence or wall does not exceed six feet in height.

(vii) Ramps for handicap accessibility and fire escapes required by the North Carolina State Building Code may encroach into any required setback

(e) **Applicability of other Sections**. Should other regulations adopted by Jackson County impose standards more restrictive than those set forth in this section, the most restrictive standard shall apply per Section 1.7.

(f) **Traffic Impact Analysis**

(i) Purpose. The purpose of this section is to ensure that applicants for major new construction and/or changes of use consider and mitigate the traffic of the development on the existing and/or proposed roadway system. While the State of North Carolina has built and maintains a public transportation system that meets typical needs, project applicants may need to assist in improving transportation facilities in order to maintain the existing level of service by accommodating additional traffic generated by the development. These transportation facilities involve pedestrian, non-motorized vehicular traffic and motorized vehicular traffic. The Transportation Impact Analysis (TIA) is a specialized study that evaluates the effects of a development's traffic on the surrounding transportation infrastructure. The TIA helps identify where the development may have a significant impact on safety, traffic, and transportation operations, and provides a means for the developer and government agencies to mitigate these impacts. Ultimately, the TIA can be used to evaluate whether the scale of development is appropriate for a particular site and what improvements may be necessary, on and off the site, to provide safe and efficient access and traffic flow. Single family developments typically will not require a TIA.

(ii) When required. All proposals for new construction, additions and/or expansions to existing structures, and/or changes of use that will result in total peak hour trips equal to or greater than 100 peak hour trips using trip generation rates from the most recent edition of the Trip Generation Manual published by the Institute of Transportation Engineers or an estimated trip generation of 3,000 vehicles per day or greater during an average weekday based on a five-day national average as defined in the ITE Trip Generation Manual shall include an analysis of the traffic to be generated.

(iii) Thresholds for mitigation. Jackson County requires consideration of roadway and/or operational improvements when the proposed development increases the intersection Volume-to-Capacity Ratio (V/C) beyond the thresholds indicated in the Table 9.11. The County evaluates the impacts of proposed development at intersections (primarily under existing year conditions) based on the increase in V/C ratio as a result of the projected site traffic. This increase is determined by comparing the V/C ratio under existing development conditions and proposed development conditions.

Table 9.11: Allowable Volume/Capacity Increases

Existing V/C	Allowable Increase in V/C by Development
0.00—0.60	0.10
0.61—0.70	0.07
0.71—0.80	0.05
0.81—0.90	0.03
0.91—1.00+	0.02

(iv) Improvements may be required. Based on the findings of the analysis, if a proposed development does not meet the applicable service level standards, the applicant shall be required to upgrade the facilities as necessary to provide an acceptable level of service.

Mitigation measures may involve strategies other than roadway construction or other physical improvements such as changes to traffic signal timing or phasing, and transportation management strategies.

(v) Preparation. The applicant shall provide the full rationale, from a North Carolina Licensed Engineer, to support the recommendations of this analysis. The submission shall include all pertinent traffic data and computations affecting the design proposal.

(vi) TIA Types. A TIA will vary in range and complexity depending on the type and size of the proposed development. The TIA requirements as described may be modified by the Planning Director as appropriate. There are two different types of reports as follows:

1) Rezoning Transportation Impact Analysis Report: Evaluates whether adequate transportation capacity exists or will be available within a reasonable time period to safely and conveniently accommodate proposed uses permitted under the requested land use or zoning classification.
2) Transportation Impact Analysis Report: Required for certain permitted and special uses, subdivisions, and planned developments exceeding the specific trip generation threshold.

(vii) TIA Contents. A traffic impact analysis report shall address the impact of projected horizon year (two years after build-out by phase or entire development as appropriate) traffic volumes. It shall identify the methodology used to evaluate the impact. The weekday peak hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation. The rezoning traffic analysis or the traffic impact report shall contain the following:

1) Site description. A detailed report, containing illustrations and narrative, shall describe the site's characteristics and adjacent land uses, as well as any anticipated development within the site's vicinity influencing future traffic conditions.
   a) A rezoning traffic analysis shall provide a description of the development's potential uses.
   b) A traffic impact report shall include access plans, staging plans, and land use/intensity information.
2) Study area. The report shall indicate the geographic location of the study area, roadway segments, critical intersections, and access points to be analyzed. The study area shall extend not less than one-half mile from the site.
3) Existing traffic conditions. An analysis of the existing traffic conditions, including all data used for the analysis shall be provided in the report, including:
   a) Traffic count and turning movement information, including the date and source from which this information was obtained.
   b) Correction factors used to convert collected traffic data into representative average daily traffic volumes.
   c) Roadway characteristics, including:
      i) Design configuration of existing or proposed roadways.
      ii) Existing traffic control measures.
      iii) Existing driveways and turning movement conflicts in the vicinity of the site.
      iv) Existing level of service (LOS) for roadways and intersections without project development traffic. LOS shall be calculated for the weekday peak hour, and in the case of uses generating high levels of weekend traffic, the Saturday peak hour.

(viii) Horizon year(s) and background traffic. The report shall identify the horizon year(s) that were analyzed in the study, the background traffic growth factors for each horizon year, and the method and assumptions used to develop the background traffic growth. Unless otherwise

approved, development impacts shall be examined for the first and tenth years after the development is completed.

(ix) Trip generation, trip reduction, and trip distribution. A summary of projected a.m. and p.m. peak hour and average daily trip generation for the proposed development shall be provided in addition to projected trip distribution to and from the site. The factors used to determine trip generation, reduction, and distribution are also to be included in the summary.

(x) Traffic assignment. The report shall identify the projected roadway segment, intersection or driveway traffic volumes, with and without the proposed development, for the horizon year(s) of the study.

(xi) Impact analysis. The report shall address the impact of projected horizon year(s) traffic volumes. It shall identify the methodology used to evaluate the impact. The weekday peak hour impact shall be evaluated as well as the Saturday peak hour for those uses exhibiting high levels of weekend traffic generation.

(xii) Mitigation/alternatives. The report shall identify alternatives for achieving traffic service standards, including:

1) Additional rights-of-way necessary to implement mitigation strategies.
2) Suggested phasing improvements necessary to maintain compliance with traffic service standards.
3) Other alternatives, including transportation management strategies.
4) Anticipated costs of recommended improvements.

(xiii) Procedures.

1) The applicant shall work with the Planning Director to determine if a traffic study is necessary and its associated parameters.
2) The report shall be submitted to the Planning Director for distribution to staff and related roadway jurisdictions. The Planning Director shall notify the applicant if additional studies or analysis are necessary.
3) Once a report is determined to be complete, a finding shall be made by the Planning Director on the traffic impact study. Proceedings on any application that were stayed pending completion of traffic analysis may resume.
4) Report findings. If a proposed development does not meet the applicable service level standards, one or more of the following actions may be necessary:
   a) Reduce the size, scale, scope, or density of the development to decrease traffic generation.
   b) Divide the project into phases, allowing for only one phase at a time until traffic capacity is adequate for the next phase of development.
   c) Dedicate right-of-way for street improvements.
   d) Construct new streets.
   e) Expand the capacity of existing streets.
   f) Redesign ingress and egress to the project to reduce traffic conflicts.
   g) Alter the use and type of development to reduce peak hour traffic.
   h) Reduce existing traffic.
   i) Eliminate the potential for additional traffic generation from undeveloped properties in the vicinity of the proposed development.
   j) Integrate non-vehicular design components (i.e. pedestrian and bicycle and transit improvements) to reduce trip generation.
   k) Recommend denial of the application for which the TIA is submitted.

(g) **Landscaping and Buffering Standards**

(i) Purpose. The abundant and diverse tree and vegetative cover found in the Cullowhee area contributes to the aesthetic quality of the community and provides numerous economic and ecological benefits. The landscaping and buffering standards set forth below require landscaping between dissimilar uses, along streets and roads, and in parking areas in order to:

1) Encourage the preservation of existing trees and vegetation and replenish removed vegetation.
2) Maintain and improve the visual quality of the Cullowhee Community and minimize potential negative impacts of development such as noise, dust, glare of lights, parking lots, heat, and odor.
3) Provide a transition between dissimilar land uses to protect abutting properties from potential negative impacts of neighboring development and preserve the character and value of a property and provide a sense of privacy.
4) Improve standards for quantity, location, size, spacing, protection, and maintenance of plants to assure a high level of quality in the appearance of Cullowhee while allowing flexibility to promote well designed and creative landscape plantings.
5) Provide environmental benefits such as climate modification, decreased energy consumption, reduced stormwater run-off, decreased erosion, improved water and air quality, and protection of wildlife habitat.

(ii) Applicability.

1) Bufferyard plantings, street trees, and parking lot trees and shrubs are required for new developments and major redevelopments within the Cullowhee Community. The following developments must bring the entire site into compliance with the landscaping and buffering requirements of this section as set forth in this section:
   a) Any new private or public development.
   b) Renovations with a total cost exceeding 50 percent of the assessed value of the building, according to Jackson County tax records.
   c) Expansions exceeding 50 percent of the pre-expansion floor area or paved surface.
   d) Existing unpaved parking lots that are paved over or existing paved lots that are demolished and repaved.
2) Expansions or additions that are less than 50 percent of the pre-expansion floor area and/or pavement surface must meet the landscaping requirements only in the area around the addition that is parallel to any edge of the expansion area and extending to the property line or street pavement edge.

(iii) Landscape plan required. Applicants are encouraged to meet with the Planning Director prior to submitting a site plan to discuss applicable landscape requirements, other section requirements, and coordination of plantings with other construction activity. A landscape plan drawn to scale must be submitted with the site plan and prepared in accordance with Site Plan Requirements.

(iv) Alternative compliance. The landscape requirements are intended to set minimum standards for quality development and environmental protection; they are not intended to be arbitrary or to inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternative method of compliance with the landscape requirements. The Planning Director may alter the landscape and buffering requirements as long as existing or added landscape features of the development site comply with the intent of this section. Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

1) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements.

2) Space limitations, zero lot line development, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding area (such as the use of a specific type of vegetation) may justify alternative compliance when changing the use of an existing building in a developed area.
3) An alternative compliance proposal is equal to or better than normal compliance in its ability to fulfill the intent of these landscape requirements and exhibits superior design quality. The property owner or developer must submit a plan of the area for which alternative compliance is requested to the Planning Director. The site plan shall show the existing site features and any additional material the property owner or developer will plant or construct to meet the intent of the landscape and buffer requirements of this section. A section drawing may be required if there are grade changes that affect the character of the buffer and landscape requirements. In addition, the applicant must submit a written statement describing the need for alternative compliance. The Planning Director shall render a decision approving, approving with conditions, or denying the request within ten working days of reviewing the request for alternative compliance.

(v) Existing vegetation. Preserving existing trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to the proposed development. It is recommended that groups of trees be preserved as well as individual trees. Existing trees and shrubs that are preserved may be credited toward required buffer trees, street trees, and parking lot trees as specified in Section 9.4.5 (g)*(vi)* below.

1) Credits and other incentives to preserve existing vegetation. Existing trees that are preserved may be credited for required trees per Table 9.12 below:

Table 9.12: Preserved trees credit

Existing Tree Diameter	Replacement Credit
2"—6"	caliper tree = 1 new tree
7"—12"	caliper tree = 2 new trees
13"—18"	caliper tree = 3 new trees
19"—24"	caliper tree = 4 new trees
25+"	caliper tree = 5 new trees

2) In order to receive credit, existing vegetation that is preserved must be in good health and condition. Trees designated to be preserved must be indicated on the landscape plans. Protective barriers must be shown on the landscape and grading plans in accordance with the requirements of Section 9.4.5 (g)(vii) below. If a preserved tree dies within 24 months of completion of the project, it must be replaced with the total number of trees that were credited to the existing one.

(vi) Protection of existing trees during construction.

1) No grading or other land-disturbing activity can occur on a site with existing trees that are designated to be preserved in order to meet the landscape requirements until protective barriers are installed by the developer. Trees designated for preservation that are counted toward the landscape requirement must be protected by barriers, while trees designated for protection that do not count toward the landscape requirements are encouraged to be protected by barriers. The diameter of existing trees to be preserved and the location of the protective barriers must be shown on the landscape and grading plans, with the dimension between the tree trunk and the barrier indicated. Barricades or barriers must be placed

around the critical root zone of any existing trees to be preserved that are within 50 feet of any grading or construction activity. The critical root zone is a circle extending around the tree with a one-foot radius for every one-inch of tree diameter. For example, an eight-inch diameter tree would have a barricade surrounding it located eight feet from the trunk of the tree. All protective barriers must be maintained throughout the building construction process. Protective barriers shall consist of either:

a) A fence that is at least three feet high and constructed in a post and rail configuration.
b) A fence with posts placed no further than ten feet apart covered with a 4-foot orange polyethylene laminar safety fencing.

2) All contractors must be made aware of the areas designated for protection. No disturbance can occur within the tree protection area including:
   a) Grading.
   b) Filling, unless an aeration system that is certified by a registered landscape architect, certified arborist, or North Carolina Agricultural Extension Specialist is installed to protect the tree from suffocation.
   c) Parking.
   d) Storage of debris or material, including topsoil.
   e) Disposal of hazardous waste or concrete washout.
   f) Attaching of nails, ropes, cables, signs, or fencing to any tree to be preserved.
3) If any area within the critical root zone will be disturbed for any reason, measures must be taken to minimize any potential impact. The developer should coordinate with utility companies early in the design process to resolve any potential conflict regarding the placement of utilities and landscape requirements. If silt fencing is required to control sedimentation, the fencing must be placed along the uphill edge of the tree protection zone in order to prevent sediment from accumulating in the critical root zone area.

(vii) Bufferyard requirements.

1) Requirement. Certain land uses may create an adverse impact when developed adjacent to other less intensive land uses. Bufferyards shall be required between a proposed development and a dissimilar existing land use to provide a transition between them. A bufferyard is a strip of land with existing vegetation, planted vegetation, a landscaped earth berm or grade change, a fence, a wall, or a combination of the above. The bufferyard width and number of plantings required will vary based upon the size of the proposed and existing land uses. Information on determining bufferyard width is provided in Section 9.4.5(g)(vii)(6).
2) Responsibility for bufferyard. The required bufferyard shall be the responsibility of the property owner developing the property or changing the land use. Bufferyards must be located on the property being developed or on which the land use is changing, between the property lines and any vehicle use areas, buildings, storage, service areas, or any other area of activity. The bufferyard shall extend along the entire property line that abuts the incompatible land use up to any required street tree planting strip.
3) Setbacks. If a setback requirement is less than the minimum buffer requirement, the bufferyard width requirement shall override the setback requirement.
4) Use of bufferyards. Required bufferyards shall not be disturbed for any reason except for approved driveway openings, pedestrian or bicycle paths, designated trails or greenways, utilities, drainage ways, walls, fences, and other passive or minor uses compatible with the general separation of land uses and provided that the total number of required plantings are still met. Utility easements may be included in the width of the bufferyard with the following conditions.

a) Utility lines should be located to cross perpendicular to a bufferyard, if possible, to minimize the impact.
b) If utility lines must run with a bufferyard, they must be located along the edge of the bufferyard.
c) The developer should minimize the number of plantings in the utility easement area so that they will not have to be removed or pruned if the utility line needs maintenance. If the developer plans to plant in the utility easement, approval must be obtained from the affected utility companies to ensure that the plantings will not interfere with the installation, operation, or maintenance of the utility lines. Trees and shrubs planted within the utility easement will not count toward the bufferyard planting requirement unless they are approved by the utility companies.

5) Placement of bufferyard plantings. The exact placement of the required plants shall be the decision of the developer or designer but shall be approved by the Planning Director. Plants shall be placed in a manner to serve as an effective screen year-round when viewed from an area accessible to the public or from adjacent properties. Trees and shrubs should be planted at least five feet from the property line to ensure maintenance access and to avoid encroachment onto neighboring property.
6) Determination of bufferyard requirements. To determine if a bufferyard is required between two adjacent land uses and, if so, what bufferyard width and planting density is required, the following procedure should be used:
   a) Identify the proposed land use and the adjacent land use(s) found in Table 9.9: List of Permitted Uses. Note the category under which the proposed use is listed (for example, post office is listed under the category of Public/semipublic and restaurant is listed under the category Office/business).
   b) Identify the size (acreage) of the property being developed and of the abutting properties.
   c) Use the following table to determine buffer requirements for the development. This process must be done for each property line, except where the property to be developed abuts a street or road, to determine if a buffer planting is required.

Table 9.13: Bufferyard Requirements

PROPOSED USE CATEGORY	EXISTING USE CATEGORY	PROPOSED USE SITE SIZE	EXISTING USE SITE SIZE	BUFFER REQUIRED
Any	Same as proposed use	<1 acre	<1 acre	None
Any	Different than proposed use	<1 acre	<1 acre	A buffer
Any	Different than proposed use	<1 acre	>1 acre	A buffer
Any	Same as proposed use	>1 acre	<1 acre	None
Any	Same as proposed use	>1 acre	>1 acre	None
Any	Different than proposed use	>1 acre	>1 acre	B buffer
Any	Different than proposed use	>1 acre	<1 acre	B buffer
Any	Same as proposed use	<1 acre	>1 acre	A buffer
Apartments < 25 bedrooms	Any	Any	Any	A buffer
Apartments ≥ 25 bedrooms	Any	≥ 1 acre	Any	B buffer

Example: A property owner proposes to build a retail gift shop on property containing 0.84 acre. On the west side of the property is a florist shop on a 0.55-acre lot. No buffer is required along this property line, as both uses are classified as "Office/business" and both properties are under an acre. On the east side of the property is a church on a five-acre parcel. An "A" buffer would be required along this property line, as the use categories are different, the proposed use site size is less than an acre and the existing use site size is more than an acre.

7) Mixed uses. When a lot has a combination of different land uses, the buffer is calculated based upon the category of land use occupying the greatest percentage of the lot.
8) Buffer not required when a street separates incompatible land uses. If a street or road is located between two land uses that would require a buffer between them, no buffer shall be required along the street or road frontage of the property being developed; however, street trees are required along the property to be developed.
9) Buffer requirement when development site abuts a vacant lot. If the property to be developed abuts a vacant lot, an "A" buffer shall be provided on the property to be developed per the standards in Table 9.14.

Table 9.14: Buffer Description Table

	"A" Buffer	"B" Buffer
Minimum buffer width	15 feet	20 feet
Total number plants per 100 linear feet	18	26
Number of evergreen trees	6	8
Number of large deciduous trees	2	3
Number of small deciduous trees	2	3
Number of shrubs (at least 75% must be evergreen)	8	12

11) Existing vegetation in the buffer. Existing vegetation in the buffer area may be counted toward the required plantings according to Section 9.4.5 (g)(v). The Planning Director must approve the use of existing vegetation to meet the buffer requirement.
12) Buffer reductions. The width of the buffer may be reduced up to 50 percent with the use of a fence or wall. Fences and walls must meet the following standards:
    a) Fences or walls shall be constructed of wood, brick, stone, or other masonry (except plain block) and be architecturally compatible with the proposed structure. Seventy-five percent of the fence or wall must be opaque with any spaces evenly distributed. A detailed drawing of the fence or wall must be shown on the site or landscape plan and approved by the Planning Director.
    b) Fences and walls shall be a minimum of six feet tall.
    c) The finished side of the fence or wall shall face the abutting property.
    d) A planting strip with a minimum width of five feet shall be located between the fence or wall and the property line. The strip shall be planted with trees and/or shrubs on the side that faces the abutting property. The trees and/or shrubs shall be spaced no further than eight feet apart in order to screen at least 50 percent of the fence or wall at maturity.
13) Screening of dumpsters, loading docks, outdoor storage areas, and utility structures. All dumpsters, loading docks, or utility structures visible from a public street or adjacent property line shall be screened unless already screened by an intervening building or bufferyard. Landscaping shall not interfere with the access and operation of any such

structure or facility. All unenclosed outdoor storage areas greater than 15 square feet shall also be screened from adjacent properties and streets. Screen types include:

a) A continuous hedge of evergreen and/or densely twigged shrubs planted in a 5-foot strip with plants spaced no more than five feet apart or a row of evergreen trees planted no more than eight feet apart.
b) A fence or wall with a minimum height of six feet with the finished side of the fence or wall facing the abutting property or the street.

14) Street trees. Street trees are required for all new nonresidential development. Street trees shall be required at the rate of one large maturing (over 35 feet in height at maturity) for every 40 linear feet of property abutting a street or road or one small maturing tree (less than 35 feet in height at maturity) for every 30 linear feet of property abutting a street or road, if overhead utility lines are present. This does not imply that trees must be spaced exactly 30 feet or 40 feet apart but may be clustered together with a minimum spacing of 15 feet. Trees should be spaced no more than 65 feet apart. Street trees shall be placed in a planting strip on private property and not within the street or road right-of-way. No street tree can be located farther than 20 feet from the edge of the right-of-way to count as a street tree. The width of the planting strip may vary but the minimum width cannot be less than seven feet and the average width shall be at least ten feet. The planting area must be covered with living material, including ground cover and shrubs, or mulch so that no soil is exposed. No stone mulch is permitted in the planting area.

(viii) Parking lot landscaping requirements.

1) Requirements for new developments. Trees and shrubs are required in and around parking lots with more than six spaces to enable the parking areas to blend in with the natural appearance of Cullowhee, to provide attractive views from roads and adjacent properties, to reduce stormwater runoff, and to help filter exhaust from vehicles. There are three parking lot planting requirements that may apply to a development depending upon its relation to other properties and public rights-of-way.

a) Perimeter and interior plantings. Parking lots, loading areas, and other vehicle use areas must be planted with one deciduous tree and two shrubs for every 2,000 square feet of vehicular use area, which includes parking spaces, aisles, driveways, and loading areas (including gravel surfaces). At least 75 percent of the required deciduous parking lot trees must be large-maturing trees. Trees and shrubs must be placed within 20 feet of the vehicular use area to count as parking lot landscaping. When four or more trees are required in a parking lot with interior rows, 50 percent of the trees and shrubs must be planted in islands or medians located within the parking lot. Each parking space shall be located within 45 feet of a tree. In calculating this distance, measurements shall be taken from the trunk of the tree to the closest point of the parking space. Planting trees in groups is encouraged to increase the total amount of planting area for roots to grow. Trees and shrubs shall not impede vehicular or pedestrian visibility.
b) Planting strip. A planting strip with a minimum width of five feet shall be planted between the vehicular use area and the abutting property when any vehicular use area is located within 50 feet of an abutting property and no buffer is required, except for driveway openings that run perpendicular to the planting strip. This planting strip shall ensure that parking lots are separated from one another. One large evergreen or deciduous tree and five evergreen or deciduous shrubs shall be planted for every 40 linear feet of property line that parallels the vehicular use area. Fifty percent of these trees and shrubs may be counted toward the parking lot trees and shrubs required in subsection a. (above) if the planting strip is located within 20 feet of the vehicle use

area. Adjacent businesses on separate properties that share parking or driveways shall be exempt from this requirement provided that the required planting strip would interfere with the use of the shared parking or driveway.

c) Buffering from the street. Vehicular use areas greater than 2,500 square feet that are located within 30 feet of a street or road must be buffered from the street or road. This buffer is required in addition to the street trees planted in a ten-foot planting strip as required by Section 9.4.5 (g)(vii)*(*14). The buffer must contain plants that will be at least three feet high at maturity and can consist of plant material alone, or berms, fences, walls, or grade changes combined with plant material. A vegetative buffer shall contain at least one evergreen or deciduous shrub for every five feet of vehicular use area buffer required. If a fence or wall is used, at least one shrub must be planted for every eight linear feet of fence or wall. Shrubs should be evenly distributed on each side of the fence. Berms and grade changes must be completely covered with vegetation. All shrubs planted can count toward the parking lot landscaping requirement.

2) Size of planting islands. Tree planting islands within vehicular use areas shall be a minimum of 150 square feet and have no width less than nine feet.

3) Protection of trees. Planting areas and islands shall be protected by curbing, bollards, or parking barriers if a tree or shrub is within six feet of the edge of the pavement. Trees in islands should be set back at least four feet from the edge of the island so as not to interfere with car doors opening.

(ix) Multi-family residential developments. In addition to other landscaping requirements, multi-family residential developments shall provide one large maturing deciduous tree for every three dwelling units, planted within the required open space on the property.

(x) Compliance and maintenance.

1) Certificate of occupancy. Landscaping must be installed and inspected prior to receiving a certificate of occupancy for the construction. Vegetation shall be planted to ensure the best chance of survival and to reduce the potential expense of replacing damaged plant materials. If the season or weather conditions prohibit planting the materials, the developer may provide a bond, an irrevocable letter of credit, or other financial surety in the amount of 150 percent of the cost of installing the required landscaping to guarantee the completion of the required planting. Upon approval of the financial surety, the certificate of occupancy shall be issued. The financial surety shall be canceled and/or returned upon completion of the required landscaping.

2) Maintenance. The owner or lessee of the property on which landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Failure to maintain or to replace dead, damaged, or diseased plant material or to replace a broken fence or wall shall constitute a violation of this section and shall be subject to the penalty provisions set forth in Section 9.4.11 if no corrective action is taken within 30 days of receiving notice. If an act of God or other catastrophic event occurs that destroys a large quantity of vegetation, the owner or lessee shall have 120 days to replant. Replaced plant material must comply with the minimum size, spacing, and quantity standards of this section.

(xi) Plant specifications.

1) Recommended plant species. (Appendix 9.4.1) The use of plant materials that are indigenous to the region and readily available from local nurseries is encouraged. Native plant materials are acclimated to the area, are better suited for survival, and maintain the character and appearance of the Cullowhee Community.

2) Minimum plant size requirements:
   a) Large maturing deciduous tree: Greater than 35 feet in height at maturity. Minimum size at planting shall be two inches caliper with a 12 to 14-foot height.
   b) Small maturing deciduous tree: Less than 35 feet in height maturity. Minimum size at planting shall be one and one-half inches in caliper with an eight to ten-foot height.
   c) Evergreen tree: Minimum height at planting shall be six feet.
   d) Deciduous shrub: Minimum size at planting shall be a three-gallon container or ten-inch root ball with a height of 18 inches.
   e) Evergreen shrub: Minimum size at planting shall be a three-gallon container or ten-inch root ball with a height of 18 inches.
3) Plant standards. All plants must meet the requirements of the most recent edition of the American Standards for Nursery Stock, ANSI 260.1. Plants must be healthy, well-branched, and free of disease and insect infestation.

Section 9.4.6 Parking Standards

(a) **Purpose**. Off-street parking, loading, and access standards are established for the following purposes:
   (i) To ensure the uniform development of parking areas throughout the Cullowhee community.
   (ii) To provide for safe and adequate space for the temporary parking of vehicles.
   (iii) To promote the efficient use of parking areas.
   (iv) To ensure the safety of vehicles entering and exiting parking areas from and to the public road system.

(b) **Parking Lot Design**. The following standards shall be met in designing off-street parking facilities.
   (i) Parking aisles shall have a minimum width of 12 feet for one-way traffic and 18 inches for two-way traffic.
   (ii) Parking spaces shall be a minimum of nine feet by 18 inches, except handicapped spaces. Handicapped spaces shall comply with the standards set forth in the North Carolina Building Code.
   (iii) Parking lots with more than 50 spaces shall provide channelized automobile storage space with a length of 50 feet at all entrances from public rights-of-way.
   (iv) Parking spaces and corresponding access drives required by this section shall be constructed of a material that will prevent the exposure of subsoil. Suitable materials for parking areas include, but are not limited to, porous asphalt, concrete, compacted stone, gravel, and aggregates such as bituminous surface treatment and chip and seal. Parking areas with gravel, stone, or similar non-durable surfaces shall have access drives with a hard, durable surface (asphalt, concrete, etc.). The hard, durable surface shall extend a minimum of 25 feet from the edge of the access road. Access drives for single family homes and duplexes shall not be required to be constructed of a hard, durable surface.
   (v) No access to individual off-street parking spaces shall be allowed directly from the public right-of-way. Public rights-of-way shall not be used for maneuvering in the process of entering or leaving individual off-street parking spaces.

(c) **Off-Street Parking Requirements**
   (i) Number of spaces required. The requirements for off-street parking are set forth in the table below. For uses not listed in the Table 9.15: Parking Requirements, the Planning Director shall determine the appropriate minimum and maximum number of parking spaces based on the needs of the proposed use and the general guidelines below, referencing the American

Planning Association Planning Advisory Service Report Number 432 (Off-Street Parking requirements). The Planning Director may lessen the minimum required number of parking spaces per Section 9.4.8 (q).

(ii) Parking areas exceeding the required number of spaces. The number of parking spaces for proposed use may exceed the required number of spaces identified for that use; however, if the number of parking spaces exceeds the required number of spaces for that use by more than 50 percent, the required landscaping for the parking area shall be 150 percent of that required by Section 9.4.5 (g).

Table 9.15: Parking Requirements

TYPE OF LAND USE	ONE PARKING SPACE REQUIRED PER:
Residential	
Multi-family dwellings	1 bedroom plus 0.25 space per unit for guests
Public Facilities and Institutions:	
Adult care facilities	2 employees plus 1 space per 6 adults
Amphitheaters	4 seats
Child care facilities	2 employees plus 1 space per 10 children
Churches	1 per 3 seats in sanctuary
Civic, social service and fraternal facilities	350 sq. ft.
Colleges	1 per employee plus 1 space per 3 full time students
Community centers	350 sq.ft.
Fire/police stations	5 per bay
Libraries	350 sq.ft. plus 1 space per 2 employees
Medical centers	250 sq.ft.
Museums	350 sq.ft. plus 1 space per 2 employees
Parks	half acre of park land
Post Offices	500 sq.ft. of floor area
Schools	0.5 classroom plus 1 space per 5 students in high school
Office, Business & Industrial Uses	
Automobile service stations and auto repair garages	1 service bay plus 1 space per 2 employees
Bakeries	2 employees plus 1 space per 3 seats
Barber shops and salons	0.5 operator stations plus 1 space per 2 employees on shift of greatest employment
Bed and breakfast	1 room plus I space for the owner and 1 space for each employee
Car wash	0.5 wash bays plus 2 stacking spaces per wash bay
Clinics, veterinary	250 sq. ft.
Clinics	200 sq. ft.
Conference center	200 sq. ft.
Convenience store with gas pumps	300 sq. ft. (spaces at gas pumps are not recognized as parking spaces)
Financial institutions	300 sq. ft.
Health and fitness facilities	200 sq. ft.

Instructional Services	200 sq. ft.
Laundry & dry cleaning	300 sq. ft.
Lodging facilities	2 guest rooms plus additional spaces as required for other uses within the hotel/motel
Manufacturing, assembly, or finishing operations	2 employees
Offices	300 sq. ft.
Restaurants (plus stacking area for 8 vehicles for each drive-thru lane)	3 seats plus 1 space per 2 employees on shift of greatest employment
Retail sales	300 sq. ft.
Studios, galleries, and workshops	2 employees plus 1 space per 350 sq. ft. of retail floor space for artists, craftspeople, designers
Theaters	4 seats
Self-service storage facilities	10 storage units plus 1 space per 2 employees

(d) **Shared and Remote Parking**

(i) Shared parking. The Planning Director shall approve the joint use of up to 100 percent of the required parking spaces for two or more uses located on the same or adjacent parcels, provided that the developer can demonstrate that the spaces provided will meet the need for parking. This may be done by demonstrating that an adequate number of spaces are provided for all uses or by demonstrating that the uses will not overlap in hours of operation or in demand for the shared spaces. Any sharing of required parking spaces by uses located on different parcels shall be guaranteed by a written agreement between the owner of the parking area and the owner of any use located on a different parcel and served by the parking area.

(ii) Remote parking. If the required number of parking spaces for any land use cannot be reasonably provided on the same lot on which the principal use is located, the parking spaces may be provided on any land within 500 feet of the property on which the principal use is located. The zoning district regulations for the property on which the parking is located must permit the principal use that the parking spaces serve. Any remote parking spaces located on a different parcel than the use served shall be guaranteed by a written agreement between the owner of the remote parking area and the owner of the principal use.

(iii) Access point requirements. The following standards shall be met when designing vehicular access points from public roads to individual nonresidential properties per Table 9.16 Width of Access Points.

(iv)

Table 9.16: Width of Access Points

	Minimum	Maximum
One-way	14 ft.	20 ft.
Two-way	24 ft.	36 ft.

1) Distance from street intersections. The minimum distance between access points and street intersections shall be 50 feet.
2) Distance from other access points. The minimum distance as measured along the right-of-way line, or the edge of the roadway for private roads, between the edge of adjacent access points on different properties shall be 50 feet. The minimum distance between the edges of adjacent access points on the same property shall be 100 feet.

3) Distance from property line. Unless the access point is shared between two or more adjoining properties, all access points shall be located at least five feet from all property lines perpendicular to the road.
4) Sites unable to meet distance requirements. For sites with insufficient road frontage to meet minimum spacing requirements, consideration shall first be given to providing access via connection to a side road, utilization of a joint or shared driveway with an adjacent property that meets the recommended spacing requirement, or development of a service road to serve multiple properties. If these options are not available, the Planning Director may grant approval of an alternate access request, taking into consideration access to the property and safety.
5) Street or driveway access permit. An application for a site-specific Street and Driveway Access Permit shall be submitted to the NCDOT in accordance with minimum rules and procedures set forth in the Policy on Street and Driveway Access to North Carolina Highways. The District Engineer for NCDOT will notify and consult with the Planning Director regarding access locations or signalization requested as part of any permit application.

Section 9.4.7 Stormwater

(a) **Purpose**. The stormwater standards set forth below are provided to protect life and property and minimize nuisances by limiting destructive runoff and flooding generated by impervious surface areas; and to protect water quality and natural ecosystems by requiring the filtering of sediments and pollutants such as nitrogen, phosphorus, trace metals, and hydrocarbons.

(b) **Applicability**. The requirements set forth in this section shall apply to new and existing development as follows:

(i) New development.

1) For new development where the impervious surface is between 1,000-5,000 square feet, a stormwater management system concept plan is required that follows design guidelines given in the most recent edition of the Stormwater Best Management Practices Manual published by the North Carolina Department of Environmental Quality.
2) For new development where the amount of impervious surface being created is 5,000 square feet or more, the requirements for a stormwater management plan set forth in Section 9.4.7 (b)(iii) and (iv) shall apply.

(ii) Existing development.

1) For existing development where the amount of impervious surface is being expanded by 25 percent or more of the original amount and the total amount of impervious surface is less than 5,000 square feet, a stormwater management system concept plan is required that follows the design guidelines given in the most recent edition of the Stormwater Best Management Practices Manual published by the North Carolina Department of Environmental Quality.
2) For existing development where the impervious surface is being expanded and the total amount is over 5,000 square feet, the requirements for a stormwater management plan set forth in Section 9.4.7 (b)(iii) and (iv) shall apply.

(iii) Stormwater management measures required.

1) For projects meeting the thresholds identified in 9.4.7 (b)(i)(2) and (b)(ii)(2) above, the property owner and/or developer shall provide a stormwater management plan that accommodates the stormwater run-off generated by a 10-year, 24-hour rain event or, if the property is located within a designated Protected Watershed Area, the 25-year storm.

Stormwater measures shall be designed to remove, at a minimum, 85 percent of the Total Suspended Solids (TSS) from the first inch of rainfall of any rain event. Stormwater measures shall have a drawdown of at least 48 hours, but not more than 120 hours.

2) Stormwater measures shall be designed by an appropriately qualified engineer, landscape architect or other appropriately qualified professional, and shall be constructed and maintained in accordance with commonly accepted best practices. Innovative designs that utilize "low impact" and non-structural control and treatment measures are encouraged.
3) Stormwater measures may be located off-site provided such measures are located within a parcel of land under the same ownership as the affected property or within a common area under the management of a property owners' association or similar entity.

(iv) Stormwater management plan requirements. The stormwater management plan shall show:

1) The existing site topography and proposed site drainage improvements in sufficient detail to facilitate plan review and construction. The plan drawings shall be presented at a scale no larger than one inch = 50 feet.
2) Engineering drawings showing plan, profile and details of piping, drainage structures, swales, and channels tying into a network of pre-existing manmade or natural channels.
3) Written project specifications governing work performance and materials.
4) Computations and assumptions sufficient to support the design of piping, drainage structures, retention/detention ponds, and permanent erosion control measures.
5) Location of proposed structural stormwater controls;
6) Low impact design elements;
7) Location of existing and proposed conveyance systems such as grass channels, swales, and storm drains;
8) Flow paths;
9) Location of floodplain/floodway limits;
10) Relationship of site to upstream and downstream properties and drainages;
11) Location of proposed stream channel modifications, such as bridge or culvert crossings;
12) Whatever other narrative statements are necessary to adequately describe the proposed site improvements.

(v) The stormwater management plan shall be filed with the Jackson County Planning Department, and a copy shall be simultaneously submitted to the Jackson Soil and Water Conservation District, at least 30 calendar days prior to the commencement of the proposed activity.

1) Stormwater permit required. The Jackson County Permitting and Code Enforcement Director shall review all stormwater plans required by this section to ensure compliance therewith. In making this determination, the County shall use the Stormwater Best Management Practices Manual published by the North Carolina Department of Environmental Quality or other commonly accepted information and engineering data. The County will review each complete plan submitted to them and within 30 calendar days of receipt thereof will notify the person submitting the plan that it has been approved, approved with modifications, approved with performance reservations, or disapproved. Incomplete plans shall be returned for completion. The 30-day review period will not begin until all required items are submitted. The Permitting and Code Enforcement Director shall have five business days to check the plans for completeness. Failure to approve, approve with modifications, or disapprove a complete Stormwater Management System Concept Plan within 30 calendar days of receipt shall be deemed approval. Disapproval of a plan must specifically state, in writing, the reasons for disapproval. If, following commencement of a land-disturbing activity pursuant to an approved plan, the County determines that the plan is inadequate to

meet the requirements of this section, the County may require any revision of the plan that is necessary to comply with this section. Failure to approve, approve with modifications, or disapprove a revised Stormwater Management System Concept Plan within 15 calendar days of receipt shall be deemed approval of the plan. The County shall establish an expiration date of three years for Stormwater Management System Concept Plans approved under this section. Fees as established by the Jackson County Board of Commissioners shall be due and payable upon submission of the application. If a person initiates land-disturbing activity which would have required a permit without obtaining such a permit, the Permitting and Code Enforcement Director is authorized to double the regular permit fee.

2) As-built plans and final approval. For all developments subject to these standards, upon completion of a project, and before final project approval or a certificate of occupancy may be granted, the applicant shall certify that the completed project has been built in accordance with the approved stormwater management plans and designs. The applicant shall submit actual "as built" plans for all stormwater management facilities or practices after final construction is completed. The plans shall show the final design specifications for all stormwater management facilities and practices and the field location, size, depth, and planted vegetation of all measures, controls, and devices, as installed. The designer of the stormwater management measures and plans shall certify, under seal, that the as-built stormwater measures, controls, and devices are in compliance with the approved stormwater management plans and designs and with the requirements of this section. A final inspection and approval by the County is necessary prior to the issuance of any certificate of occupancy, release of improvement guarantee, or other final approval.

3) Inspection and maintenance of measures.
   a) All stormwater improvements must be maintained so they will continue to serve their intended functions. If the stormwater improvements are to be turned over to a property owners association or a property owner, the developer must maintain stormwater improvements until accepted by a property owners association or property owner. The developer must disclose which party will be responsible for continued maintenance on the record plat and on the stormwater management plan. The developer will be responsible for the installation, operation, and maintenance of the stormwater controls until ownership is conveyed. The responsibility and agreement for operation and maintenance for the stormwater system is transferred with title, as each property is conveyed.
   b) The County shall have the right to demand an inspection report at any time should there be reasonable belief that any stormwater structure or feature is constructed or being maintained in violation of this section. Such inspection report shall be prepared by a registered North Carolina professional engineer, surveyor, or landscape architect performing services only in their area of competence. The report shall contain the following:
      i) The name and address of the land owner.
      ii) The recorded book and page number of the lot of each stormwater control.
      iii) A statement that an inspection was made of all stormwater controls and features.
      iv) The date the inspection was made.
      v) A statement that all inspected controls and features are performing properly and are in compliance with the terms and conditions of the approved maintenance agreement required by this section.
      vi) The signature and seal of the engineer, surveyor, or landscape architect.

c) Should the stormwater inspection reveal substantial maintenance or repair recommendations, it shall be the owner's responsibility to retain a registered professional engineer or landscape architect competent in the area of stormwater management to develop plans and specifications for such repairs within 30 days from finding that substantial maintenance or repair recommendations are necessary. Maintenance or repair work must commence within 60 days, and be completed within a reasonable amount of time, from the finding that substantial maintenance or repair recommendations are necessary. The owner of each stormwater measure, whether structural or non-structural in design, shall maintain it so as not to create or permit a nuisance condition.

Section 9.4.8 Design Standards

(a) **General**. Building design and architecture are critical components for quality development. Building architecture design standards are intended to promote compatibility within a development and throughout the Cullowhee Planning Area, allow creativity and diversity of design, protect property values and neighborhood quality, and provide a safe and attractive environment for residents and visitors alike in the community.

(b) **Applicability**. The standards in this section shall apply to all nonresidential development and to multi-family residential development with greater than 12 units. Design standards are not applicable to one- and two-family dwellings per NCGS 153A-340.

(c) **Building Materials and Color**

(i) Materials.

1) All buildings shall be constructed of stone, exposed timber, fiber cement siding, wood siding, shingle siding, brick, or other high-quality masonry material. No building shall be covered with sheet or corrugated metal or with vinyl siding.
2) Exterior building materials shall be continued to finished grade of any elevation in accordance with minimum manufacturer specifications.
3) Cornices shall be constructed of brick, stone, wood, pre-cast concrete, or other high quality, long-lasting material.
4) Architectural accent materials located above the roof line shall be constructed of brick, stone, wood, pre-cast concrete, architectural quality steel, fiber cement siding or other high quality, long-lasting material.

(ii) Colors.

1) Color schemes used for buildings shall aesthetically integrate building elements together, relate separate (free-standing) buildings on the same lot or parcel to each other, and be used to enhance the architectural form of the building.
2) Exterior colors for new buildings and structures, including roofs, shall be coordinated with the predominant colors of the surrounding natural and built environment to minimize contrast between the structure and the surrounding area.
3) All building projections, including, but not limited to, chimneys, flues, vents, and gutters, shall match or complement in color the permanent color of the surface from which they project.

(d) **Building Massing and Configuration**

(i) Buildings located on steep areas shall conform to hillside topography by stepping or staggering the mass of the proposed structure up or down the slope.

(ii) Building masses shall maintain a balance of scale and proportion using design components that are harmonious with natural landforms and landscaping.

(iii) Proposed structures shall not be sited atop peaks or silhouetted against the sky when viewed from any designated public right-of-way.

(e) **Building Façade Character**. Elements of articulation shall be employed on any building visible from the public right-of-way or public street or pedestrian walkway to reduce the apparent bulk and uniform appearance of large buildings, provide visual interest and variety, and reinforce local architecture.

(f) **Buildings Containing Nonresidential Uses.** The following requirements apply to any building containing nonresidential uses, regardless of whether the building also contains residential uses:

(i) Buildings with a façade length of more than 40 feet shall incorporate offsets to break the plane of the façade. The distance between required offsets shall be every 30 feet.

(ii) A building façade that is less than or equal to the height of the building shall not require an offset.

(iii) The depth or projection of the offset shall be at least two feet.

(iv) The change in wall plane (i.e. offset) shall extend at least 20 percent of the length of the façade wall.

(g) **Buildings Containing Residential Uses**. The following requirements apply to any building containing only residential uses:

(i) The distance between required offsets shall be 20 feet, provided that a building façade that is less than 25 feet in length shall not require an offset.

(ii) The depth or projection of the offset shall be at least two feet regardless of the length of the adjacent façade walls.

(iii) The change in wall plane (i.e. offset) shall extend at least 20 percent of the length of the façade wall.

(h) **Minimum Wall Articulation.** Any building greater than 40 feet in length, measured horizontally, that faces a public right-of-way, private street, or pedestrian walkway shall include at least three of the following features:

(i) Change in texture or masonry pattern

(ii) Change in color

(iii) Windows

(iv) Dormers

(v) Trellises with vegetation

(vi) Covered porch

(vii) Balconies

(viii) Parapet walls designed to meet the minimum requirements set forth of Section 9.4.8 (k) Roof Form and Articulation.

(ix) All sides of the building shall include articulation, materials, and design characteristics consistent with those on the primary front façade in terms of quality and detail, unless the public's view of a rear or side building elevation from a public right-of-way or private street or pedestrian walkway is blocked by intervening buildings, topography, a solid screen wall at least six feet high built using materials consistent with the building, or landscaping measuring at least 15 feet in height at maturity.

(i) **Windows**

(i) The first-floor front elevation of all commercial buildings shall incorporate windows that cover at least 40 percent of the wall plane. Windows shall be clear glass; opaque or reflective glazing shall not be permitted with the exception of low-E glass.

(ii) The first-floor front elevation of all multi-family residential buildings shall incorporate windows that cover at least 12 percent of the wall plane. Windows shall be clear glass; opaque or reflective glazing shall not be permitted with the exception of low-E glass.

(j) **Entrance**. All entranceways shall be clearly defined, highly visible, and feature no less than three of the following:
- *(i)* Canopies or porticos.
- *(ii)* Overhangs.
- *(iii)* Recesses or projections.
- *(iv)* Arcades.
- *(v)* Arches.
- *(vi)* Outdoor patios.
- *(vii)* Windows.
- *(viii)* Awnings.
- *(ix)* Architectural features that are integrated into the building structure or design; or planters or wing walls that incorporate landscaped areas or places for sitting.

(k) **Roof Form and Articulation**. The roof of any building shall present a distinctive profile and add interest to larger buildings and complement the character of other buildings included on the same lot or parcel.
- *(i)* Flat roof buildings. The roof of any building with a flat roof shall include parapets to conceal the roof and roof-top equipment from public view. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall, unless required for in Section 9.4.8 (l) Rooftop Equipment Screening, of this section, and such parapets shall not at any point exceed one-third of the height of the supporting wall.
  1) Parapets used to conceal the roof and roof-top equipment for any building shall not extend a constant height for more than 100 feet in length.
- *(ii)* Slope roof buildings. The roof of any building with a slope roof shall include at least two of the following to maintain proportional building architecture:
  1) Three or more roof slope planes.
  2) Overhanging eaves, extending no less than one foot past the supporting wall.
  3) Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run and less than or equal to one foot of vertical rise for every one foot of horizontal run.
- *(iii)* Additional requirements. Consistent roof treatments, whether flat or sloping, shall be provided on all sides of the building.
  1) The back side of all cornices, parapets, and roofline that are visible from an adjacent public right-of-way shall be finished with materials consistent with the associated building.

(l) **Rooftop Equipment Screening**
- *(i)* All rooftop mechanical equipment and vents greater than eight inches in diameter shall be:
  1) Screened from the line of sight of public rights-of-way, private roads, parking lots, public sidewalks, greenways, and internal pedestrian ways except for instances where site topography precludes reasonable compliance with the minimum screening requirement;
  2) Screened by either a parapet wall along the building edge or a freestanding screen wall on the roof of a material, color, and design architecturally compatible with the building, that is at least as high as the equipment and vents for which the screening is designed to hide.

(m) **Franchise Architecture**. Franchise or national chains are welcome in the Cullowhee Planning Area but must follow the standards of this section to create a building that is compatible with the Cullowhee Community.

(n) **Architectural Unity**. All buildings within the same lot or parcel shall be architecturally unified. Architectural unity means that buildings shall be related and compatible in style, color, scheme, quality, and type of exterior building materials.

(o) **Flexible Development Standards**

(i) Purpose. This section provides the Planning Director with the authority to permit deviations from the development standards for setbacks, lot width, and number of parking spaces required by this section, provided certain conditions are met. The flexible development standards shall be administered in order to promote the orderly development and redevelopment of property within the Cullowhee Community.

(ii) Decisions shall be in writing and conditions may be placed on the approval of flexible development standards to ensure that the intent of this section is achieved. Decisions of the Planning Director may be appealed to the Cullowhee Community Planning Council as outlined in Section 3.7.3 of this Ordinance.

(iii) Flexible standards permitted. The Planning Director may approve the following flexible development standards.

(p) **Setbacks**. The Planning Director is authorized to approve deviations from the required setbacks set forth in Section 9.4.3 by up to 10 percent, provided there are site or structural conditions that preclude strict adherence to the setback requirements or the proposed location of the structure will allow preservation of existing vegetation.

(q) **Parking**. The Planning Director is authorized to approve parking lots for uses that have up to 25 percent less than the required number of spaces as set forth in Section 9.4.6, provided the applicant:

(i) provides proof that the proposed number of spaces will meet the needs of the use

(ii) the project is a redevelopment of an existing structure and there is insufficient space on the site to accommodate the required parking

(iii) the reduced parking will permit the preservation of existing vegetation.

(r) **Lot dimension**. The Planning Director is authorized to approve deviations of up to 10 percent in the required lot widths set forth in Section 9.4.3, provided the reduced lot width will not inhibit the reasonable use of the lot.

Section 9.4.9 Sign Regulations

(b) **Purpose and Scope**

(iii) Purpose. The purpose of this section is to provide sign standards and regulations that permit the adequate identification of activities and businesses while at the same time promoting signs that do not unduly detract from the aesthetics and natural appeal of the Cullowhee Planning Area; that reduce intrusions and protect property values; that provide for improved public safety while minimizing undue distraction of the motoring public; that provide standards for the erection and maintenance of signs; that provide for the protection and enhancement of the tourist industry by promoting a more harmonious and pleasing community image; and that generally enhance and strengthen the long term economic viability of the Cullowhee Planning Area.

(iv) Scope. The provisions of this section shall apply to the erection and maintenance of all signs and sign structures within the Cullowhee Planning Area, and it shall be unlawful following the effective date of this section to erect, maintain, or alter any sign or sign structure except in conformance with the provisions of this section.

(c) **General Provisions**

(iii) Permit requirement. Except as otherwise provided in Section 9.4.9 (b)*(ii)* and *(iii)*, it shall be unlawful to erect or maintain any sign or sign structure without first obtaining a sign permit. Application for the permit shall be made in writing on forms provided by the Jackson County Planning Department and Online. The procedure for applying for a sign

permit is found in Section 8-6. Failure to obtain a sign permit shall constitute a violation of this section.

(iv) Signs exempt from regulation. Unless otherwise prohibited in this or other applicable regulations, the following signs are exempt from regulation under this section:

1) Signs that are not designed to be visible beyond the boundaries of the property upon which they are located and/or from any public thoroughfare or right-of-way, except as such signs may be permitted hereafter.
2) Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs and signs posted under governmental authority that note the donation of buildings, structures, or streetscape materials (such as, but not limited to, benches, trash cans, lampposts, and park facilities).
3) Flags of the United States, the State of North Carolina, Jackson County, any religious, fraternal, or civic organization, or any educational or cultural facility and/or any one corporate flag per lot provided that they do not exceed five feet × eight feet or 40 square feet in area, that they are displayed on flagpoles not exceeding 25 feet in height, that no more than one flagpole is located on a lot of less than one acre and that all flagpoles are setback at least the height of the flagpole from all property lines. Flagpoles may be roof or wall-mounted provided the size, height, and setback requirements as established in this exemption are met.
4) Decorative and incidental flags identifying that the business establishment is open or serving as a decorative feature provided that the area of any single flag does not exceed 12 square feet not to exceed two flags per lot.
5) Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables and gas lines, and similar devices and signs providing direction around such conditions.
6) Signs displayed on trucks, buses, trailers, or other vehicles that are being operated in the normal course of a business, such as signs indicating the name of the owner or business and that are affixed or painted onto moving vans, delivery trucks, contractor's vehicles and equipment and the like, are exempt from regulation provided that, when not being operated, the vehicles are parked or stored in areas appropriate for their use as vehicles and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent possible. All such vehicles must have current and valid registration and inspection.
7) Signs required for or specifically authorized for a public purpose by any law, statute, or section. These signs may be of any type, number, and area, height above grade, location, or illumination authorized by law, statute, or section under which such signs are required or authorized.
8) Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular property and that are located on the property to which the information pertains. No advertising may be affixed to such a sign.

(v) Temporary Signs. The following signs are permitted in any location and do not require a sign permit. However, the signs must conform to the requirements set forth below as well as to other applicable requirements of this section.

1) Residential Property
   a) Temporary signs allowed providing the signs are not illuminated and do not exceed two signs per lot, do not exceed four feet in height, and do not exceed four square

feet per face. All such signs shall be removed within seven days of the conclusion of the event.

2) Commercial Property
   a) Temporary signs allowed providing they do not exceed eight feet in height and 32 square feet per face. All such signs shall be removed within seven days of the conclusion of the event.

(vi) Prohibited Signs.

1) The following signs and/or sign features shall not be erected or maintained with the Cullowhee Planning Area. The Cullowhee Planning Council shall not have authority to grant variances to permit prohibited signs to be installed.
   a) Signs on roadside appurtenances. On- or off-premise signs on roadside appurtenances, including, but not limited to, utility poles, planters, trees, and refuse containers, with the exception of governmental or commemorative signs.
   b) Signs located in public road rights-of-way. Signs, whether temporary or permanent, within any public road right-of-way with the exception of governmental notices or signs, unless an encroachment for the sign has been approved by the NCDOT and a sign permit issued by the Planning Director. No traffic control device or its support shall bear any advertising or commercial signage or any message that is not essential to traffic control. Any unauthorized sign placed within NCDOT right-of-way by a private organization or individual is prohibited as outlined in the North Carolina Administrative Code 19A NCAC 2E.0415 (Advertising Signs Within Right-of-Way).
   c) Signs on vehicles. Signs placed on vehicles or trailers that are parked or located for the primary purpose of displaying the sign are prohibited. Any such vehicle must have current and valid registration and inspection. The vehicle must be parked so as to minimize its visibility from the street to the greatest extent possible.
   d) Roof signs. Roof signs are prohibited. However, signs on the surface of a mansard roof and on parapets are permitted provided the signs do not extend above the mansard roof or parapet to which they are attached. No sign shall project above the roof of any building.
   e) Wind signs. Wind signs as defined in Article XI of this Ordinance are prohibited.
   f) Off-premise signs. Off-premise signs are prohibited.
   g) Signs of illusion. Signs with optical illusion of movement by means of a design that represents a pattern capable of reversible perspective, giving the illusion of movement.
   h) Signs resembling traffic signals. Signs displaying intermittent light resembling the flashing light used in traffic signals or any word, phrase, symbol, or character in a manner that might be misconstrued as a public safety warning or traffic sign.
   i) Animated signs and flashing lights.
   j) Abandoned signs or sign structures.
   k) Portable or moveable display signs.
   l) Signs obstructing access. Signs that obstruct free access to or from a driveway or a required door, window, fire escape, or other required exit way.
   m) No inflatable images, signs, or shapes such as balloons, beer cans, gorillas, etc. shall be permitted.

(d) **On-Premise Signs**

(iii) General provisions for permitted on-premises signs. Following the effective date of this section, on-premises signs shall not be erected or maintained within the Cullowhee Planning Area except in compliance with the provisions set forth in this article.

(iv) Computation of sign area.

1) The area of a sign shall be considered to be that of the smallest geometric figure consisting of contiguous lines that encompasses all lettering, wording, design, or symbols, together with all background on which the sign is located and any illuminated part of the sign is an integral part of and related to the sign. Any cutouts or extensions shall be included in the area of the sign but supports and bracing that are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.
2) The space between one identification sign and one changeable copy sign on a signpost or structure or attached to a building shall not be included in the total square footage if both signs serve a single business located on the lot. The space between two or more changeable copy components of a sign or between two or more permanent copy components of a sign shall be included in the total square footage of sign area allowed.
3) Where three-dimensional figures are used as signs, the area shall be the total of all sides of the figure used in conveying the intended message.

(v) Encroachment into right-of-way. No part of any sign shall be located on or extended into a public right-of-way except as permitted for projecting signs in this article.

(vi) Time/date/temperature signs. Time/date/temperature signs that do not exceed ten square feet per face shall not be included in the allowable sign area. However, if an existing freestanding sign is located on the lot, then the time/date/temperature sign must be incorporated into the existing freestanding sign.

(vii) Signs for non-conforming uses. Signs for non-conforming uses, where the non-conforming use may continue, shall be permitted provided the signs comply with all regulations for signs set forth in this article.

(viii) Illumination. Illuminated signs shall be subject to the following conditions:

1) Lighting fixtures illuminating signs shall be carefully located, aimed, and shielded so that light is directed only onto the sign face and glare is significantly reduced. Lighting fixtures shall not be aimed toward adjacent streets, roads, or properties.
2) Internally illuminated signs are prohibited.
3) Lighting of off-site commercial signs is prohibited.
4) Upward lighting of signs is prohibited unless otherwise approved by the Planning Director.

(ix) Visibility. No sign or structure shall be erected or maintained to impede safe and adequate visibility from vehicles or for pedestrians.

(e) **On-premise signs: single tenant development in the Commercial and Institutional Zones**. The following regulations shall apply to all signs for single tenant development in the designated Commercial and Institutional zones within the Cullowhee Planning Area.

(iii) Any sign not specifically allowed shall be deemed as prohibited.

(iv) Permitted signs may be either:

1) **Freestanding**
   a) Pole
   b) Ground
   c) Changeable copy
   d) Menu board
2) **Attached**
   a) Projecting
   b) Window
   c) Wall

d) Awning/canopy
e) Suspended or transom
f) Changeable copy
g) Menu board

3) The sign(s) shall meet the following requirements set forth in Table 9.17 for commercial and institutional zones depending on the type of sign:

Table 9.17: On-Premise Sign Requirement for Single Tenant Development

Type of Sign	Maximum Height	Maximum Size per Face
Freestanding pole sign	15 feet	40 square feet
Changeable copy sign	15 feet	12 square feet
Ground sign	12 feet	32 square feet
Wall sign	N/A	32 square feet

4) Two businesses or product identification signs are permitted per lot, only one of which may be a free-standing sign. The allowed square footage for attached signs may be divided into a maximum of four signs. Corner and through lots are permitted one additional free-standing sign on separate street/road frontages.
5) If the free-standing sign is less than the maximum square footage permitted for the district in which it is located, then the difference may be used to increase the size of the attached signage by that difference.
6) Setbacks for free-standing pole or ground signs shall be a minimum of ten feet.
7) Signs shall not be located in any public right-of-way and shall not be located within a sight visibility triangle.
8) Projecting signs (excluding awning/canopy signs) shall not project more than three feet from the façade of the building. Clearance over sidewalks and pedestrian walkways shall be at least seven feet and clearance over streets, roads, or driveways shall be at least 14 feet. Signs shall not project above the building soffit, eave line, or building parapet.
9) Suspended or transom signs shall have a minimum clearance of seven feet over sidewalks and pedestrian walkways.
10) Wall signs shall not project more than 12 inches from the wall.
11) One external menu board with two faces is allowed per restaurant (in addition to permitted signage previously described). The total sign area (the surface area of both faces combined) shall not exceed 24 square feet. The sign shall not be located so that the copy is designed to be visible to vehicular traffic from the roadway.
12) The total square footage for all attached signs for a building may not exceed one square foot for every linear foot of the building's street frontage up to a maximum size of 32 square feet.
13) Stationary sandwich boards ("A-frames") shall be allowed in the Commercial and Institutional Zones with the following requirements:
    a) Each business is allowed one sandwich board immediately adjacent to their place of business.
    b) The sandwich boards shall be placed no more than six feet from the store front of the business it advertises, shall not impede the flow of pedestrian traffic, nor impede the sightlines of motor vehicle traffic.
    c) The signage shall not exceed eight square feet per advertising surface area with no more than two surface areas per sandwich board (total of 16 square feet) nor a total height to exceed four feet.

d) Signage shall be constructed of materials that will not rapidly deteriorate, easily deface, degrade, or become a hazard to the safety and general welfare of the public in any way.
e) Off-premises sandwich board signs shall be allowed if the adjacent business owner provides a written agreement for the placement of the sign or the sign is located on property belonging to Jackson County.
f) All sandwich board signs will require an annual permit. Permits for the placement of sandwich board signage shall be issued by the Planning Director. There is a fee for the initial permit as well as permit renewal. Applications should be made to the Planning Director.
g) Sandwich boards shall be allowed on sidewalks to promote special events for municipal, school, civic, or non-profit organizations. The use of a sandwich board shall be by permit only and placed either on Jackson County property or by the written agreement of the adjacent business owner. There is no fee charged for non-profit sandwich board signs.
h) All sandwich boards must be removed daily at dark.

(f) **On-Premises Signs: Multiple Tenant Development in the Commercial or Institutional Zone**

(iii) The following regulations shall apply to all signs for multiple tenant development located in the Commercial or Institutional Zones within the Cullowhee Planning Area. Any sign not specifically permitted is prohibited. Multiple tenant developments may erect either a development identification sign or joint identification sign. In addition, tenant identification signs for individual businesses within a development are allowed. Multiple tenant developments are allowed one identification sign, maximum of two faces per sign, for each property boundary with street frontage with a maximum of two identification signs per development.

(iv) Development and joint identification signs.

1) Where a development or joint identification sign is selected, the sign may be of the following types:
   a) **Freestanding**
      i) Pole
      ii) Ground
      iii) Changeable copy
   b) **Attached**
      i) Projecting
      ii) Window
      iii) Wall
      iv) Awning/canopy
      v) Suspended or transom
      vi) Changeable copy
2) The sign(s) shall meet the following requirements set forth in Table 9.18 based on the type of sign.

Table 9.18: On-Premise Sign Requirement for Multiple Tenant Development

Sign Type	Maximum Height	Maximum Size per Face	
		Single Tenant	Multiple Tenant
Freestanding pole sign	15 feet	40 square feet	48 square feet
Ground sign	12 feet	32 square feet	40 square feet
Wall sign	N/A	32 square feet	40 square feet

(v) Setbacks for freestanding development or joint identification signs shall be ten feet. Signs shall not be located within any public right-of-way and shall not be located within a sight visibility triangle.

(vi) Tenant identification signs.

1) Tenants in a multi-tenant development may have their own attached identification sign provided it does not exceed five feet in height and does not exceed 12 square feet in area or the size set forth in b. and c. below. Tenants may have the following types of attached identification signs:
   a) Wall
   b) Awning/canopy
   c) Projecting
   d) Window
   e) Suspended or transom
   f) Changeable canopy
2) One attached sign is allowed per exterior public business entrance. The total allowable sign area for the building frontage of each business shall not exceed one square foot for every linear foot of building frontage owned by the business. Where two tenants share a common entrance, each tenant shall be allowed one attached sign, not to exceed 20 square feet, on the portion of the building that the tenant occupies. Where more than two tenants share a common entrance, each tenant shall be allowed one attached or window sign, not to exceed 15 square feet.
3) Maximum projection for wall signs shall be 12 inches.
4) Projecting signs (excluding awning/canopy signs) shall not project more than 3 feet from the facade of the building. Clearance over sidewalks and pedestrian walkways shall be a minimum of seven feet and clearance over streets, roads, and driveways shall be a minimum of 14 feet. Signs shall not project above the building soffit, eave line, or building parapet.
5) Suspended or transom signs shall have a minimum clearance of seven feet over sidewalks and pedestrian walkways.
6) Stationary sandwich boards shall be permitted in multi-tenant development in the Commercial and Institutional Zones provided they meet the following conditions:
   a) Each business in the multi-tenant development is permitted to have no more than one A-frame sign.
   b) The sign shall meet the conditions stated for stationary sandwich boards in single-tenant development in Commercial and Institutional Zones.
   c) The sign shall be placed adjacent to the place of business, provided it is located no more than six feet from the storefront and provided the sign does not impede the flow of pedestrian traffic, nor impede the sightlines of motor vehicles.

(g) **On-Premises Signs: Residential and Parks/Open Space Zones**. Signs in Residential and Parks/Open Space Zones within the Cullowhee Planning Area shall be subject to the following standards.

(iii) Residential communities are permitted one community identification sign per entrance from a public road. The sign shall meet the following requirements:

1) Type: the sign shall be a monument sign.
2) Height: the maximum height of the sign shall be 12 feet.
3) Size: the maximum size of the sign shall be 32 square feet per face, with a maximum of two faces.

4) Setback: signs shall be setback such that the closest edge of the sign is a minimum of five feet from any property line. Signs shall not be placed within a public right-of-way.

(iv) Recreational facilities are permitted one freestanding sign per frontage on a public road and one attached sign. The sign shall meet the following requirements:

1) Type:
   a) Freestanding: monument or pole sign
   b) Attached: wall, awning/canopy, projecting, window, suspended or transom
2) Height: the maximum height of freestanding signs shall be 12 feet
3) Size: the maximum size of freestanding signs shall be 32 square feet per face, with a maximum of two faces. The maximum size of all attached signs shall not exceed one square foot for every linear foot of building frontage.
4) Setback: freestanding signs shall be setback such that the closest edge of the sign is a minimum of five feet from any property line. Signs shall not be placed within a public right-of-way. Attached signs shall be located on the building frontage only.

(h) **Automatic teller machine signs.**

(iii) Signs located on automatic teller machines that do not exceed 15 square feet in area per machine.

(i) **Maintenance**

(iii) General. To ensure that signs are erected and maintained in a safe and aesthetic manner, all signs designed to be visible from any public street or road within the Cullowhee Planning Area shall be properly permitted and inspected for compliance with the applicable codes of the State of North Carolina and Jackson County and other applicable sections of this section.

(iv) Maintenance requirements. The following maintenance requirements shall be observed for all signs visible from any public street or road within the Cullowhee Planning Area.

1) No sign shall have more than 20 percent of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 successive days.
2) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts, or be allowed to stand more than 15 degrees away from the perpendicular for a period of more than 30 successive days.
3) No sign shall be allowed to have weeds, vines, or other vegetation growing upon it and obstructing its view from the roadway from which it is to be viewed for a period of more than 30 successive days.
4) No internally lit sign shall be allowed to stand with only partial illumination for a period of more than 30 successive days.
5) If a sign or sign structure is damaged due to factors other than vandalism or other criminal acts such that more than 50 percent of the value is lost, with such determination made by the Planning Director, any repair or replacement must be done in conformance with this section. If a sign or sign structure is damaged due to vandalism or other criminal act, it may be repaired or replaced, regardless of cost, but it must be repaired or replaced to the same specifications to which and with the same materials of which the sign was constructed prior to the act that caused the damage.
6) All banners, flags, and similar items shall be maintained so as to be free of tears, rips, discoloration, and/or fading. Any banner, flag, or similar item not so maintained may be removed without notice by the Planning Director.

(j) **Inspection**. The Planning Director may inspect all signs for compliance with these maintenance requirements.

(k) **Structural and Construction Requirements**

(iii) All on-premises signs allowed by this article shall be constructed in accordance with the requirements of the North Carolina State Building Code.

(l) **Variances**

(m) Requirements for variances. The Cullowhee Planning Council shall have authority to hear and act upon applications for variances as set forth in Section 3.7.20 of this Ordinance.

Section 9.4.10 Nonconformities

Nonconforming uses and structures shall comply with the regulations established in Section 8.6.2 (b).

Section 9.4.11 Enforcement

(a) **Duties regarding enforcement**

(i) The Permitting and Code Enforcement Director shall enforce the standards set forth in this Section in accordance with the provisions of Article X Violations and Enforcement.

Appendix 9.4.1 Cullowhee Planting List

Intent

This document does not regulate planting on private property that is not undergoing site plan or development review by Jackson County. The species listed here are not intended to be all-inclusive and other species may be approved if selected for climate appropriateness and functional suitability. Developers are highly encouraged to consult local landscape architects, nurseries and/or landscape contractors. Contact information for other governmental agencies that can offer valuable assistance in plant selection is listed below. The term "Native" in these lists refers to plants native or indigenous to Eastern North America and not just Western North Carolina. Some plants in this greater area may or may not perform in your particular landscape due to the specific ecosystem or microclimates that you may encounter.

Trees and shrubs for screening

This list of plants includes large, medium and small trees along with shrubs that may be used to meet the landscaping requirements of the Cullowhee Community Development Standards.

LARGE MATURING TREES >50' tall

Botanical Name	Common Name	Native
Acer rubrum "Armstrong"	Armstrong maple	Yes
Acer rubrum "October Glory", Red Sunset, etc.	Red maple	Yes
Acer saccharum	Sugar maple	Yes
Betula nigra	River birch	Yes
Fagus grandifolia	American beech	Yes
Fraxinus Americana	White ash	Yes
Ginkgo biloba	Maidenhair (male)	No
Liquidambar s. "Rotundiloba"	Sweet gum, fruitless	Yes
Liquidambar styraciflua	Sweet gum	Yes
Liriodendron tulipefera	Tulip tree	Yes
Magnolia grandiflora	Southern magnolia	Yes
Pinus strobus	Eastern white pine	Yes
Platanus occidentalis	Sycamore	Yes
Quercus alba	White oak	Yes
Quercus rubra	Northern red oak	Yes
Quercus coccinea	Scarlet oak	Yes
Taxodium distichum	Bald cypress	Yes
Tsuga canadensis	Canadian hemlock	Yes
Tsuga caroliniana	Carolina hemlock	Yes

MEDIUM MATURING TREES 25'—50' tall

Botanical Name	Common Name	Native
Carpinus caroliniana	American hornbeam	Yes
Cladrastis lutea	American yellowwood	Yes
Crataegus phaenopyrum	Washington hawthorn	Yes
Franklinia alatamaha	Franklinia	Yes
Halesia caroliniana	Carolina silverbell	Yes
Ilex attenuata "Savannah"	Savannah holly	Yes
Ilex opaca	American holly	Yes
Nyssa sylvatica	Black gum	Yes
Oxydendrum arboreum	Sourwood	Yes
Thuja occidentalis nigra	Arboritae	Yes

SMALL MATURING TREES < 25' tall

Small trees are also suitable for PLANTING UNDER UTILITY LINES as they will not interfere with those lines as the tree matures. The specific tree(s) will be reviewed and approved by the Director on a case-by-case basis, depending on specific site conditions present at the time of project review.

Botanical Name	Common Name	Native
Amelanchier candensis	Serviceberry	Yes
Cercis canadensis	Eastern redbud	Yes
Chionanthus virginicus	Fringe tree	Yes
Cornus florida	Flowering dogwood	Yes
Crataegus virdis	Winter king hawthorn	Yes
Ilex attenueta "Fosteri"	Foster holly #2	Yes

SHRUBS FOR SCREENING

Botanical Name	Common Name	Native
Aronia arbutifolia	Chokeberry	Yes
Clethra alnifolia	Sweet pepperbush	Yes
Ilex verticillata	Winterberry holly/Black alder	Yes
Kalmia latifolia	Mountain laurel	Yes
Myrica cerifera	Southern waxmyrtle	Yes
Pieris floribunda	Mountain andromeda; fetter-bush	Yes
Rhododendron calendulaceum	Flame azalea	Yes
Rhododerdron carolinianum	Carolina rhododendron	Yes
Rhododendron hybrida	Hybrid rhododendron	Some spp.
Rhus typhina	Staghorn sumac	Yes

UNSUITABLE PLANTS

This list of plants has either been deemed as invasive exotic plants by various governmental agencies or institutions, or have been found to be structurally unsound in icy or windy conditions. Use of these plants for new planting is not an option for plans undergoing review by the Director or the Cullowhee Community Planning Council.

Botanical Name	Common Name
Acer platanoides	Norway maple
Acer saccharinum	Silver maple
Albizia julibrissin	Mimosa
Ampelopsis brevipedunculata	Porcelain-berry
Celastrus orbiculatus	Oriental bittersweet
Elaeagnus angustifolia	Russian olive
Elaeagnus pungens	Autumn olive
Elaeagnus umbellate	Thorny olive
Euonymus alatus	Burning bush euonymus
Euonymus fortune	Wintercreeper
Hedera helix	English ivy
Ligustrum japonicum	Japanese privet
Ligustrum sinense	Chinese privet
Lonicera japonica	Japanese honeysuckle
Mahonia bealei	Oregon grape
Microstegium vimineum	Japanese stilt grass
Miscanthus sinensis	Chinese silvergrass
Paulownia tomentosa	Princess tree
Prunus calleryana "Bradford"	Bradford pear
Rosa multiflora	Multiflora rose
Vinca minor	Common periwinkle
Vinca major	Large leaf periwinkle
Wisteria floribunda	Japanese wisteria
Wisteria sinensis	Chinese wisteria

DROUGHT TOLERANT / XERISCAPE PLANTS (WOODY)

These plants are proven to tolerate prolong periods of drought without substantial supplemental irrigation. As with any planting design, the location, soil type, and local climate will play a role in their performance. As with any new planting, any plant in this list will require some supplemental irrigation for the first 3-6 months after they are planted to become established.

Shrubs		
Botanical Name	**Common Name**	**Native**
Aronia arbutifolia	Red chokeberry	Yes
Callicarpa americana	American beautyberry	Yes
Diervilla sessilifolia	Southern bush-honeysuckle	Yes
Fothergila gardenia	Dwarf fothergilla	Yes
Ilex verticillata	Winterberry holly	Yes
Ilex vomitori	Yaupon holly	Yes
Itea virginica	Itea	Yes
Myrica cerifera	Wax myrtle	Yes
Physocarpus opulifolius Summer Wine	Summer Wine ninebark	Yes
Rhododendron canescens	Piedmont azalea	Yes
Rhododendron spp.	Rhododendrons (Catawba or PJM)	Some spp.
Rhus typhina 'Lacianata'	Cutleaf staghorn sumac	Yes
Viburnum dentatum	Arrowwood viburnum	Yes

Large Trees (greater than 50' in height)		
Botanical Name	**Common Name**	**Native**
Carya glabra	Pignut hickory	Yes
Carya tomentosa	Mockernut hickory	Yes
Quercus alba	White oak	Yes
Taxodium distichum	Baldcypress	Yes
Ulmus americana 'Urban'	Urban American elm	Yes
Medium to Small Trees (less than 50' in height)		
Botanical Name	**Common Name**	**Native**
Aesculus pavia	Red buckeye	Yes
Cercis canadensis	Eastern redbud	Yes
Chionanthus virginicus	White fringetree	Yes
Cladrastis kentukea	American yellowwood	Yes
Cotinus obovatus	American smoketree or C. x 'Grace'	Yes
Crataegus viridis 'Winter King'	Winter King green hawthorn	Yes
Pinus taeda 'Nana' dwarf	Loblolly pine	Yes

PLANTS THAT PREFER DAMP SOIL

These plants are appropriate for areas that will remain damp for prolonged periods of time, such as along creek/riverbanks, and in rain gardens.

Trees and Shrubs		
Botanical Name	**Common Name**	**Shade Tolerance**
Acer rubrum	Red maple	Sun to partial sun
Celtis occidentalis	Hackberry	Sun to partial shade
Cephalanthus occidentalis	Buttonbush- white	Full sun
Clethra alnifolia	Summersweet/Sweet pepperbush	Sun to part shade
Cornus amomum	Silky dogwood	Part sun to part shade
Hydrangea arborescens	Wild hydrangea	Full sun to part shade
Lindera benzoin	Spicebush	Sun to shade
Nyssa salvatica	Tupelo	Sun to partial
Physocarpus opulifolius	Ninebark	Full to part sun
Rhododendronmaximum	Rosebay	Full sun to part shade
Sambucus canadensis	Common elderberry	Sun to partial sun
Spiraea alba	Meadowsweet	Sun to partial shade
Viburnum dentatum	Arrowood-white	Sun to partial shade

Ferns, Sedges, and Grasses		
Botanical Name	**Common Name**	**Shade Tolerance**
Adiantum capillus-veneris	Southern maidenhair fern	Shade to part shade
Andropogon gerardii	Big bluestem	Full sun
Arundinaria Gigantea	Canebreak bamboo or river cane	Shade to full sun
Athyrium filix-femina	Lady fern	Part sun to shade
Carex pendula	Drooping sedge	Part shade
Carex stipata	Tussock sedge	Sun to part shade
Chasmanthus latifolium	Inland sea oats	Shade to part shade
Dryopteris marginalis	Marginal wood fern	Shade to part shade
Elymus hystrix	Bottlebrush grass	Partial sun to partial shade
Elymus virginicus	Virginia wildrye	Part shade
Luzula acuminate	Hairy woodrush	Shade to part shade
Onoclea sensibilis	Sensitive fern	Shade to partial shade
Osmunda cinnamomea	Cinnamon fern	Part sun to shade
Panicum virgatum	Switchgrass	Full sun
Tripsacum dactyloides	Eastern gamagrass	Full sun
Herbs and Vines		
Botanical Name	**Common Name**	**Shade Tolerance**
Asclepias incarnata	Pink or Swamp milkweed	Sun to part shade
Aster novae-angliae	New England aster	Full to partial sun
Aster puniceus	Purple-stemmed aster	Full sun
Aster shortii	Short's aster	Partial sun
Bignonia capreolata	Crossvine	Sun to partial shade
Caltha palustris	Marsh marigold	Full to partial sun
Chelone glabra	White Turtlehead	Full sun to part shade
Coreopsis tripteris	Tall tickseed	Full to partial sun
Doellingeria umbellate	Flat-topped aster	Full sun
Eupatorium fistulosum	Joe-Pye Weed	Sun to partial shade
Eupatorium perfoliatum	Boneset	Sun to partial shade
Gentiana clausa	Bottle gentian	Partial shade to shade
Geranium maculatum	Wild geranium	Part sun to part shade
Helenium autumnale	Common sneezeweed	Full sun
Helianthus decapetalus	Thin-leaved sunflower	Part sun to part shade
Helianthus divaricatus	Woodland sunflower	Full sun to part shade
Helianthus giganteus	Tall sunflower	Full sun
Hibiscus moscheutos	Swamp rose mallow	Full sun to partial shade
Hydrophyllum canadense	Maple-leaved waterleaf	Shade to part shade
Liatris spicata	Blazing Star	Full sun
Lobelia cardinalis	Cardinal flower	Full sun to part shade
Lobelia siphilitica	Great blue lobelia	Full sun to part shade
Mertensia virginica	Virginia bluebells	Sun to part sun
Mimulus ringens	Monkey flower	Sun to shade
Monarda clinopodia	Basil balm	Part sun to part shade
Monarda didyma	Bee-balm	Full sun to light shade
Monarda media	Purple bergamot	Full to partial sun

Passiflora incarnata	Passion flower	Full to partial sun
Phlox maculata	Meadow phlox	Full sun to part shade
Phlox paniculata	Summer phlox	Full sun to part shade
Rudbeckia laciniata	Green-headed coneflower	Full sun to partial shade
Rudbeckia triloba	Three-lobed coneflower	Full sun
Senecio aureus	Golden ragwort	Full sun to part shade
Sisyrinchium angustifolium	Blue-eyed grass	Full sun
Solidago rugosa	Rough-stemmed goldenrod	Full sun to part shade
Thalictrum pubescens	Tall meadow rue	Part shade
Tradescantia virginiana	Spiderwort	Sun to part sun
Verbena hastate	Blue vervain	Full sun to shade
Vernonia noveboracensis	New York ironweed	Full sun
Veronicastrum virginicum	Culver's root	Full to part sun
Viola striata	Striped cream violet	Full sun to part shade

Section 9.5 US 441 Gateway District

Section 9.5.1 Authority and Purpose

(a) This section is adopted pursuant to and in compliance with authority from NCGS 153A-18 and is to be interpreted in accordance with such statute, or as it may be amended in the future.

(b) Jackson County has determined it is in the public's interest to enact development standards for high-profile areas of the community, which result in distinctive visual environments and project positively the image of the local community. Quality architecture and supportive site design in these areas have the potential to influence the attraction of private investment, the quality of future development, the level of environmental sustainability, and the value of properties in the mountain landscape.

(c) The US 441 Small Area Plan adopted by the County Board of Commissioners on April 21, 2008, represents a blueprint for the preferred settlement patterns and design qualities encouraged in the community. It is the culmination of a comprehensive and collaborative planning process that included local residents, business owners, property owners, and representatives from state agencies, conservation groups, public utilities, Planning Director, and the Eastern Band of Cherokee Indians. General consensus for the types, patterns, and conditions of development advocated in the US 441 Small Area Plan serves as the sourcebook for the Development Section for the US 441 Gateway District.

(d) These regulations have been adopted in accordance with NCGS 153A-342. Proposed development, subdivisions, and new land uses in the US 441 Gateway District shall comply with all applicable requirements of this section. However, the provisions of this section shall not apply to a lot or parcel being developed for a single-family dwelling unit without subdivision, nor to property being used for bona fide farm purposes except as provided in NCGS 153A-340(b).

Section 9.5.2 Jurisdiction

The provisions of this section shall apply to those lots, parcels, and tracts of land that lie within the US 441 Gateway District, as defined on the map so labeled. This map shall be filed in the office of the Clerk of the Board of Commissioners.

Section 9.5.3 Rules of Interpretation

(a) **Minimum Requirements**

(i) The provisions of this section shall be construed to achieve the purposes for which they are adopted. In interpreting and applying the provisions of this section, these provisions shall be held to be the minimum requirements for the protection and the promotion of the public health, safety, morals, comfort, convenience, and general welfare.

(b) **Material Incorporated by Reference**. This section implements the types, patterns, and conditions of development advocated in the US 441 Small Area Plan, adopted by the County Board of Commissioners on April 21, 2008.

(c) **Summary of Authority**

(i) The administrative and decision-making bodies and officials listed herein, without limitation upon such authority as each may possess by law, have responsibility for implementing and administering this section in the manner described below.

(ii) Jackson County Board of Commissioners*.* The Jackson County Board of Commissioners shall have the following jurisdiction and authority subject to the provisions of this section and the applicable provisions of the North Carolina General Statutes:

1) To initiate, adopt, or reject any amendment to the regulating map accompanying this section, and to initiate, adopt, amend, or reject any amendment to the text of this section.
2) To exercise such other powers and perform such other duties as allowed by North Carolina General Statute in connection with this section.

Section 9.5.4 Administration

(a) **Procedures**. In addition to information contained in this Section, also refer to the following Sections for procedures which may contain standards relevant to the Regulated District.

(i) Design review - see Article III, 3.7.4.
(ii) Sign permits and - see Article III, Section 3.4.
(iii) Special use permit - see Article III, Section 3.7.15.
(iv) Temporary use permit and procedures, see Article III, Section 3.7.18.
(v) Text amendment - see Article III, Section 3.7.19.
(vi) Map amendment- see Article III, Section 3.7.12.
(vii) Zoning permits - see Article III, Section 3.7.21.
(viii) Variance- see Article III, Section 3.7.20.
(ix) Administrative Decision Appeals - see Article III, Section 3.7.2.

(b) **Administration**

(i) For the purposes of the regulated districts contained in this Section, the Planning Director or the Permitting and Code Enforcement Director shall, as defined in Article 2.1, be responsible for administering the UDO within the Regulated Districts.

Section 9.5.5 Character Areas

(a) **Character Areas Established**

(i) Each of the character areas designated in this section stands alone and is not a part of a hierarchical or pyramidal system of character areas. For example, uses permitted in the rural living character area are not necessarily permitted in the village center character area. Only those uses and development standards that are expressly permitted and noted for each character area apply to that character area. In addition, accessory uses and structures customarily incidental to the principal use and/or structure shall be permitted subject to site plan requirements, all necessary permits and approvals, and other applicable requirements. The regulations that apply within each character area are identified in Section 9.5.5(c). The following character areas are hereby established:

1) *WF - Working Farm:* Working farms are actively being used for commercial agricultural activities, including cultivated farmland, livestock, and woodlands. These areas also support the primary residence of the property owner or their family members and any out-buildings required to support the working farm. Provisions under the working farm character area shall not apply to bona fide agriculture uses recognized as such for tax purposes by the state.
2) *RC - Recreation:* Recreation areas include community parks, softball fields, multi-purpose fields, playgrounds, walking trails, and water bodies.
3) *RL - Rural Living:* Rural living areas have very large lots, open space, pastoral views, and a high-degree of separation between buildings. Limited commercial, office, and industrial

activities co-exist with rural residential homes and hobby farms. New development within the rural living area should be encouraged to cluster buildings, leaving open space and uninterrupted views of the surrounding mountains. Non-residential uses in the rural living area should incorporate compatible architecture with residential uses, which maintains the rural character and scenic value of the surrounding community. Common uses identified for the rural living area include large lot, single-family homes, recreation and camping sites, and limited commercial, office, and industrial uses.

4) *GC - Golf Course Community:* A golf course community includes a golf course and clubhouse; with surrounding residential home sites available for sale or lease. Commercial activities supportive of golf course operations may also exist.
5) *PR - Planned Residential Community:* Planned residential communities complement development within the Sequoyah National Golf Course Community. These areas tend to have higher densities and intensities than surrounding areas, and may promote housing choice (i.e., single-family and multifamily) within the same development. Design elements important to planned residential communities include reserved open space, common areas, sidewalks, street trees, a neighborhood center, and easy access to major roadways.
6) *TC - Townhome/Condominium Community:* A townhome/condominium community is the densest residential development anticipated for the study area. Attached housing units are limited to seven units in length or three stories in height.
7) *GW- Gateway Corridor:* The gateway corridor serves as the commercial spine, as well as the ceremonial entrance to destinations such as Cherokee and the Great Smoky Mountain National Park. It includes commercial, office, institutional, and residential uses that generally share compatible architecture. The use of franchise architecture is specifically prohibited. Design elements important to the gateway area include signage, landscaping, building architecture and orientation, parking, and building height. Building architecture is representative of materials common to the region and should incorporate colors that limit the development's visual impact on the surrounding landscape.
8) *VC - Village Center:* Village centers are the focal points in the gateway district, which usually include a mix of residential, nonresidential, and civic uses. These areas tend to have higher densities and intensities than surrounding areas, concentration of amenities, and serve the entire community. These areas create dynamic and active places that instill a sense of place and celebrate the rural characteristics of the community.
9) *IN - Industrial:* Industrial areas generally support manufacturing and production uses, including warehouse, light manufacturing, utility maintenance yards, and assembly operations. Public utilities also may locate certain infrastructure (e.g. electric substation or sewer treatment plant) in an industrial area. Landscaping and buffers incorporated into the design of the site soften or shield the view of buildings, structures, parking lots, and loading docks from adjacent properties. Signage and lighting guidelines also enhance the quality of the development.
10) *IS - Institutional:* Institutional areas include churches, schools, cemeteries, and community centers. Local architecture and building materials incorporated into these building types help maintain the regional rural character and scenic value of the community.

(b) **Regulating Map**

(i) The regulating map for the US 441 Gateway District included as exhibit A of this section (herein the "regulating map") provides standards for developing each parcel or lot and how each relates to its adjacent properties. The regulating map is the principal tool for implementing the framework plan map included in the US 441 Small Area Plan adopted by the County Board of Commissioners on April 21, 2008.

(ii) The regulating map identifies the location of the character areas throughout the Gateway District and describes the standards for use, building architecture, and site development specific to each character area. Additional site development and building architecture standards applicable to one or more character areas are included Section 9.5.5 and 9.5.6.

(iii) Viewing the regulating map*.* The boundaries of the character areas depicted in the regulating map are effective at the same time this section is effective by the adoption by the County Board of Commissioners. The regulating map, together with all amendments adopted by the County Board of Commissioners, are incorporated herein by reference as if fully set forth herein. The regulating map, in hard copy format, shall be maintained in the office of the County Planning department.

(iv) Rules of interpretation*.* The following rules of interpretation shall apply to the regulating map:

1) Character area designation. A character area depicted on the regulating map indicates that the regulations pertaining to that character area extend throughout the whole area bounded by the character area lines within which the name is shown.
2) Character area boundary determination. Where uncertainty exists with respect to the boundaries of the various character areas shown on the regulating map, the following rules shall be used to interpret the regulating map:
   a) Where a character area boundary is shown to coincide approximately with a property line, the property line shall be considered to be the character area boundary, unless otherwise noted.
   b) Where a character area boundary is located within a road or public right-of-way or easement, it will be considered to be in the center of the road or public right-of-way or easement.
   c) Where a character area boundary is shown dividing a lot, each part of the lot shall conform to the standards of the district in which that part is located.
   d) Where a character area boundary is indicated as approximately following the centerline of streams, rivers, or other water body, it shall be considered to be the centerline of stream, river, or other water body.
   e) The US 441 Gateway District Community Planning Council shall interpret the location of the character area boundary with reference to the scale of the regulating map and the purposes set forth in all relevant provisions of the section.

(v) Character Areas, Labeling.

1) A character area shall be labeled on the "Regulating Map for the US 441 Gateway District" using the two-character abbreviations noted in Section 9.5.5(c). The following are appropriate labels for character areas designed on the regulating map: WF, RC, RL, GC, PR, TC, GW, VC, IN, and IS.

(vi) Character Areas, Use and Design Standards.

1) Use and design standards for the character areas identified in the regulating map control the configuration, features, and functions of buildings that collectively define and shape the community. After the effective date of this section, no building or structure or any portion thereof, or use of land, whether existing or hereafter established, shall be established, altered, changed, erected, constructed, reconstructed, moved, divided, enlarged, demolished, or maintained except in compliance with the provisions of this section, except as otherwise hereinafter provided.
2) Requirements by character area*.* Any proposed building shall be designed in accordance with the use and design standards identified in this section for the character area in which the property is located.

3) Permitted uses. Permitted uses listed individually for the 11-character areas are permitted by right. Interpretation of use standards will be made by the Planning Director.
4) Special uses. Special uses listed for the 11-character areas could present unique characteristics and impacts for the community, and thus require individual consideration for their location, design, configuration, and/or operation in accordance with the provisions set forth in Section 9.5.5 (c).
5) Temporary uses. The following uses may be established as temporary uses in the US 441 Gateway District, subject to the approval of the Planning Director.
    a) Civic events including, but not limited to, church bazaars, volunteer fire department fund raisers, and holiday events. Civic events sponsored, organized and/or held by a governmental agency or by an organization funded by the county shall be exempt from the temporary permit fee.
    b) Circuses, carnivals, fairs, religious services, and similar types of events.
    c) Seasonal greenhouses, tents, and other temporary structures for a period not to exceed 60 days. Said structures must be removed on the date of expiration of the temporary use permit. Tent sales shall be conducted on the property of and conducted by an established business located within the US 441 Gateway District as a special event to promote said business.
    d) Temporary offices for construction and security personnel during the construction of a development for which a building permit has been issued.
    e) The US 441 Gateway District Community Planning Council may authorize the Planning Director to issue a permit for any other temporary use provided that the use is clearly of a temporary nature, the use is limited to a period not to exceed 60 days, and the use is in keeping with the intent and requirements of this section.
6) Unlisted uses. In the case of uses not listed in Section 9.5.5(c), the Planning Director will make a determination of the group appropriate for such uses. In reaching the determination, the Planning Director must determine the most similar use that has comparable impacts.
7) Prohibited uses. A list of prohibited uses shall be found in Section 9.5.5(c).

(c) Character Districts. The following pages outline the intent, character, and zoning standards for each district.

Figure 9.5.1

Working Farm (WF)

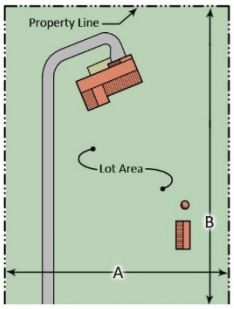
Intent and Character

Working farms are actively being used for commercial agricultural activities, including farmland, livestock, and woodlands. These areas also support the primary residence of the property owner or their family members and any out-buildings required to support the working farm. **WORKING FARM CHARACTER AREA REQUIREMENTS SHALL NOT APPLY TO PROPERTY USED FOR BONA FIDE FARM PURPOSES EXCEPT AS PROVIDE BY N.C.G.S. 153 A-340(B)(3).**

* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

DEVELOPMENT STANDARDS

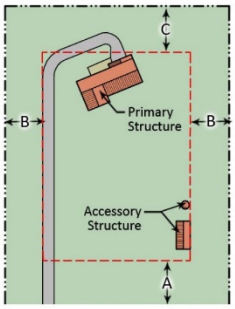
LOT DIMENSIONS



A. Minimum Lot Width:
60 feet

B. Minimum Lot Depth:
100 feet

SETBACKS



A. Minimum Front Building Setback: 45 feet

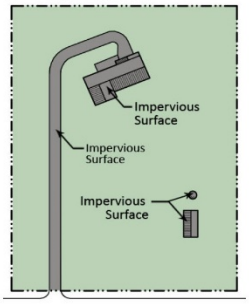
B. Minimum Side Building Setback: 50 feet

C. Minimum Rear Building Setback: 50 feet

Minimum Distance between Main Residence and Accessory Buildings: 60 feet

Minimum Distance between Accessory Buildings: 20 feet

LOT COVERAGE



Maximum Impervious Surface Coverage:
10%

Parking Lot Placement:
n/a

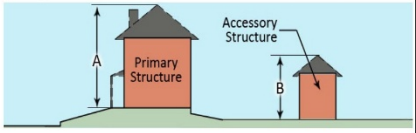
Building Orientation:
n/a

DENSITY/INTENSITY

Maximum Residential Density:
0.2 d.u./acre

Maximum FAR (Floor Area Ratio:
0.1

HEIGHT



Maximum Structure Height:
A. Primary: 35 feet
B. Accessory: 35 feet
*Exceptions for architectural features provided in additional sections.

ADDITIONAL DEVELOPMENT STANDARDS

Exterior Lighting	Sect. 9.5.6(e)
Stormwater Mgmt.	Sect. 9.5.6(i)
Franchise Architecture	Sect. 9.5.7(g)

Figure 9.5.1 (cont'd)

Working Farm (WF)

WORKING FARM: PERMITTED USES

- adult day-care homes
- agricultural activities
- child day-care homes
- single-family, detached dwelling unit

WORKING FARM: SPECIAL USES

- fruit and vegetable market
- public utilities and related services

Figure 9.5.2

Recreation (RC)

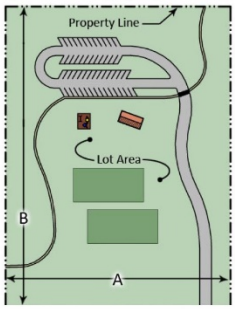
Intent and Character

Recreation areas include community parks, softball fields, multi-purpose fields, playgrounds, walking trails, and water bodies.

DEVELOPMENT STANDARDS

* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

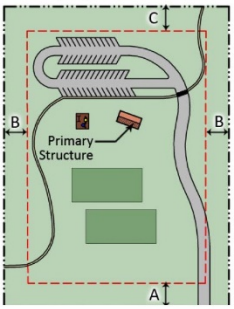
LOT DIMENSIONS



A. Minimum Lot Width:
50 feet

B. Minimum Lot Depth:
100 feet

SETBACKS

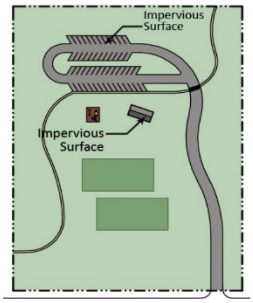


A. Minimum Front Building Setback:
35 feet

B. Minimum Side Building Setback:
25 feet

C. Minimum Rear Building Setback:
50 feet

LOT COVERAGE

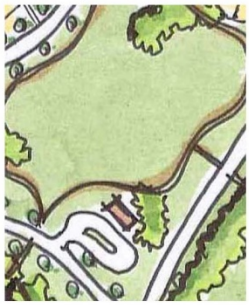


Maximum Impervious Surface Coverage:
50%

Parking Lot Placement:
n/a

Building Orientation:
n/a

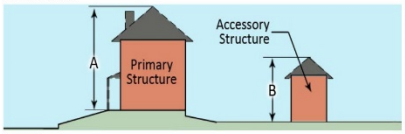
DENSITY/INTENSITY



Maximum Residential Density:
n/a

Maximum Non-residential FAR (Floor Area Ratio):
0.2

HEIGHT



Maximum Structure Height:

A. Primary: 35 feet

B. Accessory: 25 feet

*Exceptions for architectural features provided in additional sections.

ADDITIONAL DEVELOPMENT STANDARDS

Dumpster Enclosures	Sect. 9.5.6(c)
Utility Equipment	Sect. 9.5.6(d)
Exterior Lighting	Sect. 9.5.6(e)
Landscaping	Sect. 9.5.6(f)
Buffers	Sect. 9.5.6(g)
Fences	Sect. 9.5.6(h)
Stormwater Mgmt.	Sect. 9.5.6(i)
Bldg Material & Color	Sect. 9.5.7(a)
Building Height	Sect. 9.5.7(b)

Building Massing	Sect. 9.5.7(c)
Building Façade Character	Sect. 9.5.7(d)
Roof Form & Articulation	Sect. 9.5.7(e)
Rooftop Equipment	Sect. 9.5.7(f)
Franchise Architecture	Sect. 9.5.7(g)
Architecture Unity	Sect. 9.5.7(h)
Signage	Sect. 9.5.8
Viewshed Protection	Sect. 9.5.9
Parking	Sect. 9.5.10

Figure 9.5.2 (cont'd)

Recreation (RC)

RECREATION: PERMITTED USES

- active park/recreation fields
- adult day-care homes
- amphitheater
- arboretum
- camp, campground
- child day-care homes
- community center
- golf course
- greenway or pedestrian path
- passive park
- recreation uses, commercial indoor
- recreation uses, commercial outdoor
- recreation uses, government
- recreation uses, non-profit
- recreation uses, restricted to membership

RECREATION: SPECIAL USES

- place of worship
- pre-school
- primary/secondary school

Figure 9.5.3

Rural Living (RL)

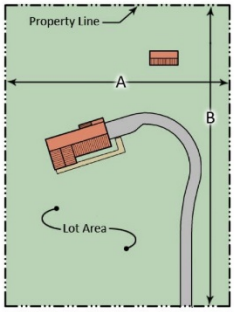
Intent and Character

Rural living areas have very large lots, open space, pastoral views, and a high-degree of separation between buildings. Limited commercial, office, and industrial activities co-exist with rural residential homes and hobby farms. New development within the rural living area should be encouraged to cluster buildings, leaving open space and uninterrupted views of the surrounding mountains. Non-residential uses in the rural living area should incorporate compatible architecture with residential uses, which maintains the rural character and scenic value of the surrounding community. Common uses identified for the rural living area include large lot, single-family homes, recreation and camping sites, and limited commercial, office, and industrial uses.

DEVELOPMENT STANDARDS

* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

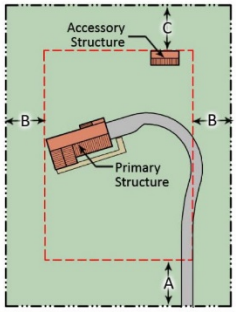
LOT DIMENSIONS



A. Minimum Lot Width:
60 feet

B. Minimum Lot Depth:
100 feet

SETBACKS



A. Minimum Front Building Setback: 45 feet

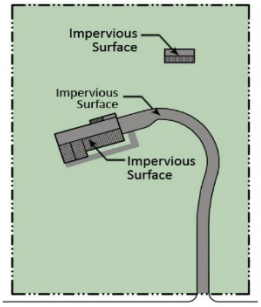
B. Minimum Side Building Setback: 50 feet

C. Minimum Rear Building Setback: 50 feet

Minimum Distance between Main Residence and Accessory Buildings: 60 feet

Minimum Distance between Accessory Buildings: 20 feet

LOT COVERAGE



Maximum Impervious Surface Coverage:
10%

Parking Lot Placement:
n/a

Building Orientation:
n/a

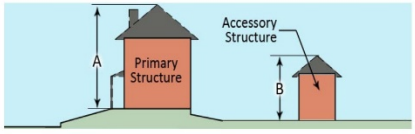
DENSITY/INTENSITY

Maximum Residential Density:
0.2 d.u./acre

Maximum FAR (Floor Area Ratio):
0.25

Minimum Common Open Space, *excluding Single Family Residential Homes*:
25%

HEIGHT



Maximum Structure Height:

A. Primary: 35 feet

B. Accessory: 35 feet

*Exceptions for architectural features provided in additional sections.

ADDITIONAL DEVELOPMENT STANDARDS

Dumpster Enclosures	Sect. 9.5.6(c)
Utility Equipment	Sect. 9.5.6(d)
Exterior Lighting	Sect. 9.5.6(e)
Landscaping	Sect. 9.5.6(f)
Buffers	Sect. 9.5.6(g)
Fences	Sect. 9.5.6(h)
Stormwater Mgmt.	Sect. 9.5.6(i)
Bldg Material & Color	Sect. 9.5.7(a)
Building Height	Sect. 9.5.7(b)

Building Massing	Sect. 9.5.7(c)
Building Façade Character	Sect. 9.5.7(d)
Roof Form & Articulation	Sect. 9.5.7(e)
Rooftop Equipment	Sect. 9.5.7(f)
Franchise Architecture	Sect. 9.5.7(g)
Architecture Unity	Sect. 9.5.7(h)
Signage	Sect. 9.5.8
Viewshed Protection	Sect. 9.5.9
Parking	Sect. 9.5.10

Figure 9.5.3 (cont'd)

Rural Living (RL)

RURAL LIVING: PERMITTED USES

- adult day-care homes
- non-commercial-agricultural activities
- bed and breakfast inn
- camp, campground
- child day-care homes
- community center
- hardware/garden store
- hotel/motel
- place of worship
- police, fire, or rescue station
- post office
- single-family detached dwelling unit

RURAL LIVING: SPECIAL USES

- assisted living facility
- cemetery
- college or university
- hotel/motel
- pre-school
- primary/secondary school
- public utilities and related services
- riding academies and commercial stables

A special use permit shall be required for all nonresidential or mixed uses in the Rural Living Character Area which exceed 15,000 square feet gross floor area.

Figure 9.5.4

Golf Course Community

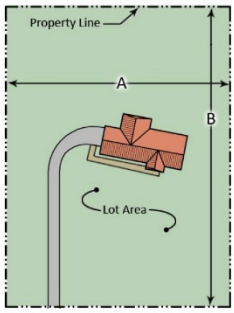
Intent and Character

A golf course community includes a golf course and clubhouse; with surrounding residential home sites available for sale or lease. Commercial activities supportive of golf course operations may also exist.

DEVELOPMENT STANDARDS

* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

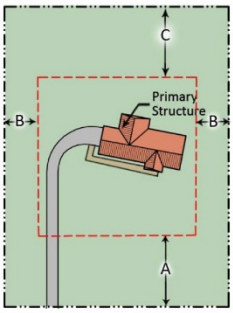
LOT DIMENSIONS



A. Minimum Lot Width:
60 feet

B. Minimum Lot Depth:
100 feet

SETBACKS



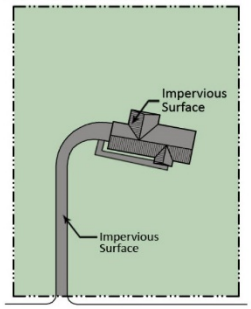
A. Minimum Front Building Setback: 35 feet

B. Minimum Side Building Setback: 25 feet

C. Minimum Rear Building Setback: 50 feet

Minimum Distance between Buildings:
30 feet

LOT COVERAGE



Maximum Impervious Surface Coverage:
35%

Parking Lot Placement:
n/a

Building Orientation:
n/a

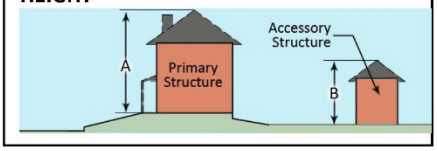
DENSITY/INTENSITY

Maximum Residential Density:
4 d.u./acre single family
12 d.u./acre multi-family

Maximum FAR (Floor Area Ratio):
0.25

Minimum Common Open Space, *excluding Single Family Residential Homes*:
25%

HEIGHT



Maximum Structure Height:

A. Primary: 35 feet

B. Accessory: 25 feet

*Exceptions for architectural features provided in additional sections.

ADDITIONAL DEVELOPMENT STANDARDS

Dumpster Enclosures	Sect. 9.5.6(c)
Utility Equipment	Sect. 9.5.6(d)
Exterior Lighting	Sect. 9.5.6(e)
Landscaping	Sect. 9.5.6(f)
Buffers	Sect. 9.5.6(g)
Fences	Sect. 9.5.6(h)
Stormwater Mgmt.	Sect. 9.5.6(i)
Bldg Material & Color	Sect. 9.5.7(a)
Building Height	Sect. 9.5.7(b)

Building Massing	Sect. 9.5.7(c)
Building Façade Character	Sect. 9.5.7(d)
Roof Form & Articulation	Sect. 9.5.7(e)
Rooftop Equipment	Sect. 9.5.7(f)
Franchise Architecture	Sect. 9.5.7(g)
Architecture Unity	Sect. 9.5.7(h)
Signage	Sect. 9.5.8
Viewshed Protection	Sect. 9.5.9
Parking	Sect. 9.5.10

Figure 9.5.4 (cont'd)

Golf Course Community (GC)

GOLF COURSE COMMUNITY: PERMITTED USES

- adult day-care homes
- barber shop or salon
- child day-care homes
- community center
- golf course
- health spa
- hotel/motel
- bed and breakfast inn
- multi-family dwelling units
- place of worship
- police, fire, or rescue station
- post office
- restaurant
- sporting good sales
- single-family, attached dwelling unit
- single-family, detached dwelling unit

GOLF COURSE COMMUNITY: SPECIAL USES

- pre-school
- primary-secondary school
- convenience store (<10,000 sf)
- grocery store

Figure 9.5.5 (cont'd)

Planned Residential Community (PR)

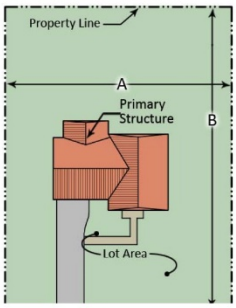
Intent and Character

Planned residential communities complement development within the Sequoyah National Golf Course Community. These areas tend to have higher densities and intensities than surrounding areas, and may promote housing choice (i.e., single-family and multifamily) within the same development. Design elements important to planned residential communities include reserved open space, common areas, sidewalks, street trees, a neighborhood center, and easy access to major roadways.

DEVELOPMENT STANDARDS

* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

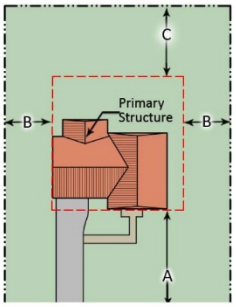
LOT DIMENSIONS



A. Minimum Lot Width:
60 feet

B. Minimum Lot Depth:
100 feet

SETBACKS



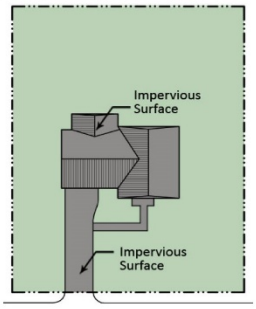
A. Minimum Front Building Setback: 35 feet

B. Minimum Side Building Setback: 25 feet

C. Minimum Rear Building Setback: 50 feet

Minimum Distance between Buildings: 30 feet

LOT COVERAGE



Maximum Impervious Surface Coverage:
40%

Parking Lot Placement:
n/a

Building Orientation:
n/a

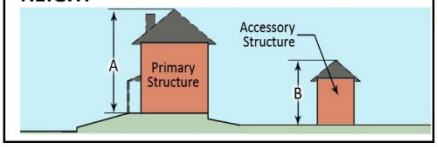
DENSITY/INTENSITY

Maximum Residential Density:
4 d.u./acre single family
12 d.u./acre multi-family

Maximum FAR (Floor Area Ratio):
0.25

Minimum Common Open Space:
25%

HEIGHT



Maximum Structure Height:
A. Primary: 35 feet
B. Accessory: 25 feet
*Exceptions for architectural features provided in additional sections.

ADDITIONAL DEVELOPMENT STANDARDS

Dumpster Enclosures	Sect. 9.5.6(c)
Utility Equipment	Sect. 9.5.6(d)
Exterior Lighting	Sect. 9.5.6(e)
Landscaping	Sect. 9.5.6(f)
Buffers	Sect. 9.5.6(g)
Fences	Sect. 9.5.6(h)
Stormwater Mgmt.	Sect. 9.5.6(i)
Bldg Material & Color	Sect. 9.5.7(a)
Building Height	Sect. 9.5.7(b)

Building Massing	Sect. 9.5.7(c)
Franchise Architecture	Sect. 9.5.7(g)
Architecture Unity	Sect. 9.5.7(h)
Signage	Sect. 9.5.8
Viewshed Protection	Sect. 9.5.9
Parking	Sect. 9.5.10

Figure 9.5.5 (cont'd)

Planned Residential Community (PR)

PLANNED RESIDENTIAL COMMUNITY: PERMITTED USES

- active park/recreation fields
- adult day-care homes
- bed and breakfast
- child day-care homes
- community center
- passive park
- place of worship
- police, fire, or rescue station
- post office
- single-family attached dwelling unit
- single-family, detached dwelling unit

PLANNED RESIDENTIAL COMMUNITY: SPECIAL USES

- multi-family dwelling units
- pre-school
- primary/secondary school
- neighborhood retail establishments

Figure 9.5.6

Townhome/Condominium Community (TC)

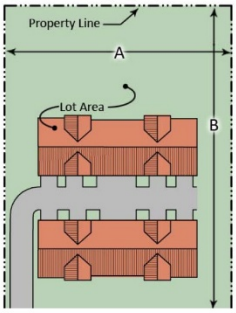
Intent and Character

A townhome/condominium community is the densest residential development anticipated for the study area. Attached housing units are limited to seven units in length or three stories in height.

DEVELOPMENT STANDARDS

* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

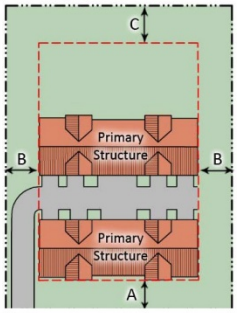
LOT DIMENSIONS



A. Minimum Lot Width: 200 feet

B. Minimum Lot Depth: 200 feet

SETBACKS



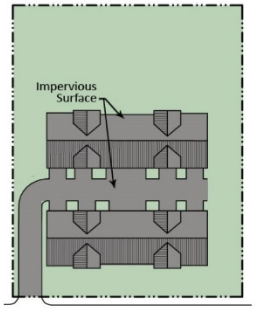
A. Minimum Front Building Setback: 50 feet

B. Minimum Side Building Setback: 50 feet

C. Minimum Rear Building Setback: 50 feet

Minimum Distance between Buildings: 40 feet

LOT COVERAGE

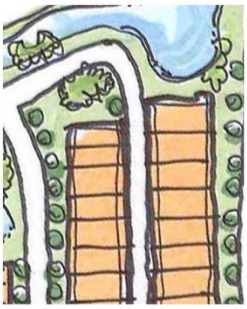


Maximum Impervious Surface Coverage: 65%

Parking Lot Placement: n/a

Building Orientation: n/a

DENSITY/INTENSITY

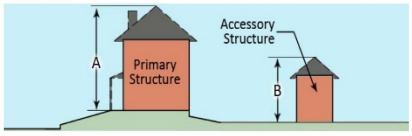


Maximum Residential Density: 16 d.u./acre

Maximum FAR (Floor Area Ratio): 0.35

Minimum Common Open Space: 30%

HEIGHT



Maximum Structure Height:

A. Primary: 45 feet

B. Accessory: 25 feet

*Exceptions for architectural features provided in additional sections.

ADDITIONAL DEVELOPMENT STANDARDS

Dumpster Enclosures	Sect. 9.5.6(c)
Utility Equipment	Sect. 9.5.6(d)
Exterior Lighting	Sect. 9.5.6(e)
Landscaping	Sect. 9.5.6(f)
Buffers	Sect. 9.5.6(g)
Fences	Sect. 9.5.6(h)
Stormwater Mgmt.	Sect. 9.5.6(i)
Bldg Material & Color	Sect. 9.5.7(a)
Building Height	Sect. 9.5.7(b)

Building Massing	Sect. 9.5.7(c)
Roof Form & Articulation	Sect. 9.5.7(e)
Rooftop Equipment	Sect. 9.5.7(f)
Franchise Architecture	Sect. 9.5.7(g)
Architecture Unity	Sect. 9.5.7(h)
Signage	Sect. 9.5.8
Viewshed Protection	Sect. 9.5.9
Parking	Sect. 9.5.10

Figure 9.5.6 (cont'd)

Townhome/Condominium Community (TC)

TOWNHOME/CONDOMINIUM COMMUNITY: PERMITTED USES

- active park/recreation fields
- adult day-care homes
- child day-care homes
- community center
- multi-family dwelling units
- passive park
- place of worship
- police, fire, or rescue station
- post office
- single-family, attached dwelling unit
- single-family, detached dwelling unit

TOWNHOME/CONDOMINIUM COMMUNITY: SPECIAL USES

- bed and breakfast inn
- convenience store (<10,000 sf)
- grocery store
- pre-school
- primary/secondary school

Figure 9.5.7

Gateway (GW)

Intent and Character

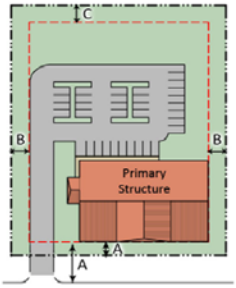
The gateway corridor serves as the commercial spine, as well as the ceremonial entrance to destinations such as Cherokee and the Great Smoky Mountain National Park. It includes commercial, office, institutional, and residential uses that generally share compatible architecture. The use of franchise architecture is specifically prohibited. Design elements important to the gateway area include signage, landscaping, building architecture and orientation, parking, and building height.

Building architecture is representative of materials common to the region, and should incorporate colors that limit the development's visual impact on the surrounding landscape.

DEVELOPMENT STANDARDS

* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

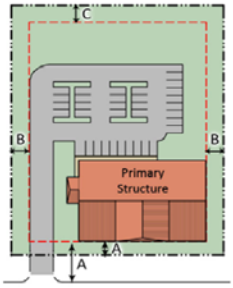
LOT DIMENSIONS



A. Minimum Lot Width: 40 feet

B. Minimum Lot Depth: 100 feet

SETBACKS



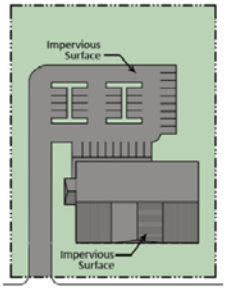
A. Minimum Front Building Setback: 25 feet, measured from the back of the curb but no less than 5' from the property line

B. Minimum Side Building Setback: 20 feet

C. Minimum Rear Building Setback: 20 feet

Minimum Distance between Buildings: n/a

LOT COVERAGE

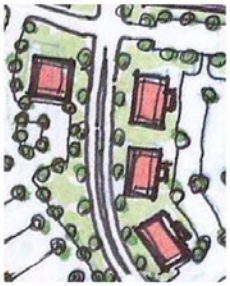


Maximum Impervious Surface Coverage: 75%

Parking Lot Placement: Maximum 2 rows of parking in front of building, plus drive aisle

Building Orientation: Parallel to street frontage.

DENSITY/INTENSITY

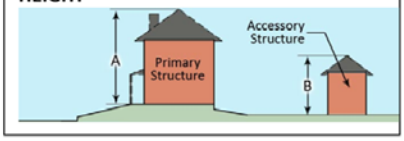


Maximum Residential Density: n/a

Maximum Non-residential FAR (Floor Area Ratio): 0.65

Minimum Open Space: 10%

HEIGHT



Maximum Structure Height:

A. Primary: 35 feet

B. Accessory: 25 feet

*Exceptions for architectural features provided in additional sections.

ADDITIONAL DEVELOPMENT STANDARDS

Dumpster Enclosures	Sect. 6.3
Utility Equipment	Sect. 6.4
Exterior Lighting	Sect. 6.5
Landscaping	Sect. 6.6
Buffers	Sect. 6.7
Fences	Sect. 6.8
Stormwater Mgmt.	Sect. 6.9
Bldg Material & Color	Sect. 7.1
Building Height	Sect. 7.2

Building Massing	Sect. 7.3
Building Façade Character	Sect. 7.4
Roof Form & Articulation	Sect. 7.5
Rooftop Equipment	Sect. 7.6
Franchise Architecture	Sect. 7.7
Architecture Unity	Sect. 7.8
Signage	Article 8
Viewshed Protection	Article 9
Parking	Article 10

Figure 9.5.7 (cont'd)

Gateway (GW)

GATEWAY; PERMITTED USES

- adult day-care homes
- antique shop
- automobile service station
- bakery
- barber/beauty shop
- bed and breakfast inn
- bicycle sales/repair
- bookstore
- child day-care homes
- car wash
- clothing shop
- convenience store
- copy center
- delicatessen
- dry cleaners
- financial institution
- florist
- fruit and vegetable market
- furniture sales
- general office
- gift shop
- hardware/garden supply store
- health and fitness facility
- hotel/motel
- instructional services
- laundry and dry cleaning
- medical clinic
- motor vehicle repair
- paint shop
- pharmacy
- place of worship
- plant nurseries, sales & greenhouse
- police, fire or rescue station
- post office
- printing and publishing
- restaurants
- retail gasoline sales
- single family homes
- theaters
- veterinary
- video rental

GATEWAY; CONDITIONAL USES

- assisted living facility
- library
- multi-tenant shopping center
- retail sales not listed as a permitted use
- self-storage facility

A conditional use permit shall be required for all buildings in the Gateway Character Area that exceed 20,000 square feet gross floor area.

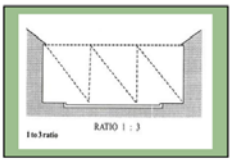
Figure 9.5.8

Village Center (VC)

Intent and Character

A village center becomes the focal points in the Gateway District, which traditionally includes a mix of residential, non-residential, and civic uses. Development patterns favor higher densities and intensities than surrounding character areas, as well as a comprehensive network of internal trails and open space and a variety of small and large public spaces located throughout the small community. Small blocks, walkable streets, public plazas, buildings placed near the back of sidewalks, and a healthy mix of complementary uses define the development's mixed-use urban core. The building height to right-of-way width ratio in the urban core is 1:3; that is, the span of the right-of-way shall be no greater than three times the height of the adjacent buildings.

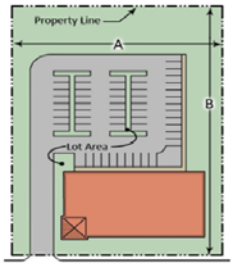
Illustration of Right-of-Way Height to Width Ratio



* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

DEVELOPMENT STANDARDS

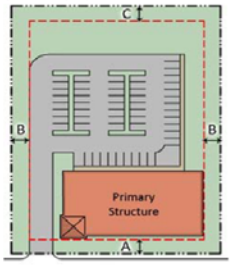
LOT DIMENSIONS



A. Minimum Lot Width: 60 feet

B. Minimum Lot Depth: 100 feet

SETBACKS



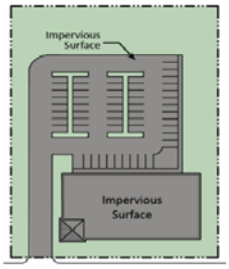
A. Maximum Front Building Setback: Min. 25' setback from 441, max. 15' setback from internal street

B. Minimum Side Building Setback: 5 feet

C. Minimum Rear Building Setback: 10 feet

Minimum Distance between Buildings: n/a

LOT COVERAGE



Maximum Impervious Surface Coverage: 80%

Parking Lot Placement: No parking permitted between internal street and building unless the parking is designed as one row of parking (angle or parallel) located between the internal street and the pedestrian walkway

Building Orientation: parallel to internal street

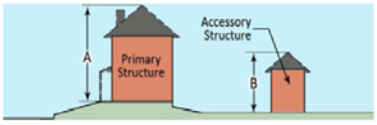
DENSITY/INTENSITY

Maximum Residential Density:
4 d.u./acre single family
16 d.u./acre multi-family

Maximum FAR (Floor Area Ratio): 2.0

Minimum Common Open Space: 15%

HEIGHT



Maximum Structure Height:

A. Primary: 45 feet*

B. Accessory: 35 feet*

*Exceptions for architectural features provided in additional sections.

ADDITIONAL DEVELOPMENT STANDARDS

Dumpster Enclosures	Sect. 6.3
Utility Equipment	Sect. 6.4
Exterior Lighting	Sect. 6.5
Landscaping	Sect. 6.6
Buffers	Sect. 6.7
Fences	Sect. 6.8
Stormwater Mgmt.	Sect. 6.9
Bldg Material & Color	Sect. 7.1
Building Height	Sect. 7.2

Building Massing	Sect. 7.3
Building Façade Character	Sect. 7.4
Roof Form & Articulation	Sect. 7.5
Rooftop Equipment	Sect. 7.6
Franchise Architecture	Sect. 7.7
Architecture Unity	Sect. 7.8
Signage	Article 8
Viewshed Protection	Article 9
Parking	Article 10

Figure 9.5.8 (cont'd)

Village Center (VC)

VILLAGE CENTER; PERMITTED USES

- adult day-care homes
- bakery
- barber shop or salon
- bed and breakfast inn
- bicycle shop
- bookstore
- candy, pastry, ice cream, or snack shop
- child day-care homes
- copy center
- delicatessen
- financial institution
- florist
- fruit and vegetable market
- general office
- gift shop
- hardware/garden supply store
- health and fitness facility
- hotel/motel
- instructional services
- laundry and dry cleaning
- medical clinic
- neighborhood retail establishments
- multi-family dwelling units
- pharmacy
- place of worship
- plant nurseries, sales & greenhouses
- police, fire or rescue station
- post office
- printing and publishing
- restaurants
- retail sales
- single-family, attached dwelling unit
- single-family, detached dwelling unit
- theaters
- video rental store

VILLAGE CENTER; CONDITIONAL USES

- automobile service station
- car wash
- motor vehicle repair
- retail gasoline sales
- veterinary

Projects of more than 60,000 square feet in gross floor area require conditional use permit.
An internal street system shall provide access to and connect all structures and uses within the Village Center development. The internal street system shall create blocks within the development that provide sites for parking and/or for buildings. The internal streets shall have a sidewalk on at least one side and street trees shall be provided on both sides of the street unless these requirements are waived by the 441 Corridor Council. Stub outs shall be provided to abutting properties that will enable the internal street system to provide connections and access to these properties.
A system of pedestrian walkways (sidewalks) shall provide safe connections between all structures in the Village Center development and between all structures and all parking areas. These pedestrian walkways shall have a minimum width of 6 feet when located adjacent to a vehicular travelway and 5 feet when a landscaped area (min. 5' width) separates the walkway from the vehicular travelway, unless a lessor width is approved by the 441 Corridor Council. When provided, cart corrals shall be connected to the system of pedestrian walkways. Cart corrals shall be screened with low vegetation.
**** Structures (both primary and accessory) may exceed this height provided that for every one (1) foot exceeding the maximum permitted height, they are set back an additional two (2) feet from the property line.***

Figure 9.5.9

Industrial (IN)

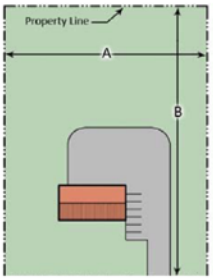
Intent and Character

Industrial areas generally support manufacturing and production uses, including warehouse, light manufacturing, utility maintenance yards, and assembly operations. Public utilities also may locate certain infrastructure (e.g. electric substation or sewer treatment plant) in an industrial area. Landscaping and buffers incorporated into the design of the site soften or shield the view of buildings, structures, parking lots, and loading docks from adjacent properties. Signage and lighting guidelines also enhance the quality of the development.

DEVELOPMENT STANDARDS

* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

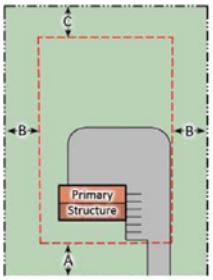
LOT DIMENSIONS



A. Minimum Lot Width:
100 feet

B. Minimum Lot Depth:
250 feet

SETBACKS



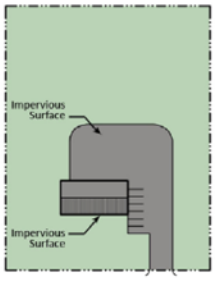
A. Minimum Front Building Setback: 100 feet

B. Minimum Side Building Setback: 100 feet

C. Minimum Rear Building Setback: 100 feet

Minimum Distance between Buildings:
100 feet

LOT COVERAGE



Maximum Impervious Surface Coverage:
50%

Parking Lot Placement:
n/a

Building Orientation:
n/a

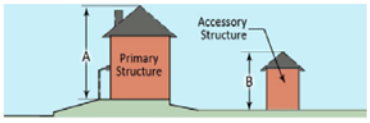
DENSITY/INTENSITY

Maximum Residential Density:
n/a

Maximum Non-residential FAR (Floor Area Ratio):
0.2 5

Minimum Common Open Space:
15%

HEIGHT



Maximum Structure Height:

A. Primary: 55 feet

B. Accessory: 35 feet

*Exceptions for architectural features provided in additional sections.

ADDITIONAL DEVELOPMENT STANDARDS

Dumpster Enclosures	Sect. 6.3
Utility Equipment	Sect. 6.4
Exterior Lighting	Sect. 6.5
Landscaping	Sect. 6.6
Buffers	Sect. 6.7
Fences	Sect. 6.8
Stormwater Mgmt.	Sect. 6.9
Bldg Material & Color	Sect. 7.1
Building Height	Sect. 7.2

Building Massing	Sect. 7.3
Building Façade Character	Sect. 7.4
Roof Form & Articulation	Sect. 7.5
Rooftop Equipment	Sect. 7.6
Franchise Architecture	Sect. 7.7
Architecture Unity	Sect. 7.8
Signage	Article 8
Viewshed Protection	Article 9
Parking	Article 10

Figure 9.5.9 (cont'd)

Industrial (IN)

INDUSTRIAL; PERMITTED USES

- adult day-care homes
- child day-care homes
- government operations
- indoor equipment, party, or event rental center
- Industrial park
- laboratories – medical, science or research
- manufacturing, assembly, or finishing operations
- police, fire, or rescue station
- warehouse storage

INDUSTRIAL; CONDITIONAL USES

- outdoor storage
- public utilities and related services

Figure 9.5.10

Institutional (IS)

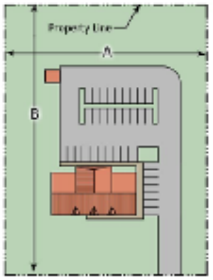
Intent and Character

Institutional areas include churches, schools, cemeteries, and community centers. Local architecture and building materials incorporated into these building types help maintain the regional rural character and scenic value of the community.

DEVELOPMENT STANDARDS

* Slope conditions and environmental constraints may cause slight variations in lot dimensional standards.

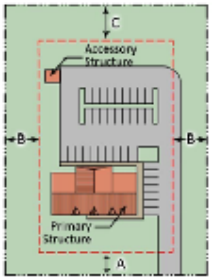
LOT DIMENSIONS



A. Minimum Lot Width:
50 feet

B. Minimum Lot Depth:
100 feet

SETBACKS



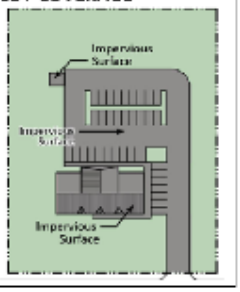
A. Minimum Front Building Setback: 35 feet

B. Minimum Side Building Setback: 20 feet

C. Minimum Rear Building Setback: 30 feet

Minimum Distance between Buildings: 30 feet

LOT COVERAGE



Maximum Impervious Surface Coverage:
65%

Parking Lot Placement:
Max 2 rows of parking in front of building, plus drive aisle

Building Orientation:
n/a

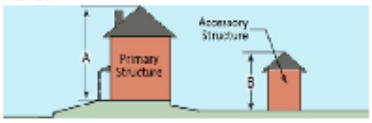
DENSITY/INTENSITY

Maximum Residential Density:
n/a

Maximum Non-residential FAR (Floor Area Ratio):
0.5

Minimum Open Space
20%

HEIGHT



Maximum Structure Height:

A. Primary: 35 feet

B. Accessory: 25 feet

* Exceptions for architectural features provided in additional sections.

ADDITIONAL DEVELOPMENT STANDARDS

Dumpster Enclosures	Sect. 6.3	Building Massing	Sect. 7.3
Utility Equipment	Sect. 6.4	Building Façade Character	Sect. 7.4
Exterior Lighting	Sect. 6.5	Roof Form & Articulation	Sect. 7.5
Landscaping	Sect. 6.6	Rooftop Equipment	Sect. 7.6
Buffers	Sect. 6.7	Franchise Architecture	Sect. 7.7
Fences	Sect. 6.8	Architecture Unity	Sect. 7.8
Stormwater Mgmt.	Sect. 6.9	Signage	Article 8
Bldg Material & Color	Sect. 7.1	Viewshed Protection	Article 9
Building Height	Sect. 7.2	Parking	Article 10

Figure 9.5.10 (cont'd)

Institutional (IS)

INSTITUTIONAL; PERMITTED USES

- adult day-care homes
- cemeteries
- child day-care homes
- children day care facility
- civic, social service, or fraternal facility
- college or university
- community center
- conference center
- government operations
- library
- museum
- passive park
- place of worship
- police, fire, or rescue station
- post office
- pre-school
- primary/secondary school

INSTITUTIONAL; CONDITIONAL USES

- telecommunication tower
- public utilities and related services

Section 9.5.6 General Site Development Standards

No building or structure or any portion thereof, or use of land, whether existing or hereafter established, shall be established, altered, changed, erected, constructed, reconstructed, moved, divided, enlarged, demolished, or maintained except in compliance with the provisions of this section, except as otherwise hereinafter provided.

(a) **Organization**

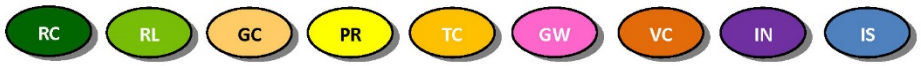
(i) Development standards in this section are arranged by category. There are two ways to determine which development standards apply to a specific character area. They include:

1) Refer to the two-page layouts in Section 9.5.5 of this Ordinance for a specific character area. In the "Additional Development Standards that Apply" box for the specific character area is a list of development standards in Section 9.5.5 and 9.5.6 that apply.
2) Refer to the icons used at the top of each development standard in this section. Each development standard beings with an introductory sentence followed by oval icons with the character area abbreviations listed in Section below in (b). These character area icons note the development standard written in that provision applies to the character area.

(b) **Icon Key**

(c) **Dumpster, Recycling Container, and/or Trash Compactor Enclosures**

(i) This section shall apply to the following character areas:



(ii) One or more of the above enclosures may be required to serve a business. These enclosures shall not be located adjacent to residential areas, public rights-of-way, private roads, public sidewalks, or greenways, nor should they be located in required buffer areas.

(iii) If the enclosure is situated on the site so it appears as an extension of the building, the material used for the enclosure shall be consistent with that of the associated building.

(iv) If the enclosure is situated on the site so it appears independent of the building, the material shall be brick, stone, pre-cast concrete, or tinted/textured concrete masonry units (CMU), and shall be visually consistent with that of the associated building.

(v) The gates for any enclosure shall be decorative metal or treated wood, both opaque and secured, and a color that is compatible with the enclosure material.

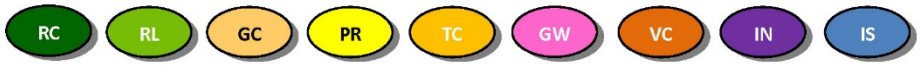
(vi) Any enclosure identified above shall be a minimum of six feet tall and on all sides from public rights-of-way, private roads, parking lots, sidewalks, and greenways.

(vii) Screening of dumpsters, loading areas, outdoor storage, and utility structures. All dumpsters, loading areas, outdoor storage areas over 25 square feet, and utility structures must be screened if they are visible to adjacent public or private streets or any adjacent properties. Screening of a dumpster shall not be required in the Industrial District, unless the dumpster is located within 100 feet of an existing non-industrial land use. Screening options include:

1) A single opaque material wall or fence with a minimum height of 6 feet.
2) A combination of opaque materials, berming, and/or evergreen landscaping spaced at eight feet on center that provides the required screening effect. The combination of opaque materials, berming, and/or evergreen landscaping shall have a minimum height of six feet within three years of planting.
3) The wall(s) of a principal or accessory structure may also count for screening.
4) Chain-link fencing with woven slats of opaque material is not acceptable.

(d) **Utility Equipment Orientation**

(i) This section shall apply to the following character areas:



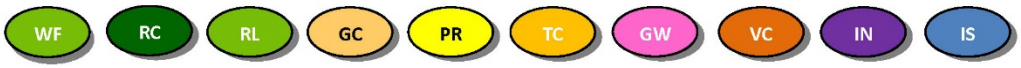
(ii) All utilities, other than major electric distribution lines, shall be located underground, unless specifically excluded from this requirement in a recorded easement or located within a public right-of-way. Underground utilities shall be required for all service connections provided within the Gateway District.

(iii) Stand-alone utility equipment shall be screened from view from public rights-of-way, parking lots, private roads, public sidewalks, and adjoining property.

(iv) Utility equipment attached to the building, including but not limited to backflow preventers, utility meters, and grease traps, shall not abut public rights-of-way, parking lots, or private roads, unless screened from the line of sight by a wing wall. Utility equipment affixed to a building shall be painted to match the adjacent surface, unless specifically prohibited by building code or the governing authority.

(e) **Exterior Lighting**

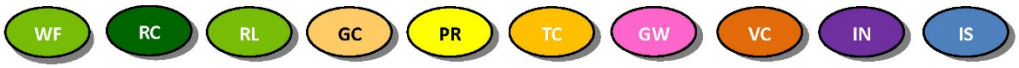
(i) This section shall apply to the following character areas:



(ii) Any development involving outdoor lighting in the character areas noted in Section 9.5.6 (e)(i) above shall comply with the minimum rules and requirements in Section 6.1, Outdoor Lighting.

(f) **Landscaping**

(i) This section shall apply to the following character areas:



(ii) General requirements. Landscape plans shall be prepared for all buildings and commons areas on a lot or parcel. Deciduous or evergreen trees may be planted to comply with the requirements of this section. Only trees noted in the tree selection and cover guide included in Appendix 9.5.2 may be planted in required landscaping and buffer areas.

(iii) Large shade trees shall be installed at a minimum of two to two and one-half inch caliper. Medium or small shade trees shall be installed at a minimum of one and one-half to two-inch caliper.

(iv) Internal parking areas. These regulations apply to all internal parking areas, which are open to the general public or visible from public property, and used for off-street parking and loading, vehicular storage, display, maneuvering, vehicle washing, and the dispensing of motor fuels. Multi-level parking structures are exempt from the interior planting requirements. This subsection shall apply to new parking areas or enlargement of existing parking areas that increase the total number of parking spaces by ten percent or more. The enlargement of any existing parking area by ten percent or more shall require that both the existing and new parking areas conform to the requirements of this section.

1) Landscaping near parking areas shall not obstruct the driver's view of the right-of-way at driveways and intersections, where plant height shall be limited to 30 inches to provide clear sight triangles.
2) Sight distance triangle setbacks shall be ten feet in parking areas, 30 feet at intersections, or as required by the governing authority. Trees are permitted but branches shall be trimmed and maintained to a minimum height of eight feet above finished grade.
3) Perimeter planting areas may be included as part of minimum buffer widths provided that all minimum standards for a buffer area set forth in Section 9.5.6 (g) are met.
4) Parking areas shall be separated from the public right-of-way using perimeter planting areas. Within the Gateway District the perimeter planting area shall have a width of at least 15 feet measured from the edge of the right-of-way of the abutting road. The perimeter planting areas in the Gateway District shall contain a double staggered row of evergreen shrubs which are at least 18 inches in height at the time of planting and which shall be maintained at a height of 36 inches at maturity, and trees equal in number to one tree per 30 feet of frontage. Trees shall have a minimum spacing of 15 feet and a maximum spacing of 60 feet.
5) Within the Village Center District, the perimeter planting area shall have a width of at least 25 feet measured from the edge of the right-of-way of the abutting road. The perimeter planting areas in the Village Center District shall contain a double staggered row of evergreen shrubs which are at least 18 inches in height at the time of planting and which shall be maintained at a height of 36 inches at maturity, and trees equal in number to two trees per 40 feet of frontage. Parking areas within the Village Center District shall be separated from internal streets by a perimeter planting area with a minimum width of ten feet measured from the edge of pavement of the internal street. This perimeter planting area shall contain a single row of evergreen shrubs which are at least 18 inches in height at the time of planting and which shall be maintained at a height of 36 inches at maturity, and trees equal in number to one tree per 40 feet of frontage. Trees shall have a minimum spacing of 15 feet and a maximum spacing of 60 feet.
6) Parking areas shall be separated from other private property by a ten-foot wide perimeter planting area. The perimeter planting area shall contain a double staggered row of evergreen shrubs which are at least 18 inches in height at the time of planting and which shall be maintained at a height of 36 inches at maturity, and trees equal in number to one large maturing tree per 40 feet of abutting property line and/or one small maturing tree per 30 feet of frontage. Trees shall have a minimum spacing of 15 feet and a maximum spacing of 60 feet.

7) Landscaping in planting islands located within parking areas shall be provided for the following:
   a) Any new parking area that exceeds 4,000 square feet.
   b) Expanded portions of existing parking areas that are less than 50 per cent of the existing parking areas shall landscape the area included in and around the expansion.
   c) Expansions exceeding 50 percent of the existing impervious surface of the parking area must bring the entire parking area into compliance with the parking area landscape standards.
   d) Existing unpaved parking areas that are paved or existing paved areas that are demolished and repaved must bring the entire parking area into compliance with the parking area landscape standards.
8) The interior parking area planting requirement is in addition to the required perimeter planting and street tree planting. Required trees and shrubs shall be located within the parking lot and adjacent to parking spaces in planting areas between rows of parking spaces, at the end of parking bays, or in tree islands. Planting islands shall be a minimum of 200 square feet.
9) Planting rate, for every 2,000 square feet of vehicle use area within the parking area, one deciduous tree and two shrubs must be planted. At least 75 percent of the trees shall be large maturing species. Trees and shrubs must be planted within 15 feet of the parking area to meet the requirement.
10) Landscaping near buildings. Landscaping is required along all facades of a building in the form of foundation plantings. This requirement may be met through the provision of a planting strip with a minimum width of four feet or through the provision of clustered free-standing planters. Plant materials shall be of appropriate size and scale to adequately screen 40 percent of the foundation perimeter visible from any public right-of-way or private road at plant maturity.
11) Existing vegetation. Existing and undisturbed trees of a caliper greater than four inches may be used to satisfy a portion of the landscaping requirements so long as they meet or exceed spacing requirements. Existing trees that are preserved may be credited for required trees per Table 9.19 below.

Table 9.19: Preserved Trees Credit

Existing Tree Caliper	Replacement Credit
4"—6"	caliper tree = 1 new tree
7"—12"	caliper tree = 2 new trees
13"—18"	caliper tree = 3 new trees
19"—24"	caliper tree = 4 new trees
25+"	caliper tree = 5 new trees

(v) Maintenance. The owner shall be responsible for the maintenance, repair, and replacement of all landscaping materials and barriers required by this section. All plant material shall be tended and maintained in a healthy growing condition, replaced when dead and kept free of weeds, refuse, and debris.

(vi) Approved Plant Materials. All plant material shall conform to the American Standard for nursery stock, latest addition, published by the American Joint Committee on Horticultural Nomenclature. Only trees and shrubs listed in the tree selection guide included as appendix B of this section may be planted in required landscaping and buffer areas.

(vii) Exceptions or Alternative Compliance. The landscape requirements in this Section are intended to set minimum standards for quality development and environment protection; they are not intended to be arbitrary or to inhibit creative solutions. Site conditions or other reasons may justify the need to request an alternative method of compliance with landscape requirements in this article. The Planning Director may alter the landscape requirements as long as existing or added landscape features of the development comply with the intent of Section 6.6. Requests for alternative compliance shall be accepted if one or more of the following conditions are met:

1) Topography, geologic features, drainage channels or streams, existing natural vegetation, overhead or underground utilities, or other conditions make it unreasonable or meaningless to plant a buffer or meet other landscape requirements;
2) Space limitations, zero lot line development, unusually shaped lots, unique relationships to other properties, and/or prevailing practices in the surrounding area (such as the use of a specific type of vegetation) may justify alternative compliance when changing the use of an existing building in a developed area; or
3) An alternative compliance proposal is equal to or better than normal compliance in its ability to fulfill the intent of these landscape requirements, and exhibits superior design quality.
4) The property owner or developer must submit a plan of the area for which alternative compliance is requested to the Planning Director. The site plan shall show the existing site features and any additional material the property owner or developer will plant or construct to meet the intent of the landscape and buffer requirements of this section. A cross section drawing may be required if there are grade changes that affect the character of the buffer and landscape requirements. In addition, the applicant must submit a written statement describing the need for alternative compliance.

(viii) Approval of Deviation. Deviations from the requirements of this section may be approved or disapproved by the Planning Director as long as the deviation does not exceed 20 percent of the written requirement. A variation greater than 20 percent of any landscape requirement must be heard by the US 441 Gateway District Community Planning Council. Deviations granted within the scope of authority of the Planning Director shall be so noted on the development permit along with reasons for allowing the requested deviation.

(ix) Street Trees. Street trees are required along all street frontages for all new developments, with the exception of single and two-family homes, and for all expanded or renovated developments where the cost of expansion/renovation exceeds 50 percent of the value of the structure. Trees are required at the following rate:

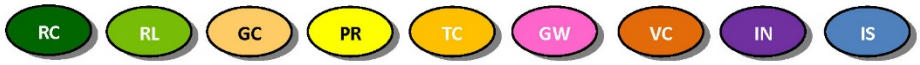
1) One large maturing tree required for every 40 linear feet of street frontage. If overhead utilities are present, planting of one small maturing tree for every 30 linear feet of property abutting a street is required.
2) Street trees may be evenly spaced or spaced to accommodate existing site features. Street trees shall be a minimum of 15 feet apart and a maximum of 60 feet apart. No street tree shall be located more than 25 feet from the edge of pavement.
3) No more than 15 percent of the street-planting yard may be used for walkways or signs. Parking, merchandise display, and off-street loading are prohibited in the street-planting yard.
4) Street trees shall be planted in a planting strip with an average width of ten feet, with no section having a width of less than seven feet.

(x) Financial Guarantee in Lieu of Installation of Plant Materials.

1) If at the time of a request for a certificate of compliance, the required planting areas are not complete the developer may provide a performance bond or an irrevocable letter of credit guaranteeing the installation of the plant materials if the following conditions are met:
   a) Plant materials are unavailable,
   b) Completion of the planting areas would jeopardize the health of the plant materials, or
   c) Weather conditions prohibit completion of the planting areas,
2) The performance bond or irrevocable letter of credit shall be in an amount equal to 125 percent of the estimated cost of the installation of the required plant materials, as determined by the county. The performance bond or the irrevocable letter of credit shall secure the installation of the plant materials as shown on the approved landscape plan. The letter of credit or bond shall remain in full force and effect until such time as the installation of plant materials is completed and accepted by the Jackson County. Failure to maintain the required bond or irrevocable letter of credit shall result in the revocation of the approval of the site development plan and any permits issued as a result of the plan approval. The bond or irrevocable letter of credit shall be automatically renewed unless all parties agree not to renew it at least 60 days prior to its scheduled expiration date.
3) A temporary construction easement permitting Jackson County or its designee(s) to access the property for the purpose of installing the guaranteed plant materials shall be provided with the performance bond or irrevocable letter of credit. The temporary construction easement shall be valid until all guaranteed plant materials have been installed and approved by the county. The temporary construction easement shall pass to all successive owners until the guaranteed plant materials have been installed and approved by the county.
4) Failure to initiate installation of the plant materials within one year of the date the bond or letter of credit was accepted by Jackson County shall result in the county installing the plant materials, with the cost to be paid from the letter of credit or bond. The surety shall, if requested by the county, pay all or any portion of the bond or letter of credit to the county up to the amount needed to complete the installation of the plant materials based on an estimate by the county. The county at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required plant installation. The county shall return to the developer any funds not spent in completing the plant installation. Default on a project does not release the developer from responsibility for the completion of the plant installation. The county may release a portion or all of any surety posted as the plant installation is completed and approved by the county. In the event that the amount of the letter of credit or bond on hand is insufficient to pay for the completion of the plant installation, the property owner shall pay to Jackson County the total amount of the insufficiency. If the county is not paid, the amount of the insufficiency shall constitute a lien on the property in favor of the county.

(g) **Buffers**

(i) This section shall apply to the following character areas:



(ii) The intent of buffers shall be to create a screen between one or more lots, which minimizes potential nuisances such as the transmission of noise, dust, odor, litter, and glare of lights; reduces the visual impact of unsightly aspects of adjacent development; provides for the separation of spaces; and establishes a sense of privacy.

(iii) The required buffer shall have the width, amount of vegetation, and other features to properly mitigate the negative effects of contiguous incompatible uses. Information for determining the required buffer is provided in Table 9.20.

(iv) Buffer type. Table 9.20 specifies the requirement for and type of perimeter buffer that shall be installed on each property line between adjacent uses in accordance with the Table of Buffer Requirements in this section. For purposes of this section, uses shall be classified as follows: single-family residential, multi-family residential, commercial, office, industrial, and institutional.

Table 9.20: Table of Buffer Requirements

Proposed Use	Size of Site	Adjoining Use	Size of Site	Buffer
Any	≤ 1 acre	Same as proposed use	≤ 1 acre	None
Any	≤1 acre	Same as proposed use	> 1 acre	None
Any	> 1 acre	Same as proposed use	≤ 1 acre	Type A
Any	>1 acre	Same as proposed use	>1 acre	Type B
Any	≤1 acre	Different than proposed use	≤1 acre	Type A
Any	≤ 1 acre	Different than proposed use	> 1 acre	Type A
Any	> 1 acre	Different than proposed use	≤ 1 acre	Type B
Any	> 1 acre	Different than proposed use	> 1 acre	Type B
Industrial	Any Site	Any Use	Any Site	Type C

NOTES:

- No buffer yard is required when the proposed use is a detached single-family home.
- When the adjoining site is a vacant lot or tract, the required buffer yard shall be determined by the character area in which the adjoining site is situated. Vacant lots in the WF and RL character areas shall be treated as single-family residential. Vacant lots in the GC, PR and TC character areas shall be treated as multi-family residential. Vacant lots in the GW and VC character areas shall be treated as commercial. Vacant lots in the IN character area shall be treated as industrial. Vacant lots in the RC and IS character areas shall be treated as institutional.
- Any proposed use in the IN Industrial Character Area shall be required to install a type C buffer.

(v) Buffer construction. Table 9.21 prescribes how the three different types of buffers are to be constructed. Only trees and shrubs listed in the tree selection guide included as Appendix 9.5.2 may be planted in required buffer areas.

Table 9.21: Buffer Specifications

Type of Buffer	Width of Buffer	Planting Requirements per 100 Linear Feet
A	15 feet	6 evergreen trees 2 large deciduous trees 2 small deciduous trees 20 shrubs
B	20 feet	8 evergreen trees 3 large deciduous trees 3 small deciduous trees 40 shrubs
C	50 feet	10 evergreen trees 4 large deciduous trees 4 small deciduous trees 40 shrubs

NOTES:

- The minimum width of a buffer yard may be reduced by 25 percent if a fence or wall is constructed. See Section 9.5.6 (h) for fencing standards.
- A berm with a minimum height of eight feet may reduce the buffer yard width by one-half and required shrub planting by one-half. The resulting berm must be sown with fescue grass and maintained.

(vi) Exceptions or alternative compliance. It is recognized that, on occasion, complete compliance with the terms of this section may be impractical. Accordingly, an applicant may request approval for an alternative landscaping scheme when any one or combination of the below listed conditions exist:

1) The lot or parcel involves space limitations or is unusually shaped.
2) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impracticable.
3) Natural vegetation on the site, if undisturbed during the development process, can meet or exceed the vegetation that is required.
4) Safety considerations are involved.

(vii) In order to have buffer requirements modified due to one or a combination of the above, the applicant shall submit a justification to the Planning Director. Within the justification, the applicant shall identify buffer requirements that will be met with modifications, conditions that justify using alternative buffer technique(s), and how the proposed alternative buffer technique(s) meets or exceeds that which is required.

(viii) Approval of Deviation. Deviations from the requirements of this section may be approved or disapproved by the Planning Director as long as the deviation does not exceed 20 percent of the written requirement. A variation greater than 20 percent of any buffering requirement must be heard by the US 441 Gateway District Community Planning Council. Deviations granted within the scope of authority of the Planning Director shall be so noted on the development permit along with reasons for allowing the requested deviation.

(h) **Fences**

(i) This section shall apply to the following character areas:

RC RL GC PR TC GW VC IN IS

(ii) The width of a required buffer may be reduced up to 50 percent by the Planning Director with the use of a fence or wall. Fences and wall must meet the following standards:

1) Privacy walls or fences. Privacy walls or fences, if incorporated in the buffer area, shall be an effective visual screen at sight lines six feet above finished grade, including changes in topography, and shall be used in conjunction with landscaping materials that complement the purpose of the required buffer. Placement of a privacy wall or fence in the buffer area shall not be used to replace, or reduce, the minimum landscape requirements for buffer areas set forth in this section. Chain link, plastic, or wire fencing shall not be used as a privacy fence. The location of the fence or wall within the buffer shall be approved by the Planning Director.
2) Fencing around electrical substations. All electrical substations in the US 441 Gateway District shall be surrounded by a wall and/or fence that meets or exceeds the National Electric Safety Code (NESC) ANSI Standard C2 requirements. Minimum height shall be seven feet above the ground line, or in snow-bound climates, above the maximum snow accumulation line. Walls or fences surrounding an electrical substation shall also meet design standards described in Section 9.5.5 (i), unless specifically in violation of National Electric Safety Code (NESC) ANSI Standard C2 requirements.
3) Placement. No privacy wall or fence shall be located between the front of a building, defined by the main entrance to the business, and any public right-of-way. No privacy wall or fence located along the side or rear of a building shall be placed less than 25 feet from any public right-of-way.
4) Finish. All walls and fences located within buffer areas shall be finished on the exterior viewed from adjacent properties in the same type finish as the interior portion and compatible in color and materials of the buildings on the site.
5) Landscaping. All solid fences shall have an evergreen-landscaped strip, minimum five feet in width, on the side of the fence facing the public right-of-way.
6) Maintenance. The owner shall be responsible for the maintenance, repair and replacement of all landscaping materials and barriers required by this section. All plant material shall be tended and maintained in a healthy growing condition, replaced when dead and kept free of weeds, refuse, and debris.

(i) **Stormwater Management**

(i) This section shall apply to the following character areas:

WF RC RL GC PR TC GW VC IN IS

(ii) Riparian buffers. Riparian buffers are used to stabilize stream banks and protect water quality from the polluted run-off generated by the built environment. Existing riparian buffers shall be maintained in accordance with the provision of this section. Where not pre-existing, riparian buffers shall be provided during development or redevelopment to protect water bodies in accordance with the provisions of this section.

1) Applicability. Except as modified in this section, riparian buffer protection standards shall apply to all perennial and intermittent surface waters within the district. Perennial and/or intermittent surface waters shall be deemed present if such feature is approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent

version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). An exception to this requirement may be allowed when surface waters are not present in accordance with the provisions of NCAC 2B.0233(3)(a) or similar site-specific determination made using methodology approved by the state Department of Environmental Quality. Stream buffers shall be clearly indicated on all development plans, including all preliminary and final plats.

2) Riparian buffer size. Stream buffers shall apply on each side of the surface water and shall measure 30 feet horizontally from the top of the stream bank in a direction perpendicular to the stream flow.
3) Prohibition against development within the riparian buffer. The riparian buffer shall remain in natural undisturbed forest vegetation and no development or land-disturbing activities shall be undertaken therein, except as provided in Section 9.5.5 (j)*(ii)(*4), below. Furthermore, there shall be a 20-foot transitional area immediately landward of the riparian buffer which may be graded, landscaped and/or used for pedestrian or vehicular purposes so long as no impervious materials are utilized. Certain uses of land, as specified in Section 9.5.5 (i)*(ii)*(4) below, may be permitted within the riparian buffer so long as they meet the requirements of that section and are designed and constructed to minimize the amount of intrusion into the stream buffer and to minimize clearing, grading, erosion and water quality degradation. Nothing herein is intended to [or shall] preclude any activity specifically authorized pursuant to Section 401 and/or Section 404 of the Clean Water Act of 1972 (as amended).
4) Exceptions. Subject to prior written authorization by the Permitting and Code Enforcement Director, the following activities may be undertaken within the riparian buffer provided they meet all the standards specified herein as well as other applicable county sections.
   a) Crossings by streets, driveways, culverts, railroads, recreational features, intakes, docks, utilities, bridges or other facilities shall be allowed provided that they are designed to minimize the amount of intrusion into the stream buffer. Streets and driveways may run generally within and parallel to the stream buffer only where no other access to the property is feasible and when their design minimizes the amount of intrusion into the stream buffer. Crossings with a width of 40 feet or more are permitted only when it has been demonstrated that there is no practical alternative.
   b) Riparian buffers may be used for passive recreational activities, such as unpaved or paved trails or greenways, provided that service facilities for such activities, including but not limited to parking, picnicking and sanitary facilities, are located outside of the stream buffer. Where practical, such activities shall be kept at least 15 feet from the stream bank.
   c) Clearing and revegetating the riparian buffer pursuant to a plan approved by the Permitting and Code Enforcement Director when it has been demonstrated that such clearing and revegetation will improve the riparian buffer's pollutant removal efficiency.
   d) Stormwater control structures and temporary erosion control structures shall be considered utilities for the purposes of this section and may be allowed in riparian buffers, provided that the following requirements are met.
      i) The property owner or applicant demonstrates to the satisfaction of the Permitting and Code Enforcement Director that such facilities cannot be practicably located outside of the riparian buffer, and that any proposed stormwater control structure is sited and designed to minimize disturbance of the stream and stream buffer.
      ii) Alternate methods of stormwater and erosion control shall be considered prior to approval of such structures in the stream buffers.

iii) A vegetated buffer of a width approved by the Permitting and Code Enforcement Director shall be required around the stormwater control structures.

iv) Any land disturbed for these structures shall be revegetated with appropriate native species in accordance with a revegetation plan approved by the Permitting and Code Enforcement Director.

e) Sanitary sewer lines, on an alignment generally parallel to the stream, may be allowed in riparian buffers, provided that:

i) The property owner or applicant demonstrates in writing to the satisfaction of the Permitting and Code Enforcement Director that the sanitary sewer lines cannot be practicably located outside of the riparian buffer;

ii) Design and construction specifications minimize damage to the stream and the possibility of line leakage;

iii) The sewer line is located at least 15 feet from the top of the stream bank; and

iv) The sanitary sewer plan and a plan for revegetating the riparian buffer disturbance shall be approved by the Permitting and Code Enforcement Director.

f) Selective removal of invasive exotic species in accordance with a plan approved by the Permitting and Code Enforcement Director.

g) View corridors are allowed so long as the soil is undisturbed and the natural forest, ground cover and understory vegetation are left intact. Pruning associated with the creation and maintenance of a view corridor is exempt. Thinning of the overstory and mid-canopy trees is permissible with the written authorization of the Permitting and Code Enforcement Director.

h) A land development compliance permit is required for any of the riparian buffer intrusions described above. When any of the activities described above involves land clearing, the cleared area shall be revegetated pursuant to an approved plan.

5) Maximum impervious coverage. Impervious surface on a lot or parcel for each character area shall be limited to the standards listed in Section 9.5.5(c).

6) Stream or wetland crossings. Bridges should be used instead of fill and culvert for all stream or wetland crossings.

7) Erosion and sediment control plan. All developments are required to submit to the county an erosion and sediment control plan specific to the site that conforms to the rules and requirements set forth in the county sediment control section.

8) On-site stormwater management. All projects shall implement stormwater control measures that comply with the following standards:

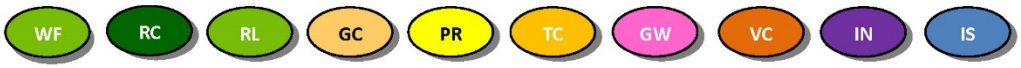
a) The measures shall control and treat the difference in stormwater runoff volume leaving the project site between the pre- and post-development conditions for, at a minimum, the ten-year, 24-hour storm. Runoff volume drawdown time shall be a minimum of 24 hours, but not more than 120 hours.

b) All structural stormwater treatment systems used to meet the requirements of the development program shall be designed in accordance with the Stormwater Design Manual published by the state Department of Environmental Quality.

c) General engineering design criteria for all projects shall be in accordance with 15A NCAC 2H .1008(c). The approval of the stormwater permit shall require an enforceable restriction on property usage that runs with the land, such as recorded deed restrictions or protective covenants, to ensure that future development and redevelopment maintains the site consistent with the approved project plans.

(j) **Land Clearing and Grading**

(i) This section shall apply to the following character areas:



(ii) Land clearing and grading associated with development. Except as provided herein, no land clearing and/or grading associated with development, as defined in this section, shall begin unless and until the proposed development activity has received all necessary authorizations and a land development compliance permit has been issued by the Permitting and Code Enforcement Director.

(iii) Land clearing and grading not associated with an application for development authorization.

1) General. It shall be unlawful to conduct land-clearing and grading not associated with an application for development authorization except in accordance with this section.
2) Land clearing authorization. Land clearing authorization must be obtained in writing from the Permitting and Code Enforcement Director for any land clearing or grading activity not authorized by a land development compliance permit pursuant to Section 9.5.5 (k)(ii), or exempted pursuant to Section 9.5.5 (k)(iii)3), below. Any such land clearing that is begun without authorization subjects the property owner to penalties outlined in Article X Violations and Enforcement.
3) Application. An application for land clearing and grading authorization under this section shall be submitted to the planning department and shall contain the following:
   a) A site plan showing relevant features of the property proposed for land clearing and/or grading, including but not limited to property lines, waterways adjoining or passing through the property, steep slopes, sensitive natural areas, and the extent of proposed land clearing and/or grading activities.
   b) A sequential list detailing the permit acquisitions, authorizations, land clearing, grading, and/or any other activities the proposal may require, in the correct order of execution. In the case of clearing prior to development, the list shall also include a date for submission of formal development plans for the property.
   c) A date by which all listed activities must be completed.
   d) Any other items reasonably necessary to ensure compliance with these regulations.
4) Allowed activities. The activities listed herein shall be allowed provided that the person(s) undertaking them obtain(s) land clearing authorization from the Permitting and Code Enforcement Director.
   a) Forestry activity.
      i) Forestry activity on land that is taxed on the basis of its present-use value as forest land under NCGS 105-12.
      ii) Forestry activity that is conducted in accordance with a forest management plan that is prepared or approved by a forester registered in accordance with NCGS 89B.
      iii) Property owners wishing to harvest trees from property that is neither taxed on the basis of its present-use value as forest land nor managed in accordance with a valid forest management plan must obtain a valid forestry management plan as well as land clearing authorization before harvesting begins.
   b) Other land-clearing and grading.
      i) No land-clearing, grading or removal of vegetation shall occur within 50 feet of the right-of-way of any public street or traveled way, with the exception of a temporary construction road to provide access for the purpose of the work. Such a temporary road shall follow the route estimated to cause the least possible disruption to vegetation or to the natural contour of the land. If there is no right-of-way

associated with a public street or traveled way, no such work shall occur within 50 feet of the nearest edge of the street or traveled way.

ii) No land-clearing, grading or removal of vegetation shall occur within 30 feet of any adjoining property boundary.

iii) No land-clearing, grading or removal of vegetation shall occur within any riparian buffer except in accordance with Section 9.5.5 (k)(ii) *(*4).

5) Delay of development authorization. When any allowed activity results in the removal of all or substantially all of the trees on 50 percent or more of a site, the county may refuse to issue a land development compliance permit or refuse to approve a site plan or subdivision plat for such land for a period of three years after the last date that clearing activities occurred on the site. If the violation was willful, this period may be increased to five years from the last date that clearing activities occurred on the site.

6) Exceptions*.* Insofar as they are not undertaken with the intent of circumventing Section 9.5.6 (j), the following activities do not require land-clearing authorization or a permit and, so long as they comply with any other applicable regulations, may be carried out at any time:

   a) Cutting of diseased or hazardous trees.
   b) Cutting of trees not classified as significant.
   c) Tree removal for the purpose of creating a hiking or bicycling trail of eight feet maximum width, and/or spaces no larger than reasonably required for single picnic tables, benches, or other facilities randomly placed along the trail, provided that the route of the trail and/or location of trail-side amenities be situated so as to protect significant trees wherever possible.
   d) Tree removal for installation or maintenance of utilities, provision of safe visibility at intersections, or any other public health or safety purpose.

7) Special enforcement provisions for land clearing and grading activities*.* In addition to any remedies provided by Article X Violations and Enforcement, the Permitting and Code Enforcement Director may require any lands cleared or graded without authorization to be replanted with vegetation to replace the trees and shrubs removed. Any replanted trees or shrubs not continuing in good health for a minimum of two years shall be replanted at the expense of the owner of the property or the owner's agent.

(k) **Home Occupations**

(i) Any person wanting to conduct a home occupation within their residence shall apply for a home occupation permit. A home occupation permit approved by the Planning Director or the planning council, as the case may be, must be received prior to beginning said occupation. Permits are not transferable. The home occupation permit is valid only as long as the use meets the provisions for home occupations specified herein and the permit may be revoked any time the use does not meet the requirements of this or other applicable sections.

(ii) Neighborhood home occupations*.* Customary home occupations are permitted in residential districts where such occupations are carried on in the residence and/or accessory buildings subject to the following limitations.

1) Such occupations shall be engaged in only by residents of the premises and not more than three additional on-site employees who may be non-residents. The total number of resident and non-resident employees working on-site shall not exceed four. The use shall be clearly incidental and subordinate to its use for residential purposes by its occupants.

2) No more than 25 percent of the heated living space shall be used for home occupations. Basements and garages, either attached or detached, may also be used for home occupations and shall not count toward the 25 percent limit specified herein.

3) No outdoor display of goods or materials shall be allowed on the property.
4) One non-illuminated sign is allowed which shall not exceed four square feet in area.
5) No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or which causes fluctuation in line voltage off the premises.
6) Accessory buildings may be used for home occupations provided the building area is not larger than 1,000 square feet. If multiple buildings are used, the total combined square footage shall not exceed 1,000 square feet.
7) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street.
8) The customary home occupations referred to in this subsection may include the merchandising and the sale of goods and products at retail, and the manufacture and assembly of goods and products.
9) Occupations that have no non-resident employees, no signs, no on-site retail sales, or no visits from the general public do not require a home occupation permit.

(iii) Rural Home Occupations*.* Rural home occupations are those, which by their nature are not compatible on small lots near other residences and may require an outdoor storage area for goods and materials associated with the business.

1) Rural home occupations may be allowed on parcels, which are no smaller than three acres in size.
2) Such occupations shall be engaged in only by residents of the premises and not more than three additional on-site employees who may be non-residents. The total number of resident and non-resident employees working on-site shall not exceed four. The use shall be subordinate to its use for residential purposes by its occupants.
3) No more than 25 percent of the heated living space shall be used for home occupations. Basements and garages, either attached or detached, may also be used for home occupations and shall not count toward the 25 percent limit specified herein.
4) One non-illuminated sign is allowed which shall not exceed four square feet in area.
5) No equipment or process shall be used in such home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference that is a nuisance off the lot. All operations must conform to the county noise regulations contained in Chapter 10 (Environment), Article III (Noise) of the Jackson County Code of Ordinances. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or which causes fluctuation in line voltage off the premises.
6) Accessory buildings may be used for home occupations provided the building is not larger than 2,500 square feet gross floor area. If multiple buildings are used, the total combined square footage shall not exceed 2,500 square feet gross floor area.
7) Commercial driveway permits may be required to assure traffic hazards are minimized. The driveway shall be located and improved such that it provides all weather access and does not interfere with other traffic using said drive. Any need for parking generated by the conduct of such home occupation shall be met off the street.
8) Buildings, material storage and operations used for home occupations shall be setback from side and rear property lines a minimum of 50 feet except for noise generating operations, as determined by the Planning Director, in which case the setbacks shall be a minimum of 100

feet. The front setback shall be a minimum of 40 feet and shall be measured from the property line or the edge of the road right-of-way, whichever is greater.

9) To lessen the impact on adjacent properties, visual screening shall be installed to provide at a minimum a 15-foot-wide opaque buffer. This may include but not be limited to a six-foot-high opaque fence and/or the planting of vegetation that at a minimum provides a continuous all season opaque screen at least six feet in height within four years of planting. Planting shall be a minimum of three-gallon shrubbery or ten-gallon trees.

10) All required permits from the county, the NCDOT or other local and state agencies must be obtained prior to the issuance of the home occupation permit.

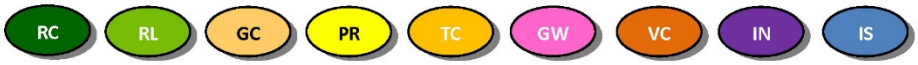
(iv) Special use permits for home occupations. Home occupations for which the number of non-resident and the number of total employees will exceed the standards contained in Sections 9.5.6 (k)(i) or 9.5.6 (k)(ii), above, may be authorized by means of a special use permit issued pursuant to Section 3.7.15 of this Ordinance. In any event, the number of non-resident employees shall not exceed six and the number of total employees shall not exceed eight.

Section 9.5.7 Building Architecture

Building design and architecture are critical components for quality development. Building and architecture design standards are intended to promote compatibility within a development and around the Gateway District, allow creativity and diversity of design, protect property values and neighborhood quality, and provide a safe and attractive environment for residents and visitors alike to uses in the community. Design standards are not applicable to one- and two-family dwellings per NCGS 153A-340.

(a) **Building Materials and Color**

(i) This section shall apply to the following character areas:



(ii) Building materials.

1) All buildings shall be constructed of stone, exposed timber, fiber cement siding, wood siding, shingle siding, or other high-quality masonry material. Fiber cement siding, wood siding, and shingle siding shall not account for more than 50 percent of the façade material used on the building. No building shall be covered with sheet or corrugated aluminum. Fiber cement siding and shingle siding shall be the only painted façade materials allowed on the building.

2) Exterior building materials shall be continued to finished grade of any elevation in accordance with minimum manufacture specifications.

3) Cornices shall be constructed of brick, stone, wood, pre-cast concrete, or other high quality, long-lasting material.

4) Architectural accent materials located above the roof line shall be constructed of brick, stone, wood, pre-cast concrete, architectural quality steel, fiber cement siding or other high quality, long-lasting material.

(iii) Building color.

1) Color schemes used for buildings shall aesthetically integrate building elements together, relate separate (free-standing) buildings on the same lot or parcel to each other, and be used to enhance the architectural form of the building.

2) Exterior colors for new buildings and structures, including roofs, shall be coordinated with the predominant colors of the surrounding landscape to minimize contrast between the structure and the natural environment. It is strongly encouraged that dark or earth-tone colors be used to make the building or structure less conspicuous as seen from off site.

3) All building projections, including, but not limited to, chimneys, flues, vents, and gutters, shall match or complement in color the permanent color of the surface from which they project.
4) Intense, bright, black, or florescent colors shall only be used as accents; such colors shall not be used as the predominant color on any wall or roof of any building.

(b) **Building Height**

(i) This section shall apply to the following character areas:

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(ii) Measurement. Building height of a building shall be measured as the vertical distance above the highest point of the coping of a flat roof or deck line of a mansard roof or to the average height of the highest gable of a pitched roof. The reference datum shall be either of the following, whichever yields the greater height of the building:

1) The elevation of the highest sloping adjoining sidewalk or ground surface within a five-foot horizontal distance of the exterior wall when such sidewalk or ground surface is not more than ten feet above the lowest grade.
2) An elevation of ten feet higher than the lowest grade when the sidewalk or ground surface described in item (a) above is more than ten feet above the lowest grade.

(iii) Exceptions. The following types of structures or building features are exempt or partially exempt from the maximum structure height standards as follows:

1) Architectural elements: Church steeples, bell towers, and similar features may exceed the maximum height of the applicable character area by no more than 25 percent of the applicable maximum height.
2) Chimneys: Chimneys are allowed to extend ten feet above the roof's highest point.
3) Mechanical equipment: Roof-mounted mechanical equipment including, but not limited to, utility boxes, telecommunication devices, cables, conduits, vents, chillers and fans, may extend up to ten feet above the roof's highest point. In such cases, roof-mounted equipment shall be:
   a) Located such that it is not visible from adjacent public streets, or
   b) Shielded from view with a parapet or other architectural feature such that it is not visible from adjacent public streets.
4) Elevator bulkheads: Elevator bulkheads may extend up to ten feet above the roof's highest point. In such cases, an elevator bulkhead shall be either located such that it is not visible from adjacent public streets or shielded from view with a parapet or other architectural feature such that it is not visible from adjacent public streets, or constructed with the same exterior building materials, or be architecturally integrated into the building's design so as to conceal the elevator bulkhead.

(c) **Building Massing and Configuration**

(i) This section shall apply to the following character areas:

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(ii) Building massing. Buildings shall be small in scale and low in height, conforming to hillside topography by stepping or staggering the mass of the proposed structure up or down the slope.

(iii) Visibility. Buildings with visibility from the public right-of-way or public street or pedestrian walkway in the US 441 Gateway District shall be designed with the following specific limitations:

1) Building masses shall maintain a balance of scale and proportion using design components which are harmonious with natural landforms and landscaping.

2) Proposed structures shall not be sited atop peaks or silhouetted against the sky when viewed from any designated public right-of-way.
3) Retaining walls visible from the valley floor shall not exceed ten feet in height as measured from grade at face to top of wall. Multiple "stepped" retaining walls whose total height exceeds ten feet must each be offset by at least six horizontal feet. Visible walls shall be colored and textured to complement the background land and vegetation.

(d) **Building Façade Character**

(i) This section shall apply to the following character areas:

(ii) Elements of articulation shall be employed on any building visible from the public right-of-way or public street or pedestrian walkway to reduce the apparent bulk and uniform appearance of large buildings, provide visual interest and variety, and reinforce local architecture.

(iii) Building scale. The horizontal length of a building façade shall be offset by a change in wall plane such as projections or recesses as follows:

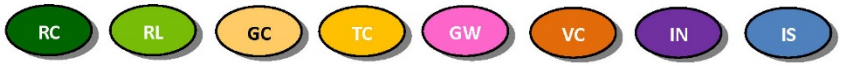
1) Buildings containing nonresidential uses. The following requirements apply to any building containing nonresidential uses, regardless whether the building also contains residential uses:
   a) The distance between required offsets shall be related to the height of the building wall on a 2:1 basis. For example, a building that is 20 feet tall may have no more than 40 feet of façade wall between offsets. A building façade that is less than or equal to the height of the building shall not require an offset.
   b) The height of a façade wall shall be measured in conformance with Section 9.5.7 (b) *(ii)*, except that the top of the façade wall shall stop at the soffit, or, if there is no soffit, at the parapet of the building.
   c) The depth or projection of the offset shall be at least one-tenth of the length of the longest adjacent façade wall; provided, however, the minimum offset depth shall be at least one foot. For example, a building with a 20-foot façade wall shall have at least two-foot offset adjacent to the façade walls.
   d) The change in wall plane (i.e., offset) shall extend at least 20 percent of the length of the façade wall.
2) Buildings containing residential uses. The following requirements apply to any building containing only residential uses:
   a) The distance between required offsets shall be related to the height of the building wall on a 0.75:1 basis; provided, however, no wall shall exceed 16 feet in length without an offset. For example, a façade wall that is 20 feet tall may have no more than 15 feet of façade wall between offsets, OR a façade wall that is 30 feet tall may have no more than 16 feet of façade wall between offsets. A façade wall less than 16 feet in width shall not require an offset. The provisions of this paragraph shall not be construed to require an offset for that portion of a façade wall containing a two-car garage.
   b) The depth or projection of the offset shall be at least two feet regardless of the length of the adjacent façade walls.
   c) The change in wall plane (i.e., offset) shall extend at least 20 percent of the length of the façade wall.
3) Minimum wall articulation. Any building greater than 40 feet in length, measured horizontally, that faces a public right-of-way or private street or pedestrian walkway shall include at least three of the following features:
   a) Change in texture or masonry pattern

b) Change in color
c) Windows
d) Dormers
e) Trellises with vegetation
f) Covered porch
g) Balconies
h) Parapet walls designed to meet the minimum requirements set forth of Section 9.5.7(e)(iv).
i) All sides of the building shall include articulation, materials, and design characteristics consistent with those on the primary front façade in terms of quality and detail, unless the public's view of a rear or side building elevation from a public right-of-way or private street or pedestrian walkway is blocked by intervening buildings, topography, a solid screen wall at least six feet high built using materials consistent with the building, or landscaping measuring at least 15 feet in height at maturity.

4) Customer entrance. All customer entranceways shall be clearly defined, highly visible, and feature no less than three of the following:
a) Canopies or porticos;
b) Overhangs;
c) Recesses or projections;
d) Arcades;
e) Arches;
f) Outdoor patios;
g) Windows;
h) Awnings;
i) Architectural features that are integrated into the building structure or design; or
j) Planters or wing walls that incorporate landscaped areas or places for sitting.

(e) **Roof Form and Articulation**

(i) This section shall apply to the following character areas:



(ii) The roof of any building shall present a distinctive profile and add interest to larger buildings and complement the character of other buildings included on the same lot or parcel.

(iii) Flat roof buildings.

1) The roof of any building with a flat roof shall include parapets to conceal the roof and roof-top equipment from public view. The average height of such parapets shall not exceed 15 percent of the height of the supporting wall, unless required for in Section 9.5.6 (f), and such parapets shall not at any point exceed one-third of the height of the supporting wall.
2) Parapets used to conceal the roof and roof-top equipment for any building shall not extend a constant height for more than 40 feet in length.

(iv) Slope roof buildings. The roof of any building with a slope roof shall include at least two of the following to maintain proportional building architecture:

1) Three or more roof slope planes;
2) Overhanging eaves, extending no less than one foot past the supporting wall;
3) Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one foot of vertical rise for every three feet of horizontal run and less than or equal to one foot of vertical rise for every one foot of horizontal run.

(v) Additional requirements.

1) Consistent roof treatments, whether flat or sloping, shall be provided on all sides of the building.
2) The back side of all cornices, parapets, and roofline that are visible from an adjacent public right-of-way shall be finished with materials consistent with the associated building.

(f) **Rooftop Equipment Screening**

(i) This section shall apply to the following character areas:

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(ii) Screen requirements. All rooftop mechanical equipment and vents greater than eight inches in diameter shall be:

1) Screened from the line of sight of public rights-of-way, private roads, parking lots, public sidewalks, greenways, and internal pedestrian ways except for instances where site topography precludes reasonable compliance with the minimum screening requirement;
2) Screened by either a parapet wall along the building edge or a freestanding screen wall on the roof of a material, color, and design architecturally compatible with the building, that is at least as high as the equipment and vents for which the screening is designed to hide.

(g) **Franchise Architecture**

(i) This section shall apply to the following character areas:

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(ii) To maintain the unique character of the Gateway District, buildings shall not be constructed or renovated using franchise architecture. Franchise or national chains may be permitted in the Gateway District but must follow the standards of Section 9.5.7 to create a building that is compatible with the Gateway District.

(h) **Architectural Unity**

(i) This section shall apply to the following character areas:

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(ii) All buildings within the same lot or parcel shall be architecturally unified. Architectural unity means that buildings shall be related and compatible in style, color, scheme, quality, and type of exterior building materials.

Section 9.5.8 Signage

This section recognizes the value of signage for advertising a business, attracting customers, and directing them to their business. However, poor design and an excessive number of signs diminish the message of each sign and contribute to visual clutter in the US 441 Gateway District. Provisions for regulating signage in this section promote a consistent streetscape, avoid an unnecessary proliferation of signs, and maintain and enhance the aesthetic environment.

(a) **Prohibited Signs**

(i) The provisions of this article shall apply to the following character areas:

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(ii) No sign shall be erected or maintained in any form or at any location where, by reason of its position, working, illumination, shape, symbol, color, form, or character, it may obstruct, impair, obscure, or interfere with the view of or be confused with any approved traffic-control device.

(iii) Signs incorporating any noisy device (e.g., whistles, horns, noise makers, sirens, or any other noisy audible device).

(iv) No sign of any type or foundation or support thereof shall be placed in a public street or its right-of-way except for publicly owned traffic-control and transit signs.

(v) No sign shall be mounted on a roof or extend above the eave or parapet of a building wall.

(vi) No inflatable images, signs, or shapes such as balloons, beer cans, gorillas, etc. shall be permitted.

(vii) No outdoor advertising of any kind or character is allowed where live animals or human beings are used as part of the advertisement that is visible from any public right-of-way or adjacent property.

(viii) Signs that direct attention through the use of flashing, intermittent, strobe, or pulsating effects including animated letters, symbols, characters, changing scenes or effects are prohibited. This includes electronic message board signs and reader board signs, except for time, temperature, and electronic menu portions of such signs, up to eight square feet in area.

(ix) The use of moving beacons, such as flood lamps and search lights, shall be prohibited.

(x) No person shall park any vehicle or trailer on a public street, public parking area, or on private property for the primary purpose of advertising a business.

(xi) No sign shall occupy any portion of a parking space or drive aisle.

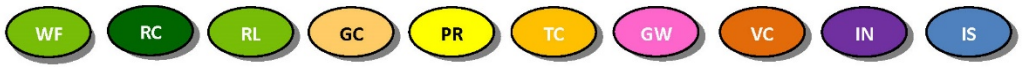
(xii) Pole signs, defined as a free-standing structure that includes a sign face or sign cabinet mounted on a pole, multiple poles, or other support structure permanently affixed to the ground so that the bottom of the sign face or sign cabinet is more than eight feet above finished grade or the aggregate width of the pole, multiple poles, or other support structure is less than 40 percent of the width of the sign face or sign cabinet.

(xiii) No inflatable images, signs, or shapes such as balloons, beer cans, gorillas, etc. shall be permitted.

(xiv) Any other sign not expressly provided for in this section.

(b) **Off-Premise Signs**

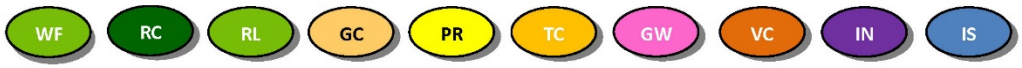
(i) This section shall apply to the following character areas:



(ii) Off-premise signs, including billboards, are prohibited in the Gateway District except for off-premise way-finding signage located within 500 feet of the business. An off-premise directional sign shall not exceed 16 square feet in sign area per side or eight in height measured from finished grade. The minimum distance between off-premise way-finding signage shall be 200 feet, measured along the centerline of the public street for which the off-premise directional sign is oriented.

(c) **General Regulations Applying to all Signs**

(i) This section shall apply to the following character areas:



(ii) No sign shall be designed or located in such a manner that would be confused with any authorized traffic sign, signal, or device. Signs shall not interfere with, mislead, confuse, or disrupt traffic flow or traffic safety.

(iii) No illuminated sign, other than permanent residential entrance signage, shall be permitted within 50 lineal feet of a residential subdivision.

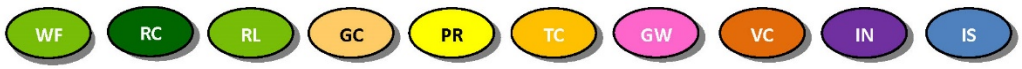
(iv) The area around all signs shall be kept clean and free of trash and all vegetation, unless such area is part of the landscaping associated with the sign. In case of which, such shall be well-

maintained. In addition, it shall be the responsibility of the sign owner, lessor, and property owner to maintain all signs in a safe and proper operating manner at all times.

(v) All signs shall conform to the current building code enforced by the Planning Director.

(d) **Exempt Signs, Permit Exemptions**

(i) This section shall apply to the following character areas:



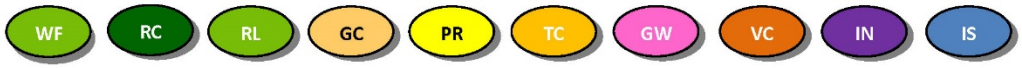
(ii) Signs exempt from regulation. Unless otherwise prohibited in this or other applicable regulations, the following signs are exempt from regulation under this section:

1) Signs that are not designed to be visible beyond the boundaries of the property upon which they are located and/or from any public thoroughfare or right-of-way, except as such signs may be permitted hereafter.
2) Official governmental notices and notices posted by governmental officers in the performance of their duties; governmental signs and signs posted under governmental authority that note the donation of buildings, structures, or streetscape materials (such as, but not limited to, benches, trash cans, lampposts, and park facilities).
3) Flags of the United States, the State of North Carolina, Jackson County, any religious, fraternal, or civic organization, or any educational or cultural facility and/or any one corporate flag per lot provided that they do not exceed five feet × eight feet or 40 square feet in area, that they are displayed on flagpoles not exceeding 25 feet in height, that no more than one flagpole is located on a lot of less than one acre and that all flagpoles are setback at least the height of the flagpole from all property lines. Flagpoles may be roof or wall-mounted provided the size, height, and setback requirements as established in this exemption are met.
4) Decorative and incidental flags identifying that the business establishment is open or serving as a decorative feature provided that the area of any single flag does not exceed 12 square feet not to exceed two flags per lot.
5) Temporary or permanent signs erected by public utility companies or construction companies to warn of danger or hazardous conditions, including signs indicating the presence of underground cables and gas lines, and similar devices and signs providing direction around such conditions.
6) Signs displayed on trucks, buses, trailers, or other vehicles that are being operated in the normal course of a business, such as signs indicating the name of the owner or business and that are affixed or painted onto moving vans, delivery trucks, contractor's vehicles and equipment and the like, are exempt from regulation provided that, when not being operated, the vehicles are parked or stored in areas appropriate for their use as vehicles and in such a manner and location on the lot so as to minimize their visibility from any street to the greatest extent possible. All such vehicles must have current and valid registration and inspection.
7) Signs required for or specifically authorized for a public purpose by any law, statute, or section. These signs may be of any type, number, and area, height above grade, location, or illumination authorized by law, statute, or section under which such signs are required or authorized.
8) Signs that display information pertinent to the safety or legal responsibilities of the general public with regard to a particular property and that are located on the property to which the information pertains. No advertising may be affixed to such a sign.
9) Permanent or temporary signs required to be posted by law.

10) Permanent or temporary signs established by, or by order of, any government agency or official body.
11) Routine sign maintenance, including changeable copy signs.

(e) **Special Regulations**

(i) This section shall apply to the following character areas:



(ii) Temporary Signs. The following signs are permitted in any location and do not require a sign permit. However, the signs must conform to the requirements set forth below as well as to other applicable requirements of this section.

1) Residential Property

a) Temporary signs allowed providing the signs are not illuminated and do not exceed two signs per lot, do not exceed four feet in height, and do not exceed four square feet per face. All such signs shall be removed within seven days of the conclusion of the event.

2) Commercial Property

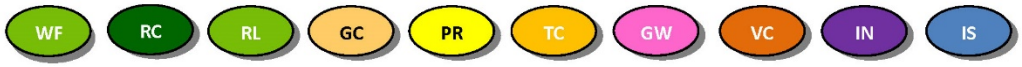
a) Temporary signs allowed providing they do not exceed eight feet in height and 32 square feet per face. All such signs shall be removed within seven days of the conclusion of the event.

(iii) Illumination.

1) The source of light for any sign shall not be directed into any residential area or toward on-coming traffic. The source of illumination by whatever means shall not reflect directly onto residential property.
2) External illumination shall be with steady, stationary, and shielded light sources directed solely onto the sign. Light bulbs or light tubes used for illuminating a sign shall not be visible from adjacent public rights-of-way or residential properties.
3) Signs shall not have light-reflecting background but may use light-reflecting letters.

(f) **General Sign Design Standards**

(i) This section shall apply to the following character areas:



(ii) Notwithstanding other provisions of this section, no lot or parcel may be restricted to less than 20 square feet of total sign area, nor shall any lot or parcel be permitted to display more than 200 square feet of sign area; provided, however, ground signs or monument signs for multi-tenant shopping centers shall not count against such maximum sign area for a lot or parcel. On-premise way-finding signage shall not exceed four square feet in sign area or three feet in height. On-premise way-finding signage shall not count against the maximum sign area allowed on a lot or parcel.

(iii) Location, size, and variety of all signs existing upon a lot or parcel shall be included in the total sign allocations.

(iv) Reserved.

(v) The total sign area oriented toward the interior of the site on any lot or parcel, and therefore not visible from a public right-of-way, shall not exceed one square feet of sign area for each one linear foot of building face that is not visible from any public right-of-way.

(vi) Sign measurement criteria.

1) Sign copy mounted, affixed, or painted on a background panel or area distinctively painted, textured, or constructed as a background for the sign copy, is measured as that area contained within the sum of the smallest rectangle(s) that will enclose both the sign copy and the background.

2) Sign copy mounted as individual letters or graphic against a wall, fascia, mansard, or parapet of a building or surface of another structure, that has not been painted, textured, or otherwise altered to provide a distinctive background for the sign copy, is measured as a sum of the smallest rectangle(s) that will enclose each word and each graphic in the total sign.
3) Sign height is the distance measured from the finished grade at the base of the sign to the top portion of the sign, including architecture atop.
4) All existing signage on a property shall be counted in establishing the permitted area of size for all new signs to be allowed on the property.
5) Canopies and awnings shall comply with the following regulations:
   a) Such canopies or awnings shall be limited to the sides of a building fronting a public or internal street or a pedestrian walkway and not extend more than six feet from the building.
   b) Canopies and awnings shall be allowed to exceed 60 percent of the total horizontal width of a building front provided the length is no greater than the length of any one particular window opening.
   c) Canopies and awnings may be internally lit.
6) Wall signs shall comply with the following regulations:
   a) No signage shall extend horizontally a distance greater than 60 percent of the width of the building wall on which it is displayed. Buildings containing multiple tenants are permitted building mounted wall signs for individual tenants; however, such signage shall not extend horizontally a distance greater than 60 percent of the width of the building designated for specific tenants.
   b) No wall sign shall extend above or below the wall, parapet, or fascia upon which it is placed, nor shall such signs be installed within 12 inches of the top of such building or parapet wall.
   c) Additional area for a building mounted sign will be permitted if the permit applicant forgoes display of a permitted ground or monument sign for the site. Such bonus will be 0.4 square feet of sign area for each linear foot of building fronting on a public street up to a total of 100 square feet per building.
7) Window signs may be displayed, provided that the area occupied by temporary and permanent window signs combined shall not exceed 50 percent of the area of the window on, or within which they are displayed. This signage is counted toward the total allotment for the lot or parcel. Any window signage that identifies a use which is discontinued or abandoned shall be removed.
8) Reader board signs are only allowed in the Gateway and Village Center character areas, and shall conform to the following standards:
   a) Drive-through restaurants are allowed to have a changeable copy sign showing menu or featured items provide that:
      i) The sign is affixed to a wall of the establishment adjacent to the drive-through service window or located freestanding within and parallel to the drive-through lane area.
      ii) The sign shall not be designed to be read from public rights-of-way nor attract attention to the site from any public rights-of-way.
      iii) The sign shall not exceed 16 square feet of total sign area per side.
      iv) The reader board area shall be deducted from any monument sign copy area permitted for the subject property.
   b) If such signs are illuminated, the source shall be internal.

9) Ground signage.
   a) A ground sign is a free-standing structure, less than six feet in height, that is permanently affixed to the ground for the entire width of the sign face or cabinet.
   b) Lots or parcels with 40 feet or less of public street frontage shall not be permitted any ground sign. Lots or parcels with more than 40 feet of public street frontage on a single street are permitted one ground sign. Each street frontage shall be regulated independently where a lot or parcel has more than one public street frontage. Where a lot or parcel is entitled to a ground sign, a monument sign may be substituted at the developer's option, but there shall only be one sign, ground or monument, for each qualifying street frontage.
   c) Single nonresidential uses.
      i) The maximum permitted square footage for a ground sign advertising a single nonresidential use on a single lot or parcel shall be as follows:
      ii) Lots or parcels with single use or tenant developments located in the Working Farm (WF), Rural Living (RL), Golf Course Community (GC), Planned Residential Community (PR), Townhome/Condominium Community (TC) and Gateway Corridor (GW) Districts shall be permitted a ground sign that does not exceed 32 square feet in area per side.
         (01) Lots or parcels with single use or tenant developments located in the Village Center District shall be permitted a ground sign that does not exceed 48 square feet in area per side.
   d) Multi-tenant shopping centers.
      i) The maximum permitted square footage for a ground sign advertising a multi-tenant shopping center on a lot or parcel, or a series of contiguous lots or parcels, shall be as follows:
         (01) Multi-tenant shopping centers located in the Gateway Corridor District shall be permitted a ground sign that does exceed 48 square feet in area per side.
         (02) Multi-tenant shopping centers in the Village Center District shall be permitted a ground sign that does not exceed 84 square feet in area per side.
      ii) All out-parcels within a shopping center not counted toward multi-tenant gross square footage shall be permitted ground signage based on individual nonresidential uses described in Section 9.5.8(f)(vi)(10)(d).
   e) Ground signs shall conform to side and rear yard setback requirements for such signs set forth in the underlying zoning district.
   f) A landscaped area located around the entire base of a ground sign shall be required. The landscape area shall contain living landscape materials consisting of shrubs, spread no greater than three feet on center, and perennial ground cover densely planted.
10) Monument signage.
   a) A monument sign is a free-standing structure, greater than six feet in height, that is permanently affixed to the ground by solid supports so that the sign face, in its entirety, is situated above and between the outermost edges of the supporting base or support structures, and so that the permanent sign base for the structure has an aggregate width of no less than 40 percent of the width of the sign cabinet or face.
   b) Monument signs are strictly prohibited in the following character areas: Working Farm (WF), Rural Living (RL), Planned Residential Community (PR), and Townhome/Condominium Community (TC).
   c) Lots or parcels with 40 feet or less of public street frontage shall not be permitted any monument sign. Lots or parcels with more than 40 feet of public street frontage on a

single street are permitted one monument sign. Each street frontage shall be regulated independently where a lot or parcel has more than one public street frontage. Where a lot or parcel is entitled to a monument sign, a ground sign may be substituted at the developer's option, but there shall only be one sign, ground or monument, for each qualifying street frontage.

d) Single nonresidential uses.
   i) The maximum permitted square footage for a monument sign advertising a single nonresidential use on a single lot or parcel shall be as follows:
      (01) Lots or parcels located in the Gateway Corridor District and Golf Course Community District shall be permitted a monument sign that does not exceed 32 square feet in area per side.
      (02) Lots or parcels in the Village Center District shall be permitted a monument sign that does not exceed 48 square feet in area per side.

e) Multi-tenant shopping centers.
   i) The maximum permitted square footage for a monument sign advertising a multi-tenant shopping center on a lot or parcel, or a series of contiguous lots or parcels, shall be as follows:
      (01) Multi-tenant shopping centers located in the Gateway Corridor District shall be permitted a monument sign that does exceed 48 square feet in area per side.
   ii) Multi-tenant shopping centers in the Village Center District shall be permitted a monument sign that does not exceed 84 square feet in area per side.
   iii) All out-parcels within a shopping center not counted toward multi-tenant gross square footage shall be permitted ground signage based on individual nonresidential uses described in Section 9.5.8 (f)(vi)(10)(d).

f) No monument sign shall exceed 15 feet in height, measured as the vertical distance above the highest point of any feature of the sign. The reference datum shall be the elevation of the highest sloping adjoining sidewalk or ground surface within a five-foot horizontal distance of the sign foundation.

g) Monument signs shall conform to front, side, and rear yard setback requirements for such signs set forth in the underlying zoning district.

h) A landscaped area located around the entire base of a monument sign shall be required. The landscape area shall contain living landscape materials consisting of shrubs, spread no greater than three feet on center, and perennial ground cover densely planted.

11) Banners.
   a) A permit must be applied for and received from the Planning Director that allows for banner display on any lot or parcel. The permit shall extend for eight consecutive weeks after the issue date. Any business shall be limited to one such permit per year.
   b) No banner shall exceed eight square feet of sign area per side.
   c) Each banner shall be permanently attached to a pole or building at four points. Under no circumstances shall banners be allowed below ten feet above finished grade.
   d) Banners are limited to one per building, or two per light fixture used to illuminate streets or parking lots internal to the site.
   e) Commercial message banners shall be measured as a sign with two faces. Non-commercial message banners shall not count against the maximum sign area allowed on a lot or parcel.
   f) All banners shall be maintained in good condition.

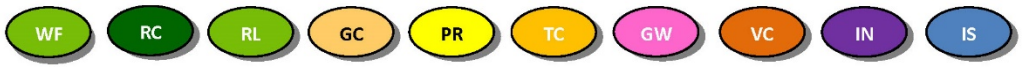
12) Address signs. Address identification signs for all properties are required and shall conform to the following guidelines:

a) Sign area is limited to three square feet total.
b) Each business is limited to one such sign.

13) Multi-Tenant Shopping Center Signage.
   a) In any shopping center no permit shall be issued for an individual sign requiring a permit unless and until a common signage package is submitted to and approved by the Planning Director.
   b) The common sign package shall comply with the requirements of this section and contain a visual representation to specify standards for consistency among all signs on the property affected by the common sign package in regard to sign size, location(s), color scheme, lettering or graphic style, lighting, location, and sign proportions.
   c) Off-premise directional signs included in the common sign package shall be constructed as a ground sign and limited to 16 square feet per side of sign area, a maximum of six feet in height, and be placed at least five feet behind the public right-of-way.
   d) Signage for individual stores or business establishments within a multi-tenant shopping center (excluding individual tenant panels on a multi-tenant shopping center sign) shall meet the requirements set forth in this section for either canopy or awnings, wall signs, or window signs.
   e) A shopping center may be entitled to one or more ground or monument signs as provided in Section 9.5.8(f)*(vi*)(9) and Section 9.5.8(f)*(vi)*(10). Such signs shall comply with the applicable regulations contained therein and shall be included in the common signage package for the shopping center.
   f) After approval of the common sign package, the Planning Director may approve minor modifications to the common sign package, provided that the modified sign package complies with the requirements of this section and does not violate the following:
      i) Increase the area of a sign by more than five percent.
      ii) Alter the relationship of a sign to neighboring property.
      iii) Change the locations of signs in such a manner as to increase non-conformity with setback requirements, interfere with pedestrian or vehicular traffic, interrupt architectural details, or otherwise significantly deviate from the approved common sign package.
   g) Significant changes to the common sign package that violate the criteria set forth in Section 9.5.8(f)*(vi)*(13) shall require approval from the US 441 Gateway District Community Planning Council.

(g) **Sign Materials**

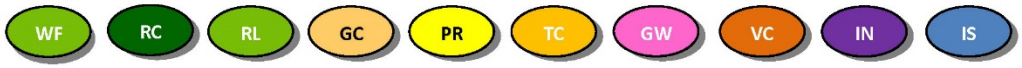
(i) This section shall apply to the following character areas:



(ii) Sign materials shall be selected with consideration for the architectural design of the building's façade. Sign design details, finishes, and colors shall be the same or complement materials used on the building façade and shall also contribute to the legibility of the sign message. Preferred sign materials include brick, stone, anodized aluminum, architectural quality steel (i.e., powder coated finishes), exposed timber, brass, and silver-plated exterior materials.

(h) **Sign Maintenance**

(i) This section shall apply to the following character areas:



(ii) The following maintenance requirements shall be observed for all signs visible from public rights-of-way, private roads, parking lots, public sidewalks, greenways, and internal pedestrian ways within the Gateway District.

1) No sign shall have more than 20 percent of its surface area covered with disfigured, cracked, ripped, or peeling paint or poster paper for a period of more than 30 successive days.
2) No sign shall be allowed to stand with bent or broken sign facing, broken supports, loose appendages or struts, or be allowed to stand more than 15 degrees away from the perpendicular for a period of more than 30 successive days.
3) No sign shall be allowed to have weeds, vines, or other vegetation growing upon it and obstructing its view for a period of more than 30 consecutive days.
4) No internally lit sign shall be allowed to stand with only partial illumination for a period of more than 30 successive days.
5) If a sign or sign structure is damaged due to factors other than vandalism or other criminal acts such that more than 50 percent of the value is lost, with such determination made by the Planning Director, any repair or replacement must be done in conformance with this section. If a sign or sign structure is damaged because of vandalism or other criminal act, it may be repaired or replaced, regardless of cost, but it must be repaired or replaced to the same specifications to which and with the same materials of which the sign was constructed prior to the act that caused the damage.
6) All banners, flags, and similar items shall be maintained so as to be free of tears, rips, discoloration, or fading. Any banner, flag, or similar item not so maintained may be removed without notice by the Planning Director.

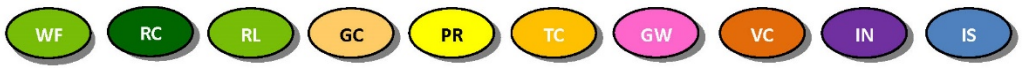
(iii) The Planning Director may inspect all signs for compliance with these maintenance requirements.

Section 9.5.9 Viewshed Protection

Topography and natural features in the landscape often create picturesque views that hold value with the community. Several locations in the Gateway District provide long, uninterrupted views of the valleys and surrounding mountain ridges. Vulnerable viewsheds in the Gateway District were inventoried in the US 441 Small Area Plan adopted by the County Board of Commissioners on April 21, 2008. Significant degradation to one more of these vulnerable viewsheds could lower desirability for the area to attract second homeowners, migrating priority for the Gateway District.

(a) **General Considerations**

(i) This section shall apply to the following character areas:



(ii) Development within vulnerable viewsheds identified in the US 441 Small Area Plan adopted by the County Board of Commissioners on April 21, 2008, as amended, shall address the following elements:

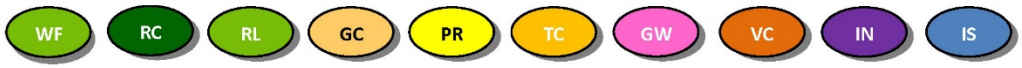
1) Maximum feasible preservation of existing topographical forms;
2) Vehicular circulation and how it relates to existing contours;
3) Maximum preservation of existing vegetation, including mature tree stands; and
4) Compliance with the requirements of the Jackson County Mountain and Hillside Protection Section for areas with slopes greater than 35 percent.

(iii) Disturbance to existing topographical features and vegetation shall be minimized. Development shall be designed to fit into the hillside rather than alter the existing topography to create flat build areas.

(iv) Roads and driveways shall be sensitive to existing contours and their length and width minimized to the greatest extent possible without affecting the health, safety, and welfare of residents.

(b) **Construction Techniques**

(i) This section shall apply to the following character areas:

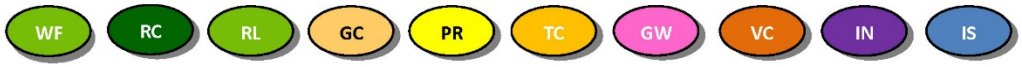


(ii) Grading shall minimize disturbance to the natural landform; not destroy visual quality; and not create conditions which may result in landslides, flooding, or erosion. All earthwork required for proposed developments shall conform to the following:

1) "Contour grading" techniques shall be employed where feasible. "Contour grading" shall mean grading which creates artificial slopes with curves and varying slope ratios in the horizontal plane designed to simulate the appearance of the surrounding natural terrain.
2) Long linear slopes are to be avoided, except in cases where the natural slope configuration displays this type of form. When appropriate, cut-and-fill slopes shall have curved configurations that reflect the surrounding topographical context. The toe and top of slope shall be "rounded" to avoid angular forms at the convergence of manufactured and natural slopes.
3) Varied cut-and-fill banks and drainage terraces to alleviate monotony and allow for "naturalistic" landscaping are encouraged.
4) Berms at the top of slopes and other locations used to screen, vary profile, and insure drainage away from slopes are encouraged.
5) The use of retaining structures when they will significantly reduce grading and land disturbance is encouraged.

(c) **On-Site Circulation**

(i) This section shall apply to the following character areas:



(ii) Design of roadways, driveways, and other circulation elements shall conform to the following:

1) Roadways and driveways shall be aligned to conform to the natural contours where feasible. Long stretches of straight road shall be avoided by utilizing gentle horizontal and vertical curves where feasible. Roadways shall not be parallel to one another to avoid a "shelving" effect on hillsides.
2) The use of loop streets, and common driveways is encouraged if grading is reduced significantly by their use. All loops and drives shall incorporate adequate turning radii to accommodate emergency vehicles.
3) Development shall be kept as close as possible to the street serving it to minimize the need for long driveways.
4) A reduction in roadway width is encouraged if such a design minimizes the amount of necessary earthwork. Approval of the Planning Director must be obtained.
5) Whenever possible, parking should be provided within structures. When this is not feasible, lots and streets shall be planned to maximize parking which is located on the uphill side of buildings.
6) Parking areas should be located on existing flat portions of the site.

(d) **Existing Vegetation and Landscaping Compatibility**

(i) This section shall apply to the following character areas:

WF RC RL GC PR TC GW VC IN IS

(ii) Existing vegetation shall be preserved, and disturbed areas replanted in conformance with the following:

1) Development often necessitates the removal of trees to accommodate roads, parking, buildings, and other facilities. Every effort shall be made through the design, layout, and construction of development to incorporate and preserve as many trees as possible. Special attention shall be directed towards preserving trees with a diameter of eight inches or greater at a height of 24 inches from grade.
2) Considerable damage to or the death of trees may result if more than six inches of soil is added around the base of a tree, more than 30 percent of circumferential bark is removed, or more than 30 percent of the root system is removed. In addition, asphalt paving, building construction, and soil compaction within the drip line of a tree may cause their destruction. Accordingly, the potential loss of vegetation due to these conditions shall be minimized through appropriate site planning and construction practices.
3) Trees with a diameter of eight-inch or greater at a height of 24 inches from grade and designated for preservation shall be marked with bright ribbons encircling the tree trunk at a height of four feet above the ground, and a four-foot high barricade will be constructed around the tree at the drip line prior the commencement of construction.
4) Slopes exposed in new development shall be landscaped to mitigate adverse visual impacts created by grading operations.
5) When land is terraced, the areas between terraces shall be planted with dense plantings of trees, shrubs, and ground cover.
6) Trees shall be planted in random clusters, not in rows, to complement the natural tree distribution. Row plantings of trees along property lines and roads are discouraged.
7) When new development occurs near the crest of a hill, the crest's natural appearance shall be maintained by tree planting and other landscape measures.
8) Existing vegetation shall be taken into consideration when landscaping the developed area. New landscaping shall be compatible with existing vegetation and the scenic character of the surrounding area.

Section 9.5.10 Parking

(a) **Parking Lot Design**

(i) This section shall apply to the following character areas:

RC RL GC PR TC GW VC IN IS

(ii) The following standards shall be met in designing off-street parking facilities:

1) Parking aisles shall have a minimum width of eight feet for one-way traffic and 16 feet for two-way traffic.
2) Parking spaces shall be a minimum of nine feet wide by 18 feet long, except handicap spaces. Handicapped spaces shall comply with the standards set forth in the North Carolina Accessibility Code.
3) Parking areas with more than 50 spaces shall provide a channelized automobile storage space with a length of 50 feet at all entrances from public rights-of-way.

4) Parking areas, aisles, and drives shall be constructed of a material that will prevent the exposure of subsoil. Suitable materials for parking areas include, but are not limited to, porous asphalt, concrete, compacted stone, gravel, and aggregates such as bituminous surface treatment and chip and seal.
5) Public rights-of-way shall not be used for maneuvering in the process of entering or leaving individual off-street parking spaces or for parking area circulation.

(b) **Off-street Parking Requirements**

(i) This section shall apply to the following character areas:

RC RL GC PR TC GW VC IN IS

(ii) The requirements for off-street parking are set forth in Table 9.22. For uses not listed in the table, the Planning Director shall determine the appropriate minimum number of parking spaces based on the needs of the proposed use and the general guidelines below, referencing the American Planning Association Planning Advisory Service Report Number 432 (Off-Street Parking Requirements).

Table 9.22: Off-Street Parking Requirements

Use Type Category	Required Parking Spaces
Active Park/Recreation Fields	1 space per employee + 1 space per 5,000 s.f. (athletic fields) or 3 spaces per court
Amphitheater	1 space per 5,000 s.f. of land area
Antique Shop	1 space per employee on largest shift + 1 space per 300 s.f.
Arboretum	1 space per 5,000 s.f. of land area
Assisted Living Facility	1 space per employee on largest shift + 1 space per 4 beds + 1 space per visiting doctor + 1 space for each vehicle used in operation
Automobile Sales Center	1 space per employee + 1 space per 300 s.f. of showroom space
Automobile Service Station	6 spaces per station + 1 space for each additional pump over 3
Bakery	1 space per employee on largest shift + 1 space per 300 s.f.
Barber Shop or Salon	1 space per employee on largest shift + 1 space per two chairs
Bed and Breakfast Inn	1 per employee on the largest shift + 1 per sleeping room
Bicycle Shop	1 space per employee on largest shift + 1 space per 300 s.f.
Bookstore	1 space per employee on largest shift + 1 space per 300 s.f.
Camp, Campground	1 space per employee on largest shift + 1 space per campsite
Candy, Pastry, Ice Cream, or Snack Shop	1 space per employee on largest shift + 1 space per 300 s.f.
Car Wash	1 space per wash bay
Cemetery	1 space per employee on largest shift + room for parking on internal roads
Child Day Care	1 space per 200 s.f.
Civic, Social Service, or Fraternal Facility	1 space per 350 s.f.

Clothing Shop	1 space per employee on largest shift + 1 space per 300 s.f.
College or University	1 space per 900 s.f. of academic space + 1 space for every two beds in an on-campus residential facility
Commercial Agriculture Operations	1 space per 300 s.f.
Communication Facility/Telecommunication Tower	1 space per service provider with equipment on-site
Community Center	1 space per 150 s.f. or 1 space per 4 seats available for patron use, whichever is greater
Conference Center	1 space per 200 s.f.
Convenience Store	1 space per employee on largest shift + 1 space per 300 s.f.
Copy Center	1 space per employee on largest shift + 1 space per 300 s.f.
Delicatessen	1 space per employee on largest shift + 1 space per 300 s.f.
Distributive Business	1 space per employee on largest shift + 1 space per 300 s.f.
Dry Cleaner	1 space per employee on largest shift + 1 space per 300 s.f.
Family Care and/or Group Homes	1 employee—plus 1 space per 5 adults
Financial Institution	1 space per employee on largest shift + 1 space per 300 s.f.
Florist	1 space per 300 s.f.
Fruit and Vegetable Market	1 space per 300 s.f.
Furniture Sales	1 space per employee on largest shift + 1 space per 300 s.f.
General Office	1 space per employee on largest shift + 1 space per 300 s.f.
Gift Shop	1 space per 300 s.f.
Golf Course	6 spaces per hole
Government Office	1 space per 300 s.f. used by the public + 1 space per 600 s.f. not used by the public
Government Operations	1 space per 300 s.f. used by the public + 1 space per 600 s.f. not used by the public
Grocery Store	1 space per employee on largest shift + 1 space per 250 s.f.
Hardware/Garden Supply Store	1 space per 300 s.f.
Health and Fitness Facility	1 space per employee on largest shift + 1 space per 200 s.f.
Health Spa	1 space per employee on largest shift + 1 space per 300 s.f.
Hotel/Motel	1 space per room + 1 per employee on largest shift
Indoor Equipment, Party, or Event Rental Center	1 space per employee + 1 space per 500 s.f.
Instructional Services	1 space per employee on largest shift + 1 space per 300 s.f.
Laboratories. Medical, Science, or Research	1 space per employee on largest shift + 1 space for each 400 s.f
Laundry and Dry Cleaning	1 space per employee on largest shift + 1 space per 300 s.f.
Library	1 space per employee on largest shift + 1 space per vehicle used in operation + 1 space per 200 s.f.
Manufacturing, Assembly, or Finishing Operations	1 space per employee on largest shift + 1 space for each vehicle used in operation
Medical/Dental Clinic	1 space per 300 s.f.
Motor Vehicle Repair	1 space per 400 s.f.
Multifamily Dwelling Unit	1 space per bedroom
Multi-Tenant Shopping Center	1 space per 250 s.f.

Museum	1 space per employee on the largest shift + 1 space per 200 s.f.
Non-Commercial Agriculture Activities	1 space per employee on largest shift
Outdoor Storage	1 space per employee on largest shift + 1 space per 1,000 s.f. of outdoor storage area
Paint Shop	1 space per 300 s.f.
Pharmacy	1 space per employee on largest shift + 1 space per 300 s.f.
Place of Worship	1 space per employee on largest shift + 1 space per 4 seats in assembly area
Plant Nursery, Sales, or Greenhouse	1 space per 300 s.f. + 1 space per 1,000 s.f. of outdoor sales area
Police, Fire, or Rescue Station	1 space per employee during the largest shift + 1 space per 400 s.f.
Post Office	1 space per 200 s.f.
Pre-School	3 spaces per classroom
Primary/Secondary School	3 spaces per classroom + 1 space per administrative office + 1 space per four seats for assembly purposes
Printing and Publishing	1 space per 400 s.f.
Public Utilities and Related Services	1 space per service provider with equipment on-site
Recreation Uses, Commercial Indoor	1 space per 300 s.f.
Recreation Uses, Commercial Outdoor	1 space per 5,000 s.f. of land
Recreation Uses, Government	1 space per 300 s.f.
Recreation Uses, Non-Profit	1 space per 300 s.f.
Recreation Uses, Restricted to Membership	1 space per 300 s.f. + minimum number of spaces for all accessory uses
Restaurant, Fast Food	1 space per employee on largest shift + 1 space per 300 s.f.
Restaurant, Sit-Down	1 space per employee on largest shift + 1 space per 300 s.f.
Retail Gasoline Sales	1 space per pump
Retail Sales, General	1 space per 300 s.f.
Riding Academies and Commercial Stables	1 per employee on largest shift + 1 per stall
Self-Storage Facility	1 space per employee on largest shift + 1 space for each vehicle used in operation + 1 space per 500 s.f. of floor sales or customer area.
Sporting Good Sales	1 space per 300 s.f.
Theater	1 space per employee on largest shift + 1 space per 4 seats
Veterinary Clinic	1 space per employee on largest shift + 1 space per 300 s.f.
Video Rental Store	1 space per 300 s.f.
Warehouse Storage	1 space per employee on largest shift + 1 space per 10 storage units

(iii) Parking areas exceeding the required number of spaces. The number of parking spaces for a proposed use may exceed the required number of spaces identified for that use; however, if the number of parking spaces exceeds the required number of spaces for that use by more than

25 percent, the required landscaping for the parking area shall be 150 percent of that required by Section 9.5.6 (f)*(iv)*.

(c) **Shared Parking**

(i) This section shall apply to the following character areas:

RC RL GC PR TC GW VC IN IS

(ii) The Planning Director may approve the joint use of up to 100 percent of the required parking spaces for two or more uses located on the same or adjacent parcels, provided that the developer can demonstrate that the spaces provided will meet the need for parking. This may be done by demonstrating that the uses will not overlap in hours of operation or in demand for the shared spaces. Any sharing of required parking spaces by uses located on different parcels shall be guaranteed by a written agreement between the owner of the parking area and the owner of any use located on a different parcel and served by the parking area.

(d) **Remote Parking**

(i) This section shall apply to the following character areas:

RC RL GC PR TC GW VC IN IS

(ii) If the required number of parking spaces for any use cannot be reasonably provided on the same lot in which the principal use is located, the parking spaces may be provided on any land within 500 feet of the property of which the principal use is located. The character area regulations for the property on which the parking is located must permit the principal use, which the parking spaces serve. Any remote parking spaces located on a different parcel than the use served shall be guaranteed by a written agreement between the owner of the remove parking area and the owner of the principal use.

Section 9.5.11 Access Management, US Highway 441

(a) **Background**

US Highway 441 in the Gateway Corridor is identified by the North Carolina Department of Transportation (NCDOT) as Corridor 5 in the Strategic Highway Corridor System — a key component of the "core" intrastate highway system. Improvements to US Highway 441 should enhance the mobility function of the strategic highway, while recognizing that landowners have certain rights of access to the highway consistent with their needs. Unfortunately, access connections to the highway are often a major contributor of traffic congestion and poor operations. Indiscriminate roadside and unregulated access connections contribute to decreased highway capacity, driver and pedestrian confusion, and increased safety hazards.

Regulation of access to land abutting US 441 set forth in this article permits reasonably convenient and suitable access to development in the corridor, while preserving the regional mobility in terms of safety, capacity, and speed. Appropriate access management along US 441 will protect community character and natural resources within the transportation corridor. General locations for future traffic signals, full median openings, and directional median openings were identified in the *US 441 Small Area Plan* adopted by the County Board of Commissioners on April 21, 2008. The intent of this article is to implement the recommendations for access management included in the adopted "US 441 Small Area Plan."

Ultimately, the North Carolina Department of Transportation (NCDOT) is responsible for regulating the location, design, construction, and maintenance of street and driveway connections to US 441 pursuant

to NCGS 136-18(29). The "Policy on Street and Driveway Access to North Carolina Highways" published by the NCDOT establishes minimum criteria for granting access connections to US 441; however, a provision in the policy manual defers evaluation of a street and driveway access permit to criteria established by the local government when they are deemed more restrictive than NCDOT requirements. The provisions of this article meet or exceed minimum requirements established in the "Policy on Street and Driveway Access to North Carolina Highways," and should be used by the NCDOT for evaluating access connection permits along US 441.

Approval of a development application by the county does not confer any obligation on the state department of transportation to allow the same number, location, or design of any of the access or traffic control measures illustrated on the approved development plan without first securing a street and driveway access permit from the NCDOT for the exact same improvements.

(b) **Administration**

(i) The Planning Director shall administer and enforce the provisions of this article in cooperation with the NCDOT.

(ii) Need for a street, driveway access, or median opening permit. Approval of a street and driveway access permit from the NCDOT is required prior to any one of the following events along the US 441 corridor:

1) The approval of any development permit for any property abutting US 441.
2) The construction of any new public or private access to US 441 or to a public street that intersects directly with US 441.
3) The reconstruction or relocation of any existing public or private access to US 441 or to a public street that intersects directly with US 441.
4) A change in land use, or substantial enlargement or improvement to an existing land use, subject to the requirements set forth in Section 3.7.8 of this Ordinance.

(iii) Application requirements.

1) Street or driveway access permit. An application for a site-specific street and driveway access permit shall be submitted to the NCDOT in accordance with minimum rules and procedures set forth in the "Policy on Street and Driveway Access to North Carolina Highways."
2) Reserved.
3) Agency coordination. The district engineer for the NCDOT will notify and consult with the Planning Director regarding access locations, new median openings, or signalization requested as part of any permit application.

(c) **Standards for Access Connections**

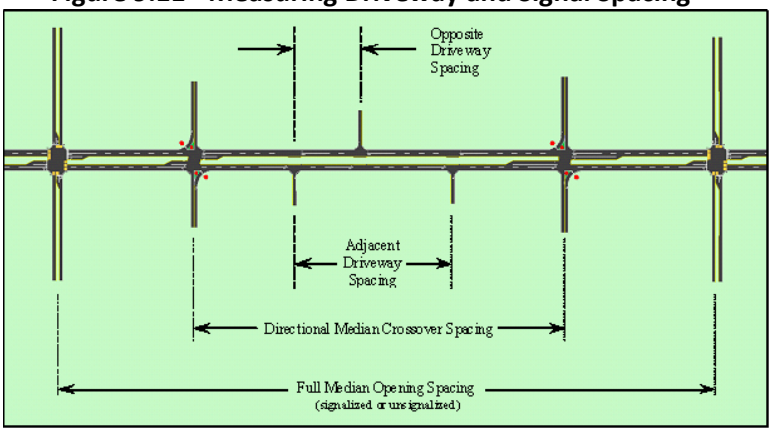
(i) Minimum driveway and traffic signal spacing standards. All access connections to US 441 shall meet or exceed the minimum connection spacing requirements specified in Table 9.23.

Table 9.23: Minimum Driveway and Signal Spacing

Posted Speed Limit	Signal Spacing	Adjacent Driveway Spacing	Opposite Street Driveway Spacing
≥ 45 MPH	2,500 feet	800 feet	800 feet
26—44 MPH	1,500 feet	500 feet	500 feet
≤ 25 MPH	1,000 feet	300 feet	300 feet

(ii) Measurement criteria. Spacing between driveways shall be measured along the right-of-way line between the tangent projection of the inside edges of adjacent driveways, opposite street driveways, as applicable (see Fig. 9.11).

Figure 9.11 - Measuring Driveway and Signal Spacing



(iii) Variance from driveway and traffic signal spacing standards.

1) The Planning Director, in coordination with the NCDOT, may reduce the connection spacing requirements set forth herein for situations where they prove impractical, but in no case shall the permitted spacing be less than 85 percent of the applicable standard, except as provided in Section 9.5.11 (c).
2) For sites with insufficient road frontage to meet minimum spacing requirements, consideration shall first be given to providing access via connection to a side street, utilization of a joint or shared driveway with an adjacent property that meets the recommended spacing requirement, or development of a service road to serve multiple properties.
3) The Planning Director, in coordination with the NCDOT, may grant access approval for a permanent use not meeting the spacing requirements of this article on an interim basis if an access plan is submitted that demonstrates how spacing requirements will ultimately be met and appropriate assurances in the form of a recordable and enforceable easement or access agreement will be provided insuring future provision of a conforming access.
4) Deviation from these spacing standards may be permitted at the discretion of the Planning Director, in cooperation with the NCDOT, where the effect would be to enhance the safety and operation of the highway. Examples might include a pair of one-way driveways in lieu of a two-way driveway. Approval of a deviation from the minimum spacing standards in this article may require the applicant to submit a study prepared by a duly qualified and licensed engineer in the state that evaluates whether the proposed change would exceed highway safety or operational benefits of the prescribed standard.

(iv) Immediate compliance.

1) Existing road and driveway connections for any single parcel along US 441 shall be modified to conform with the minimum connection spacing requirements set forth in this article when safety, capacity, or operational improvements are made within the public right-of-way.
2) The NCDOT may prohibit, restrict, or modify the placement of any connection, at any time, to a single property in the interest of public safety and mobility.

(v) Corner clearance.

1) Corner clearance for connections to US 441 shall meet or exceed the minimum connection spacing requirements set forth in Section 9.5.11 (c).

(vi) New access connections*.* New access connections shall not be permitted within the functional area of an interchange, intersection defined by the minimum connection spacing requirements set forth in section 9.5.11 (c), unless:

1) No other reasonable access to the property is available, and the Planning Director, in coordination with the NCDOT, determine that the connection does not create a safety or operational problem after review of a site-specific traffic impact study prepared by a duly qualified and licensed engineer in the State of North Carolina.
2) Where no other alternatives exist, the Planning Director, in coordination with the NCDOT, may allow construction of an access connection along the property line farthest from an intersection. In such cases, a directional driveway connection (i.e., right-in/right-out or right-out only) may be required.
3) Near a signalized intersection, the location for a full movement driveway connection may be required to exceed the minimum spacing requirements set forth in section 9.5.11 (c) to avoid interference with the operations of the traffic signal and resulting traffic queues. The radius of a full movement driveway connection shall not encroach on the minimum corner clearance.
4) The minimum lot size for any new corner lot created through the subdivision process shall be of adequate size to provide for the minimum corner clearance spacing required herein.

(vii) Joint and cross access.

1) Nonresidential and mixed-use projects*.*
   a) Adjacent land uses classified as major traffic generators shall provide a cross access drive and pedestrian access to allow circulation between sites.
   b) A system of joint use driveways and cross access easements shall be established wherever deemed feasible by the Planning Director. The building site shall incorporate the following:
      i) A continuous service drive or cross access corridor extending the entire length for property frontage required to provide driveway separation consistent with the minimum spacing requirements set forth in Section 9.5.11 (c).
      ii) A design speed of ten miles per hour and sufficient width to accommodate two-way travel aisles designed to accommodate automobiles, service vehicles, and loading vehicles.
      iii) Stub-out connections and other design features that make it visually obvious that the abutting properties may be tied-in to provide cross access via a service drive.
      iv) A unified access and circulation plan that includes coordinated or shared-use parking areas, wherever feasible. Shared-use parking areas shall count toward reducing the number of required off-street parking spaces for the two adjacent land uses if the peak parking demand periods do not occur at the same time.
   c) Pursuant to this article, a property owner for a nonresidential or mixed-use project shall:
      i) Record an easement with the deed for the property that allows cross access to and from other properties served by a joint use driveway, cross access, or service drive.
      ii) Record an agreement with the deed for the property that remaining access rights along US 441 will be dedicated to the NCDOT and pre-existing driveways along the property's frontage will be closed and eliminated after construction of the joint use driveway.

iii) Record a joint maintenance agreement with the deed for the property defining maintenance responsibilities of the adjacent property owners.

2) Residential projects.
   a) Residential subdivisions with lots fronting along US 441 shall be designed with joint access points to the highway. Normally a maximum of two access points shall be allowed regardless of the number of lots served.
   b) The property owner shall enter into a written agreement with the county, recorded with the deed for the property, that pre-existing connections along the frontage will be closed and eliminated after construction of joint use driveways.
   c) The Planning Director may modify or waive the requirements of this section where the characteristics or layout of abutting properties would make implementation of joint use driveways or development of a shared access circulation system impractical, provided that all of the following requirements are met:
      i) Joint access driveways and cross access easements are provided wherever feasible in accordance with this section.
      ii) The site plan incorporates a unified access and circulation system in accordance with this section.

(d) **Design Guidelines for Access Connections**

(i) The following factors shall be considered by the Planning Director and the NCDOT when assessing the suitability of a proposed access connection location associated with a permit application.

1) Offset access connections. Access connections on opposing sides of the highway shall be aligned with one another or offset an adequate distance to minimize overlapping left turns and other maneuvers that may result in safety hazards or operational problems.
2) Adequate sight distance. An access connection shall be located so as to provide adequate intersection sight distance.
3) Auxiliary lanes. The NCDOT district engineer may require auxiliary lanes (i.e., left or right turn lanes, bypass lane, or acceleration lanes) where deemed necessary due to traffic volumes or where a safety or operational problem is expected without such lane. Consideration for right turn auxiliary lanes should be balanced with the community's desire to create a pedestrian-friendly environment for the US 441 Corridor as stated in the adopted US 441 Small Area Plan. Left and right turn lanes shall be constructed in accordance with the "North Carolina Standards and Specifications for Roads and Structures."
4) Substandard frontage. If lot frontage is inadequate to provide the required minimum spacing, consideration shall first be given to providing access via connection to a side street, utilization of a joint or shared driveway with an adjacent property that meets the recommended spacing requirement, or development of a service road to serve multiple properties.
5) Future development. To maintain minimum spacing requirements between nonresidential access locations when future development occurs, a proposed access connection may be approved subject to the condition that it serves adjacent property via a joint or shared access located on the common property line or a cross access easement.
6) Easements for joint access. When required to provide a joint or shared access, the property owners must record an easement allowing cross access to and from the properties served by the shared driveway or cross access. The easement must include a joint maintenance agreement defining the responsibilities of the property owners.

7) Restricting left turns. Left turning movements to or from a proposed access connection may be restricted at the time of construction or at a future date based upon existing or anticipated roadway operating conditions.
8) Angle of approach. Access points shall be aligned to be straight and perpendicular to the centerline of US 441 to the maximum extent feasible.
9) Driveway width. As shown in Table 9.23 below.

Table 9.23: Driveway Width Requirements

	Minimum	Maximum
One-way Traffic	14 feet	20 feet
Two-way Traffic	24 feet	36 feet

10) Driveway throat length. For any development plan with an internal roadway network, a minimum storage of 75 feet measured from the near edge of the right-of-way line will be required before any crossing or left-turning conflicts area allowed. The minimum driveway stem distance may be modified on a project-by-project basis based on recommendations from an analysis of traffic operations on the internal roadway network.
11) Auxiliary features. Signs, entrance medians, and fences shall be placed or constructed outside of the public right-of-way for US 441.
12) Nonresidential and mixed-use access design. Nonresidential and mixed-use access must be designed so that backing, loading, unloading, and other maneuvers are accommodated on-site and not using the US 441 and/or connecting roads right-of-way, and the access shall provide adequate stacking distance to prevent entering or exiting vehicles from obstructing the flow of traffic on US 441 and/or connecting roads. A driveway median may be required to preserve the length of storage, or to prevent cross access to an out-parcel within the storage area of a driveway. All driveway grades and drainage improvements shall conform to the rules and requirements set forth in the NCDOT's Policy on Street and Driveway Access to North Carolina Highways.
13) Nonresidential and mixed-use access geometrics. The geometrics of a nonresidential or mixed-use access shall provide adequate width, grade, and radii to accommodate all vehicles that will access the site.
14) Corner radius. The minimum corner radius of a street or driveway along US 441 shall be within 20 feet minimum and 50 feet maximum. The District Engineer for NCDOT will notify and consult with the Planning Director required minimum radii.

(e) **Connectivity**

(i) The internal street system for a proposed development shall be designed to coordinate with existing, proposed, and planned streets outside of the development as provided in this section.

1) Wherever a proposed development abuts unplatted land or a future development phase of the same development, clearly demarcated (i.e., "Future Street Connection") street stubs shall be provided as deemed necessary by the Planning Director to provide access to abutting properties or to logically extend the street system into the surrounding area. All street stubs shall be provided with temporary turn-around or cul-de-sacs unless specifically exempted by the Planning Director, and the restoration and extension of the street shall be the responsibility of any future developer of the abutting land.
2) Collector streets shall intersect with collector or arterial streets on- and off-site at safe and convenient locations.

3) Local streets shall connect with surrounding streets to permit the convenient movement of traffic between land uses or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.

(ii) Pedestrian connections. Pedestrian connections shall be provided between adjacent properties in addition to roadway connections. These pedestrian connections shall provide for safe pedestrian travel along roadways and across parking areas to site buildings.

1) All new residential development other than single family homes.
2) All new office/commercial or institutional development
3) Expansions to an existing office/commercial or institutional development or use where the gross floor area of the expansion is equal to or greater than 50 percent of the gross floor area of the pre-expansion development or use.
4) Improvements to an existing office/commercial or institutional development or use when the cost of the improvement is equal to or greater than 50 percent of the value of the existing development (building) or use as determined by the Jackson County Tax Office.
5) Along at least one side of private drives serving multi-family, institutional, and/or office/commercial uses in the Gateway Corridor and Village Center Districts to provide a pedestrian connection from the building entrance(s) to a public street or road and/or to a pedestrian facility.

(iii) Construction Standards. Sidewalks must have a minimum five-foot width and meet all current Americans with Disabilities Act (ADA) standards. NCDOT will allow sidewalks within their right-of-way by encroachment and will not accept responsibility for maintenance.

1) In lieu of constructing a sidewalk, multi-family residential, institutional, and/or office/commercial uses may construct a greenway trail to provide a pedestrian connection across their property. The location, design, and construction specifications for the greenway trail shall be approved by Jackson County as part of the development plan approval.

(iv) Requirements for out-parcels and phased development plans.

1) Aggregation. In the interest of promoting unified access and circulation systems, development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall not be considered separate properties in relation to the access standards set forth in this article. The number of connections permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage along US 441. All necessary easements, agreements, and stipulations required in this article shall be met. This shall also apply to phased development plans. The owner and all lessees within the affected area are responsible for compliance with the requirements of this article and both shall be cited for any violation.
2) Out-parcels. All out-parcel access shall be served internally to the development site using the shared circulation system of the principle development. Access to out-parcels shall be designed to avoid excessive movement across parking aisles and queuing across surrounding parking and driving aisles.

(v) Minimum on-site vehicle storage area.

1) Adequate storage must be provided within the internal circulation system for properties that include either a drop-off loop or drive-through facility so that vehicles do not queue onto US Highway 441. Specific storage areas will be determined by the Planning Director, in coordination with the NCDOT, on a case-by-case basis during the development review process; however, the following minimum storage lengths are required for specific development types along US Highway 441. Dimensions are measured from the ultimate

right-of-way line stipulated by the US Highway 441 Small Area Plan, State Transportation Improvement Program, or other project plans.

2) For single-lane drive-in banks, storage to accommodate a minimum queue of six vehicles will be provided. Banks having several drive-in service windows will have storage to accommodate a minimum of four vehicles per service lane.
3) For single-lane drive-through full-service car washes, storage to accommodate a minimum of 12 vehicles will be provided. Automatic or self-service car washes having a multi-bay design will have minimum vehicle storage to accommodate three vehicles per bay.
4) For fast-food restaurants with drive-in window service, storage within the site to accommodate a minimum of eight vehicles per service lane from the menu board/ordering station will be provided.
5) For service stations where the pump islands are parallel to the pavement edge, a minimum setback of 35 feet between the pump islands and the public right-of-way will be provided. For service stations where the pump islands are not parallel to the pavement edge, minimum vehicle storage of 50 feet in length between the pump islands and the public right-of-way will be provided.
6) For land uses that require an entry transaction or have service attendants, gates or other entry control devices, the vehicle storage will be of adequate length so that entering vehicles do not queue back on the right-of-way for the adjacent highway. No portion of a parking area, attendant booth, gates, signing, or parking activity shall encroach on the public right-of-way.
7) For schools, adequate storage for parental drop-off and pick-up areas should be provided entirely on the school campus site.

(vi) Gateway interchange area.

1) Significant modification to the Gateway Interchange Area (i.e., US 441 and US 74) may be subject to special access management requirements that protect the safety and operational efficiency of the limited access facility and the interchange area. The NC Department of Transportation may require the preparation and approval of a site-specific traffic impact study prepared by a duly qualified and licensed engineer in the State of North Carolina. If required, the plan shall address current and future connections and median openings within ¼-mile of an interchange area (measured from the end of the taper of the ramp furthest from the interchange) or up to the first intersection with an arterial road, whichever is less.
2) The distance to the first access location shall meet the minimum connection spacing requirements in Section 9.5.11 (c); however, no driveway connection will be allowed less than 400 feet from the end of the taper of the ramp furthest from the interchange.

(f) **Variances for access management.**

(i) The granting of a variance shall be in harmony with the purpose and intent of Section 3.7.20 and shall not be considered until every feasible option for meeting minimum access management standards is explored.

(ii) Applicants for a variance from the standards herein must provide proof of unique or special conditions that make strict application of the provisions impractical. This shall include proof that:

1) Indirect or restricted access cannot be obtained; and
2) No engineering or construction solutions can be applied to mitigate the conditions; and
3) No alternative access is available from a side street.
4) Under no circumstances shall a variance be granted, unless not granting the variance would deny all reasonable access, endanger public health, welfare or safety, or cause an

exceptional and undue hardship on the applicant. No variance shall be granted where such hardship is self-created.

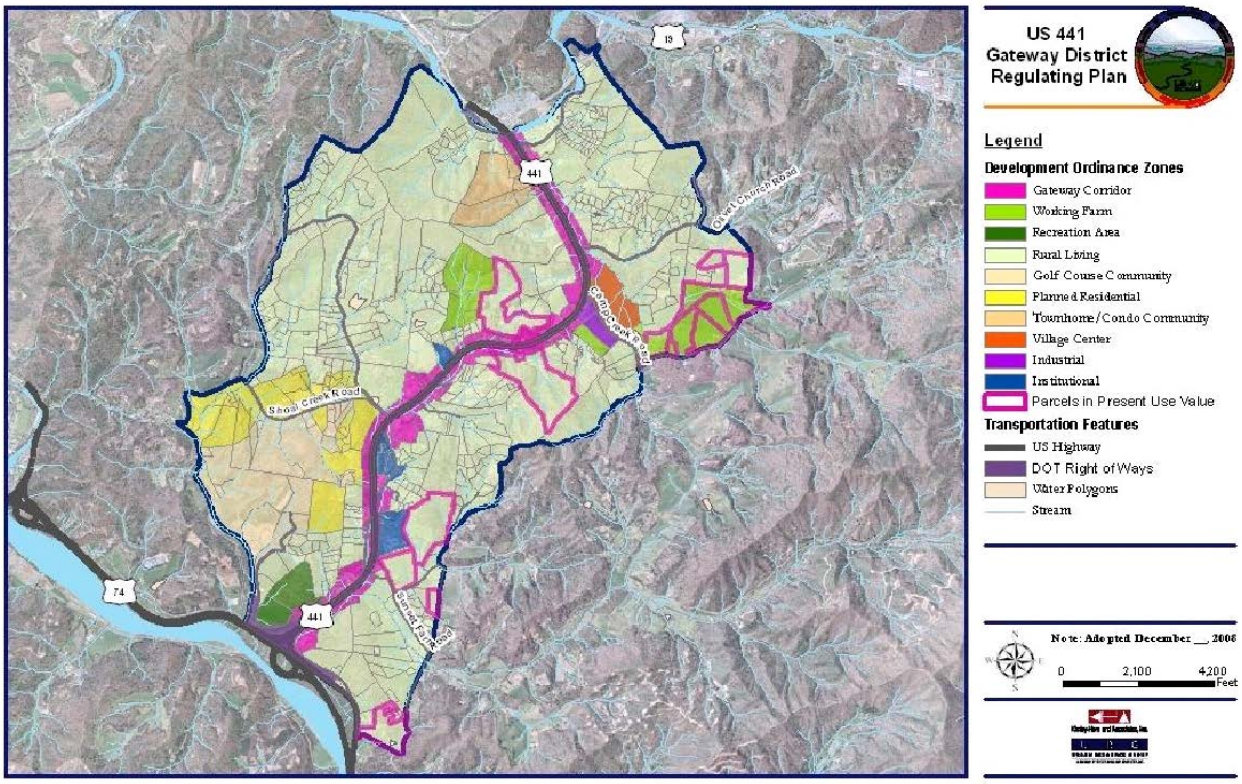
Section 9.5.12 Nonconformities

Nonconforming uses, structures, and access shall comply with the regulations established in Section 8.6.2 (c).

Section 9.5.13 Enforcement

It shall be the duty of the Planning Director or Permitting and Code Enforcement Director to administer and enforce this section per Article X Violations and Enforcement.

Appendix 9.5.1 US 441 Gateway District Regulating Map



Appendix 9.5.2 US 441 Gateway District Tree Selection and Cover Guide

Notes:
= permitted in landscape buffers
^ = rates canopy credit
* = permitted in interior areas

Large Deciduous Trees	Tree Area in Sq. Ft. and Caliper at Planting (measured 6 inches above finished grade)
Botanical Name/Common Name	**2—2½ inches**
Fraxinus americana/American Ash # ^	250
Liriodendron tulipifera/Tulip Poplar # ^	250
Metasequoia glyptostroboides/Dawn Redwood # ^ *	300
Platanus occidentalis/Sycamore Planetree # ^ *	300
Quercus rubra/Red Oak # ^ *	300
Quercus palustris/Pin Oak # ^ *	300
Quercus phellos/Willow Oak # ^ *	300
Quercus prinus/Chestnut Oak # ^ *	300
Ulmus americana/American Elm # ^ * and Dutch Elm Disease Resistant Cultivars	250

Medium Deciduous Trees	Tree Area in Sq. Ft. and Caliper at Planting (measured 6 inches above finished grade)
Botanical Name/Common Name	**1½ to 2 inches**
Acer rubrum/Red Maple # ^ *	200
Betula nigra/River Birch # ^ *	200
Fagus grandifolia/American Beech # ^ *	200
Fraxinum pennsylvanica/Green Ash # ^ *	250
Nyssa sylvatica/Black Gum # ^ *	250
Quercus macrocarpa/Bur Oak # * ^	250
Cladrastis kentukea/Yellowwood # * ^	250
Zelkova serrata/Japanese Zelkova # ^ *	100
Acer buergeranum/Trident Maple	200

Small Deciduous Trees	Tree Area in Sq. Ft. and Caliper at Planting (measured 6 inches above finished grade)
Botanical Name/Common Name	**1½—2 inches**
Acer palmatum/Japanese Maple # *	75
Carpinus caroliniana/American Hornbeam #	75
Chionanthus virginicus/American Fringetree #	75
Cornus kousa/Kousa Dogwood # *	75
Halesia tetraptera/Carolina Silverbell #	75

Lagerstroemia indica/Common Crapemyrtle Cultivars mature height (< 10 feet) mature height (10. 20 feet) # *	
mature height (> 20 feet) # ^ *	25 50 75
Amelanchier laevis/Allegheny Serviceberry # *	75
Cornus florida/Flowering Dogwood (anthracnos resistant) #	75
Oxydendrum arboreum/Sourwood # ^ *	100
Prunus X./Various Flowering Cherries and Plums # *	75
Amelanchier canadensis/Serviceberry	100
Carpinus betulus 'Fastigiata'/Columnar European Hornbeam	75
Cercis canadensis/Eastern Redbud	75

Large Evergreen Trees	**Tree Cover Area in Sq. Ft. and Height at Planting**
Botanical/Common Name	**6'—8'**
Cryptomeria japonica/Japanese Cedar # ^ *	200
Cedrus atlantica/Atlas Cedar # *	200
Cedrus deodara/Deodar Cedar # *	200
Juniperus virginiana/Eastern Red Cedar # *	200
Taxodium distichum/Bald Cypress	200
Pinus strobus/Eastern White Pine	250
Tsuga canadensis/Canadian Hemlock	300
Pseudotsuga menziesii/Douglas Fir	250
Picea abies/Norway Spruce	250

Medium Evergreen Trees and Tall Shrubs	**Tree Cover Area in Sq. Ft. and Height at Planting**
Botanical/Common Name	**6'—8'**
Cupressocyparis leylandii/Leyland Cypress # ^ *	125
Ilex opaca and I. opaca 'cullowhee'/American Holly # ^ *	200
Thuja x 'Green Giant'/Green Giant Arbovitae # *	100
Magnolia virginiana/Sweetbay Magnolia # *	100

Small Evergreen Trees and Tall Shrubs	**Tree Cover Area in Sq. Ft. and Height at Planting**		
Botanical/Common Name	**4'—6'**	**6'—8'**	**8'—10'**
Ilex x attenuata 'Fosteri'/Foster's Holly # *	50	75	100
Ilex x 'Nellie R. Stevens'/Nellie R. Stevens' Holly # *	50	75	100
Rhododendron/Hybrid Rhododendron	25	50	75

Large Tree Evergreen Buffering and Reforesting Material @	Tree Cover Area in Sq. Ft. and Height at Planting		
Botanical/Common Name	**BR**	**2'—4'**	**4'—6'**
Ilex opaca/American Holly # ^ *	5	10	15
Pinus strobus/White Pine # *	5	10	15

Medium Evergreen Buffering and Reforesting Material @	Tree Cover Area in Sq. Ft. and Height at Planting		
Botanical/Common Name	**BR**	**2'—4'**	**4'—6'**
Pinus taeda/Loblolly Pine #	5	10	15
Pinus echinata/Shortleaf Pine #	5	10	15

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X

Violations and Enforcement

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Article X. VIOLATIONS AND ENFORCEMENT

Section 10.1 General Provisions

Section 10.1.1 Purpose and Intent

This Article establishes procedures through which the County seeks to ensure compliance with the provisions of this Ordinance and to obtain corrections for Ordinance violations. It also sets forth the remedies and penalties that apply to violations of this Ordinance. The provisions of this Article are intended to encourage the voluntary correction of violations, where possible.

Section 10.1.2 Jurisdiction

Enforcement of this Ordinance shall be limited to the area within the planning jurisdiction of the County which may be modified from time to time depending on the planning activities of municipalities and regulated districts in accordance with NCGS 160A-360.

Section 10.1.3 Enforcement Authority

(a) This section shall be enforceable in accordance with the provisions of NCGS 153A-123 and any other applicable North Carolina General Statutes.
(b) It shall be the duty of the Planning Director or the Permitting and Code Enforcement Director to enforce this Ordinance and, when necessary, bring to the attention of the County Attorney certain violations or lack of compliance. The Planning Director or Permitting or Code Enforcement Director is authorized to deny, withhold or revoke permits or inspections permissions on any new or existing projects or applications pursuant to this Ordinance or other regulations of the County where the applicant, applicant business or agent has failed or refused to comply with this Ordinance.

Section 10.1.4 Liability

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this Ordinance is jointly and severally liable for the violation and subject to all available penalties and remedies.

Section 10.2 Violation Types

(a) All buildings and land used, and all buildings and structures erected, converted, enlarged, reconstructed, moved or structurally altered, must comply with all applicable provisions of this Ordinance. Failure to comply with applicable provisions constitutes a violation of this Ordinance. Express violations include but are not limited to the following:
   (i) Using land or buildings in a way not consistent with the requirements of this Ordinance.
   (ii) Erecting a building or other structure in any way not consistent with the requirements of this Ordinance.
   (iii) Engaging in the development of land in any way not consistent with the requirements of this Ordinance.

(iv) Developing or subdividing land inconsistent with the standards and procedures of this Ordinance.
(v) Subdividing, transferring, or selling land unless the subdivision has been approved and recorded, as provided in this Ordinance.
(vi) Installing or using a sign in any way not consistent with the requirements of this Ordinance;
(vii) Failing to maintain any structure, landscape feature, or natural resource required to be maintained by this Ordinance.
(viii) Engaging in the use of a building or land, the use or installation of a sign, or any other activity requiring one or more permits or approvals under this Ordinance without obtaining all such permits and approvals.
(ix) Failing to comply with any condition imposed on a permit approval, specifically including conditions of approval of a special use permit, site plan, administrative adjustment, or variance.
(x) Adult Business. Any person violating any provision of Section 6.5 shall, upon conviction, be guilty of a Class 3 misdemeanor and be punishable by a fine not to exceed $500.00 or imprisoned for not more than 30 days. Each day such violation shall continue shall constitute a separate offense.
(xi) Flood Damage Prevention.
(xii) Subdivisions.
(xiii) Erosion Control (see Section 10.4).
(xiv) Otherwise undertaking any development or establishing any use in a manner than does not comply with this Ordinance.

Section 10.3 Procedures

(a) Notice of Violation

(i) When the Planning Director or Permitting and Code Enforcement Director receives a written, signed complaint alleging a violation of this Ordinance, the Planning Director or Permitting and Code Enforcement Director shall investigate the complaint.

(ii) Upon determination that a violation exists, written notice must be provided to the property owner and/or lessee. Written notice shall be served in any manner permitted by NCGS Section 1A-1, rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, registered mail, USPS signature confirmation, or by a designated delivery service pursuant to 26 U.S.C. Section 7502(f)(2), notice may be given by publication consistent with NCGS Section 1A-1, rule 4(j)1. Such notice must include:

1) A description of the property involved.
2) Applicable sections of the Unified Development Ordinance upon which the violation is based.
3) A statement of the nature of the violation.
4) An opportunity to correct the violation within 10 days of receipt of such notice before any civil penalties are incurred. Dependent upon the nature/scale of the violation, the Planning Director or Permitting and Code Enforcement Director may grant an extension.

(b) Appeal

(i) Any owner and/or lessee who has received a notice of violation may appeal in writing the decision of the Planning Director or Permitting and Code Enforcement Director to appropriate decision making body within 15 days following the date of the notice of violation per Table 3.1: Development Review Procedures. In the absence of an appeal, the decision of the Planning Director or Permitting and Code Enforcement Director shall be final.

(c) Remedies Cumulative

(i) The remedies and enforcement powers established in this Ordinance are cumulative. All remedies and penalties are in addition to all other provisions, and not in lieu or exclusive thereof.

(ii) The violation of any section or provision of this Ordinance shall not constitute a criminal violation, unless otherwise indicated, but shall be enforceable through civil procedures.

(iii) The County shall issue civil citations and penalties for any violation of this Ordinance.

(iv) Equitable Relief. The County may apply to any court of competent jurisdiction for an appropriate equitable remedy. It shall not be a defense to the County's application for equitable relief that there is an adequate remedy at law.

(v) Combination of Remedies. The County may choose to enforce this section by any one, all, or a combination of civil remedies or equitable relief.

(d) Withhold Permit

(i) In accordance with NCGS 153A-362, the Planning Director or Permitting and Code Enforcement Director is authorized to deny, withhold or revoke permits or inspections permissions on any new or existing projects or applications pursuant to this Ordinance or other regulations of the County where the applicant, applicant business or agent has failed or refused to comply with this Ordinance.

(ii) The Planning Director or Code Enforcement Director is authorized to deny, withhold, or revoke County issued permits and inspections permissions on any new or existing project or applications where the applicant or applicant business or agent is not in compliance with federal or state issued permits as determined by the permitting agencies.

(e) Forfeiture and Confiscation of Signs

(i) Any sign installed or placed on public property, except with the regulations of this Ordinance, will be subject to forfeiture to the public and confiscation. In addition to other remedies and penalties of this section, the County has the right to recover from the sign owner, or person who has placed the sign, the full costs of sign removal and disposal.

(f) Stop Work Order

(i) When the violation is in relation to the construction and/or modification of a structure, a stop work order may be issued in accordance with NCGS 153A-361. Individuals may appeal stop work orders with the Planning Director or Permitting and Code Enforcement Director within 15 business days of receiving the order.

(g) Schedule for Civil Penalties

(i) Unless otherwise provided in the Ordinance, the penalty fee schedule for civil penalties shall be set forth in the fee schedule established by the Board of Commissioners and available through the office of the County Manager.

Section 10.4 Soil and Erosion Control Enforcement Procedures

Section 10.4.1 Inspections and Investigations

(a) Inspection. Agents, officials, or other qualified persons authorized by the County, will periodically inspect land-disturbing activities to ensure compliance with the Act, this ordinance, or rules or orders adopted or issued pursuant to this ordinance, and to determine whether the measures required in the Plan are effective in controlling erosion and sedimentation resulting from land-disturbing activity. Notice of the right to inspect shall be included in the certificate of approval of each Plan.

(b) Willful Resistance, Delay or Obstruction. No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the County, while that person is inspecting or attempting to inspect a land-disturbing activity under this section.

(c) Notice of Violation. If the County determines that a person engaged in land-disturbing activity has failed to comply with the Act, this ordinance, or rules, or orders adopted or issued pursuant to this ordinance, a notice of violation shall be served upon that person. The notice may be served by any means authorized under GS 1A-1, Rule 4. The notice shall specify a date by which the person must comply with the Act, or this ordinance, or rules, or orders adopted pursuant to this ordinance, and inform the person of the actions that need to be taken to comply with the Act, this ordinance, or rules or orders adopted pursuant to this ordinance. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64 and this ordinance.

(d) Investigation. The County, shall have the power to conduct such investigation as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the sites of any land-disturbing activity.

(e) Statements and Reports. The County, shall also have the power to require written statements, or filing of reports under oath, with respect to pertinent questions relating to land-disturbing activity.

SECTION 10.4.2 Penalties

(a) Civil Penalties

(i) Civil Penalty for a Violation. Any person who violates any of the provisions of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, is subject to a civil penalty. The maximum civil penalty amount that the County may assess per violation is five thousand dollars ($5,000.00). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation. When the person has not been assessed any civil penalty under this subsection for any previous violation, and that person abated continuing environmental damage resulting from the violation within 180 days from the date of the notice of violation, the maximum cumulative total civil penalty assessed under this subsection for all violations associated with the land-disturbing activity for which the erosion and sedimentation control plan is required is twenty-five thousand dollars ($25,000).

(ii) Civil Penalty Assessment Factors. The governing body of the County shall determine the amount of the civil penalty based upon the following factors:

(1) the degree and extent of harm caused by the violation,
(2) the cost of rectifying the damage,
(3) the amount of money the violator saved by noncompliance,
(4) whether the violation was committed willfully, and
(5) the prior record of the violator in complying of failing to comply with this ordinance.

(iii) Notice of Civil Penalty Assessment. The governing body of the County shall provide notice of the civil penalty amount and basis for assessment to the person assessed. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4. A notice of assessment by the County shall direct the violator to either pay the assessment, contest the assessment within 30 days by filing a petition for hearing with the County (as directed by procedures within the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program), or file a request with the Sedimentation Control Commission for remission of the assessment within 60 days of receipt of the notice. A remission request must be accompanied by a waiver of the right to a contested case hearing pursuant to Chapter 150B of the North Carolina General Statutes and a stipulation of the facts on which the assessment was based.

(iv) Final Decision: The final decision on contested assessments shall be made by the governing body of the County in accordance with (the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program.)

(v) Appeal of Final Decision. Appeal from the final decision of the governing body of the County shall be to the Superior Court of the county where the violation occurred. Such appeals must be made within 30 days of the final decision of the governing body of the County.

(vi) Collection. If payment is not received within 60 days after it is due, the County may institute a civil action to recover the amount of the assessment. The civil action may be brought in the Superior Court of the county where the violation

occurred, or the violator's residence or principal place of business is located. Such civil actions must be filed within three (3) years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(vi) Credit of Civil Penalties. The clear proceeds of civil penalties collected by the County under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Penalties collected by the County may be diminished only by the actual costs of collection. The collection cost percentage to be used shall be established and approved by the North Carolina Office of State Budget and Management on an annual basis, based upon the computation of actual collection costs by each County for the prior fiscal year.

[In any event, the cost percentage shall not exceed twenty percent (20%) of penalties collected.]

(b) Criminal Penalties. Any person who knowingly or willfully violates any provision of this ordinance, or rule or order adopted or issued pursuant to this ordinance, or who knowingly or willfully initiates or continues a land-disturbing activity for which a Plan is required except in accordance with the terms, conditions, and provisions of an approved Plan, shall be guilty of a Class 2 misdemeanor which may included a fine not to exceed $5,000 as provided in G.S. § 113A-64.

SECTION 10.4.3 Injunctive Relief

(a) Violation of Local Program. Whenever the governing body has reasonable cause to believe that any person is violating or threatening to violate any ordinance, rule, regulation or order adopted or issued by the County, or any term, condition, or provision of an approved Plan, it may, either before or after the institution of any other action or proceeding authorized by this ordinance, institute a civil action in the name of the County, for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

(b) Abatement of Violation. Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under this section

shall not relieve any party to the proceedings from any civil or criminal penalty prescribed for violations of this ordinance.

10.4.4 Restoration After Non-Compliance

The County, may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57 (3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this ordinance.

DRAFT

XI

Definitions

Article XI. DEFINITIONS

Section 11.1 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 or, for more planning-specific terminology, their definition found in the most recent edition of "*A Planners Dictionary*", published by the American Planning Association.

Section 11.2 Definitions

A

Abandonment
The relinquishment of property, or cessation of the use of property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.
Accessory Dwelling
See dwelling, accessory.
Accessory Equipment
Any equipment serving or being used in conjunction with a wireless communication facility or wireless support structure. The term includes utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or similar structures.
Addition
An extension or increase in the floor area or height of an existing building or structure.
Administrative Adjustment
A review mechanism that provides relief where the strict application of the Ordinance creates practical difficulties in allowing development.
Administrative Agency
The administrative agency responsible for enforcement of this Ordinance is Jackson County or the appropriate County department charged with administration of this Ordinance.
Administrative Approval
Approval that the planning department is authorized to grant after administrative review.
Administrative Review
A non-discretionary evaluation of an application by the planning department. This process is not subject to a public hearing. The procedure for administrative review is set forth in Section 3.7.3 of this Ordinance.
Adult Bookstore
An establishment that receives a majority of its gross income during any calendar month from the sale of publications including books, magazines, videotapes, other periodicals, electronic, magnetic, digital, or other imaging medium that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section and in NCGS 14-202.10(10) and NCGS 14-202.10(11) and/or merchandise that are "sexually oriented devices," as defined in NCGS 14-202.10(9); or an establishment having as a preponderance of its publications, books, magazines, videotapes, other periodicals, electronic, magnetic, digital, or other imaging medium that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section and in NCGS 14-202.10(10) and NCGS 14-202.10(11).

Adult Cabaret
A nightclub, bar, restaurant, or similar commercial establishment that regularly features: Persons who appear in a state of nudity or semi-nude; or Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, as defined in this section and in NCGS 14-202.10(10) and NCGS 14-202.10(11); or Films, motion pictures, video cassettes, slides, electronic, magnetic, digital or other imaging medium that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section and in NCGS 14-202.10(10) and NCGS 14-202.10(11).

Adult Establishment
An adult bookstore, adult cabaret, adult motel, adult motion picture theatre, adult mini motion picture theatre, adult live entertainment business, and/or massage business as defined in this section. Additionally, any structure or use of land which meets the definition of adult establishment as outlined in NCGS 14-202.10.

Adult Live Entertainment
Any performance of or involving the actual presence of real people that exhibits specified sexual activities or specified anatomical areas, as defined in this section.

Adult Live Entertainment Business
Any establishment or business wherein adult live entertainment is shown for observation by patrons.

Adult Mini Motion Picture Theatre
An enclosed building with viewing booths designed to hold patrons that is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this section, for observation by patrons therein.

Adult Motel
A hotel, motel, or similar commercial establishment that: Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides, electronic, magnetic, digital, or other imaging medium that are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section and in NCGS 14-202.10(10) and NCGS 14-202.10(11), other than transmission of broadcast media or generally available cable media; or has a sign visible from the public right-of-way that advertises the availability of this type of imaging medium; or offers a sleeping room for rent for a period of time that is less than ten hours; or allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten hours.

Adult Motion Picture Theatre
An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this section, for observation by patrons therein. Adult motion picture theatre does not include any adult mini motion picture theatre as defined in this section.

Adult Uses
An adult bookstore, adult cabaret, adult motel, adult motion picture theatre, adult mini motion picture theatre, adult live entertainment business, and/or adult massage business as defined in NCGS 14-202.10. Additionally, any structure or use of land which meets the definition of adult establishment as outlined in NCGS 14-202.10.

Adverse Impacts
Adverse impacts pertaining to stormwater may be defined as: cumulative impacts of allowing small rises in flood elevation that accumulate into significant and hazardous changes, subjecting properties to greater flood risks; increased storm water velocities that worsen erosion, degradation, sedimentation, streambank failure, and new stream channel formation; Increased destructive potential as what were once manageable storms become major producers of flood damage and associated economic, social, and public health disruptions; and detrimental effects upon water quality or best usages, including a violation of water quality standards, caused by or contributed to by a discharge or loading of a pollutant or pollutants.

Affiliate
A person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.

Airport
The Jackson County Airport.
Airport Elevation
The Jackson County Airport elevation is 2,857 feet above mean sea level (msl).
Amortization
The gradual elimination of nonconforming situations in junkyards within five years following the date of adoption of this Ordinance.
Antecedent Moisture Conditions (AMC)
The degree of wetness of a watershed at the beginning of a storm.
Antenna
Communications equipment that transmits, receives, or transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.
Appeal
A request for a review of the Planning Director or Permitting and Code Enforcement Director for interpretation of any provision of this Ordinance.
Applicant
The person(s), whether the person is financially responsible, who submits a formal application to the Planning Director or Permitting and Code Enforcement Director or designee thereof, for a permit to conduct an action under this Ordinance, or to initiate a procedure prescribed by this Ordinance. The term applicant shall include all partners, if the applicant is a partnership, and if the applicant is a corporation, shall include all corporate officers and directors. If the applicant is other than an individual, each individual who has a financial or other interest shall be considered an applicant.
Application
The completed form or forms and all accompanying documents, exhibits, and fees required of an applicant by the applicable department, board, or commission for development review, approval, or permitting purposes.
Approach, Transitional, Horizontal, and Conical Zones
These zones are set forth in Section 9.2 of this Ordinance.
Area of Shallow Flooding
A designated zone AO on a community's flood insurance rate map (FIRM) with base flood depths determined to be from one to three 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.
Asphalt Plant
Includes establishments, with all related equipment, for the manufacture and production of asphalt and tar paving mixtures and blocks from purchased asphaltic materials (NAICS 324121). Also included in this definition are establishments engaged in manufacturing asphalt and tar paving mixtures and blocks and roofing cements and coatings from purchased asphaltic materials and/or saturating purchased mats and felts with asphalt or tar (NAICS 32412 and 324122).
Assisted Living Facility
Includes any group housing and services program for two of more unrelated adults, however named, which makes available, at a minimum, one meal a day and housekeeping services and provides personal care services directly or through a formal written agreement with one or more North Carolina licensed home care or hospice agencies.
Automotive Repair Shop
An establishment which is maintained and operated for the purpose of making mechanical and/or body repairs to motor vehicles and which is not used to store more than 12 motor vehicles that are not capable of being driven under their own power and are not being restored to operable condition, regardless of the length of time that individual motor vehicles are stored or kept at such property.
Automobile Service Station
A business used for the sale of gasoline and other motor vehicle fuels and may provide for the minor care, repair, or maintenance of motor vehicles.
Automotive Storage Facility
Includes establishments primarily intended for the short or long-term storage of wrecked or inoperative automobiles pending sale of the entire automobile. This definition does not include establishments where the storage of automobiles is ancillary to the repair of the automobiles stored, such as at a garage or repair shop.

Auxiliary Lane
The portion of the roadway adjoining the traveled way for speed change, turning, storage for turning, weaving, truck climbing, or for other purposes

B

Bag House
A facility designed to contain fabric filter collectors and intended to regulate and control the emission of dust and other particulate matter.
Base Flood
The flood having a one percent chance of being equaled or exceeded in any given year.
Base Flood Elevation (BFE)
A determination of the water surface elevations of the base flood as published in the flood insurance study. When the BFE has not been provided in a special flood hazard area, it may be obtained from engineering studies available from a federal, state, or other source using FEMA approved engineering methodologies. This elevation, when combined with the freeboard, establishes the regulatory flood protection elevation.
Base Flow
Stream discharge derived from groundwater sources as differentiated from surface runoff. Sometimes considered to include flows from regulated lakes or reservoirs.
Base Station
A station at a specific site authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies and other associated electronics.
Basement
Any area of the building having its floor subgrade (below ground level) on all sides.
Bearing Capacity
The maximum load that a material can support before failing.
Bed and Breakfast (B&B)
A transient lodging establishment, generally in a single-family dwelling or detached guesthouse, primarily engaged in providing overnight or otherwise temporary lodging for the general public.
Berm
A narrow shelf or flat area that breaks the continuity of a slope.
Best Management Practice (BMP)
A structural or nonstructural management-based practice used singularly or in combination to reduce nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
Blue Smoke
A visible aerosol emission capable of traveling long distances before dissipating sufficiently to become invisible. These emissions are normally produced at a hot mix asphalt plant. Blue smoke may be generated by process emissions conducted to a single discharge point or fugitive emissions resulting from such activity as vehicular traffic and may transfer between plant components
Board of Adjustment (BOA)
An officially constituted body whose principal duties are to grant variances from the strict application of this Ordinance and to grant special uses and hear appeals as provided by law. For the purposes of this Ordinance, the name BOA may mean any appeal body (see Table 3.1: Development Review Procedures) other than the Superior Court.
Borrow
Fill material which is required for on-site construction and is obtained from other locations.
Borrow Area
A source of earth fill material used in the construction of embankments or other earth fill structures.

Broadband
Another term for bandwidth, or the amount of data that can be sent through a connection to access high-speed internet.
Buffer
An area of natural or planted vegetation or an area of such vegetation in combination with berms, fences, and/or walls serving as a separation between two areas or land uses; and, 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.
Buffer, Riparian
See riparian buffer.
Buffer, Stormwater
See stormwater buffer.
Buffer, Vegetative
A continuous hedge or other planted area used to enclose, screen, or separate one use or lot from another.
Buffer Zone
The strip of land adjacent to a lake or natural watercourse.
Bufferyard
A yard containing materials used to provide sight and sound screening from adjoining properties and rights-of-way. The required height and width of the buffer yard and materials used in its construction vary according to use.
Building
Any structure having a roof supported by columns or by walls, and intended for shelter, housing or enclosure of persons, animals, chattels, or property. The connection of two buildings by means of an open porch, breezeway, passageway, carport or other such open structure, with or without a roof, shall not be deemed to make them one building. The term building includes the term structure. The term building shall be construed as if followed by the terms "or part thereof." See structure.
Building and Grading Envelope (BGE)
The limits of disturbance affected by the establishment of a building and grounds. All buildings, walls, lawns, site amenities, and associated disturbance from construction activity shall be confined within this zone. The BGE may be sited in one mass or apportioned into several smaller compounds connected by walks or drives. Driveways are not included in the overall BGE but parking areas and garages are.
Building Footprint
The area around a building measured from the width of the outer surface of the exterior multiplied by the length measured in the same manner.
Building Height
See height, building.
Building Height Limitation
The elevation above mean sea level (msl) above which no structure shall be permitted to be erected or constructed or allowed to grow.
Building Permit
An official administrative authorization issued by Jackson County prior to beginning construction consistent with the provisions of NCGS 160A-417.
Building, Elevated
Anon-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
Built-Upon Areas
That portion of a development project that is covered by impervious or partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lots, paths, etc.), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water areas of a swimming pool are considered pervious.)

C

Caliper
Diameter measurement of tree-trunk taken at 6 inches above ground level (or 6 inches above the tree's root ball if the tree is unplanted) for trees up to and including trees 4 inches in caliper. For larger trees, measurement of caliper shall be taken at 12 inches above ground level.

Camouflage
The use of any combination of materials or coloration that disguises wireless support structures or towers and antennas as something else (such as a tree).

Carrier on Wheels/Cell on Wheels (COW)
A portable self-contained wireless facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

Cashiers Commercial Area
The area indicated on the map entitled Cashiers Commercial Area as the portion of the Village of Cashiers subject to the development standards set forth herein.

Certified Local Government (CLG) Programs
Programs 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.

Change of Land Use
Any proposed property use that is different from the current use of the property, or current use that is different than the use identified in a pre-existing driveway permit.

Channel
A natural stream or excavated ditch that conveys water.

Channel Stabilization
Protecting the sides and bed of a channel from erosion by controlling flow velocities and flow directions using jetties, drops or other structures and/or by lining the channel with a suitable liner such as vegetation, riprap, concrete or other similar material.

Channelization
Alteration of a stream channel by widening, deepening, straightening, or paving certain areas to improve flow characteristics.

Chemical Storage Facility
A building, portion of a building, or exterior area adjacent to a building used for the storage of any chemical or chemically reactive products.

Child Care Home
A home for not more than nine orphaned, abandoned, dependent, abused or neglected children, together with not more than two adults who supervise such children, all of whom live together as a single housekeeping unit.

Child Care Institution
An institutional facility housing more than nine orphaned, abandoned, dependent, abused or neglected children.

Church or Place of Religious Worship
An institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term church shall not carry a secular connotation and shall include buildings in which the religious services of any denomination are held.

Civic Event
An event held, organized, and/or sponsored by a governmental agency, an agency or organization funded by a local government, a recognized non-profit civic agency or organization, a religious organization, or similar agency or organization.

Cluster Development
The grouping of buildings in order to conserve land resources and provide for innovation in the design of the project including minimizing stormwater runoff impacts. The term cluster development includes nonresidential development as well as single-family residential and multifamily developments.

Co-location
The placement or installation of wireless communication facilities on existing structures, including electrical transmission towers, water towers, buildings and other structures capable of structurally supporting the attachment of wireless communication facilities in compliance with applicable codes.

Common Open Space
Land or water, including parks, natural areas, playgrounds, trails, or recreational buildings and structures, which is an integral part of a development, not owned on an individual basis, for public use and enjoyment. Common open space areas in more urban developments may also include, but are not limited to, public plazas, fountains, and performance stages.

Communications
The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

Completion of Construction or Development
No further land disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.

Compost
Organic residue or a mixture of organic residues and soil, that has undergone biological decomposition until it has become relatively stable humus.

Conical Surface (Runway)
A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.

Connectivity
A term used to infer connections between adjoining properties for vehicular and/or pedestrian usage.

Conservation District
A public organization created under state enabling law as a special-purpose district to develop and carry out a program of soil, water, and related resource conservation, use, and development within its boundaries, usually a subdivision of state government with a local governing body but with limited authorities. Often called a soil conservation district or a soil and water conservation district.

Construction
Any new construction, reconstruction, alteration or expansion.

Construction, New
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.

Construction, Start of
Includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

Construction Waste
Surplus materials resulting from on-site construction and disposed of at other locations.

Construction Waste Areas
Areas used for the stockpiling or burial of surplus materials resulting from on-site construction and disposed of at other locations.
Contour
An imaginary line on the surface of the earth connecting points of the same elevation.
Corner Clearance
At an intersection of two streets, the distance measured from the edge of pavement curb line or the intersection of the right-of-way lines to the beginning of outside driveway radius.
County
Jackson County, North Carolina.
County Commissioners
The Board of Commissioners of the County of Jackson, North Carolina.
Crest
The uppermost line of a mountain or chain of mountains from which the land falls away on at least two sides to lower elevation or elevations.
Critical Area
The area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than from the remaining portions of the watershed. The critical area is defined as extending either one-half mile from the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed (whichever comes first); or one-half mile upstream from the intake located directly in the stream or river (run-of-the-river), or the ridge line of the watershed (whichever comes first). Local governments may extend the critical area as needed. Major landmarks such as highways or property lines may be used to delineate the outer boundary of the critical area if these landmarks are immediately adjacent to the appropriate outer boundary of one-half mile.
Cross Access
A service drive providing vehicular access between two or more continuous properties so that the driver need not enter the public street system to travel between adjacent uses.
Cul-De-Sac
A road open at one end only, with a bulb end design of a specific turning radius for turning around.
Cullowhee Community Planning Area
That area indicated on the map entitled Cullowhee Community Planning Area as the portion of the Cullowhee community subject to the development standards set forth herein.
Cut
Portion of land surface or area from which earth has been removed or will be removed by excavating; the depth below the original ground surface to the excavated surface.
Cut and Fill
Process of earth grading by excavating part of a higher area and using the excavated material for fill to raise the surface of an adjacent lower area.
Cut Slope
Any area of ground subject to a land-disturbing activity forming an artificial incline, expressed as the ratio of horizontal to vertical projection; an area of ground where earth material is to be or has been removed by excavation or other methods used by man, and that exposes lower horizons of earth material in situ, and where any face of the excavated area lies in repose at any angle other than a horizontal plane.

D

Day Care Center
Any child care arrangement that provides day care on a regular basis for more than four hours per day for more than five children of preschool age.
Detention
Managing stormwater runoff by temporary holding and controlled release.
Detention Time
The theoretical time required to displace the contents of a tank or unit at a given rate of discharge (volume divided by rate of discharge).
Development
Any one or more of the following:

- Any activity requiring a building permit
- 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
- 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
- Any land disturbing activity requiring a permit pursuant to the county sediment control ordinance
- Any development, as defined in Section 5.6, proposed within a flood hazard area
- Any activity requiring a watershed protection occupancy permit pursuant Section 5.4
- Any other activity regulated by the county land use ordinances, including, without limitation, the following: industrial development ordinance, mountain ridge protection ordinance, off-premise sign control ordinance, Scotts Creek water quality protection ordinance, wireless telecommunication tower construction ordinance.

Development, Existing
Those projects that are built or those projects that at a minimum have established a vested right under state zoning law as of the effective date of the ordinance from which this Ordinance is derived, 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
- Having an outstanding valid building permit as authorized by the General Statutes. Existing development means those projects that are built or those projects that at a minimum have established a vested right under state zoning law as of the effective date of the ordinance from which this article is derived, 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;
    - Having an outstanding valid building permit as authorized by the General Statutes (NCGS 153A-344.1 and 160A-385.1); or
    - Having an approved site specific or phased development plan as authorized by the General Statutes (NCGS 153A-344.1 and 160A-385.1).

Development, Multi-Family Residential
Any housing development other than a single-family detached residence. This definition includes, without limitation, apartment complexes, townhomes and duplexes.
Development, Multiple Tenant
A development containing a number of individual and/or separate activities or businesses that share facilities such as parking, pedestrian areas, etc.
Development, Nonresidential

all development other than residential development, agriculture and silviculture.

Development, Single-Family Residential

Any development where: (1) No building contains more than one dwelling-unit; (2) Every dwelling unit is on a separate lot; and (3) Where no lot contains more than one dwelling unit.

Director

Director may mean The Director of the Jackson County Planning Department or his/her designee or the Permitting and Code Enforcement Director or his/her designee.

Discharge

Usually the rate of water flow; a volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day.

Discharge Point

The point at which runoff leaves a tract of land.

Discharging Landfill

A landfill which discharges treated leachate and which requires a National Pollution Discharge Elimination System (NPDES) permit.

Disposal

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.

Distribution Center

A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.

Disturbed Areas

Those areas where the ground cover on or above the soil surface is removed, including trees, grasses or pavements or other surfaces either natural or manmade.

Drainage

The removal of excess surface water or groundwater from land by means of ditches or subsurface drains.

Drainage, Natural

The flow patterns of storm water runoff over the land in its pre-development state.

Drainageway

A natural or artificial depression that carries surface water to a larger watercourse or outlet such as a river, lake, or bay

Drive-Through Lane

A travel lane that provides vehicular access to a customer service facility located within the principal structure or within an accessory structure, which is intended to enable the customer to transact business with a customer service person located with the principal structure (or with an automated service machine) without exiting the motor vehicle. The lane provides access to and egress from the drive through facility.

Driveway

An entrance used by vehicular traffic to access property abutting a street. As used in this Ordinance, the term includes private residential, nonresidential, and mixed-use driveways.

Driveway Angle

The angle between the driveway centerline and the edge of the travel way.

Driveway Throat

The portion of a driveway between the public road and the internal circulation system or area where parking maneuvers occur.

Dwelling Unit

A house, mobile home, apartment, condominium or a group of dwellings occupied or intended for occupancy as separate living quarters for one or more humans.

Dwelling Unit, Accessory

A separate and complete dwelling unit located on the same lot as the single-family dwelling or business that is the principal building or use.

Dwelling Unit, Multi-Family

A single structure containing more than two dwelling units.

Dwelling Unit, Single-Family

A building designed exclusively as a residence for only one family and not attached to any other building or dwelling units.

Dwelling Unit, Single Family Attached (Duplex)

A building designed as a single structure, containing two separate residences, each of which is designed to be occupied as a separate permanent residence for one family

Dwelling Unit, Temporary (Medical Pod, Care Home)

A transportable residential structure that:

- Provides an environment facilitating a caregiver's provision of care for a mentally or physically impaired person.
- Must be used for activities of daily living such as bathing, dressing, personal hygiene, ambulation or locomotion, transferring, toileting, and eating.
- Is limited to one occupant which shall be the mentally or physically impaired person.

E

Earth Material

Any rock, natural soil or fill or any combination thereof.

Electrical Transmission Tower

An electrical transmission structure used to support high voltage overhead power lines. The term shall not include any utility pole.

Elevation

Height above mean sea level.

Eligible Facilities Request

A request for modification of an existing wireless tower or base station that involves collocation of new transmission equipment or replacement of transmission equipment but does not include a substantial modification.

Encroachment

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.

Energy Dissipater

A structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.

Enforcement Officer

The Permitting and Code Enforcement Director and/or his/her designee.

Entertainer

Any person who provides entertainment within or at an adult establishment, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided by that person as an employee or an independent contractor.

Environment

The sum total of all the external conditions that may act upon a living organism or community to influence its development or existence.

Equipment Compound

An area surrounding or near the base of a wireless support structure within which are located wireless communication facilities.

Erodibility

Susceptibility to erosion.

Erosion

The wearing away of the land surface by water, wind, ice, gravity, or other geological agents. The following terms are sued to describe different types of water erosion:

- Accelerated erosion—Erosion much more rapid than normal or geologic erosion, primarily as a result of land disturbing activity.
- Channel erosion—The erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.
- Gully erosion—The erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from 1 to 2 feet to as much as 75 to 100 feet.
- Natural erosion— the wearing away of the earth's surface by water, wind, or other natural agents under natural environmental conditions undisturbed by man.
- Rill erosion—An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils. See Rill.
- Splash erosion—The spattering of small soil particles caused by the impact of raindrops on wet soils. The loosened and spattered particles may or may not be subsequently removed by surface runoff.
- Sheet erosion—The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

Erosion Control Measure
A measure, structure, or device which controls the soil material within the land area under responsible control of the person conducting the land disturbing activity.

Excavation
A land-disturbing activity involving the mechanical removal of earth material.

F

Fall Zone
The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

Family – conflicts w other ordinances
One or more persons occupying a single dwelling unit, provided that unless all members are related by blood or marriage or adoption, no such family shall contain over five persons, but further provided that domestic servants employed or living on the premises may be housed on the premises without being counted as a family or families.

Family Care Home
A residential dwelling unit provided by an agency, organization or individual with or without resident support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons with disabilities, as person with disabilities is defined in NCGS 168-21 (or its successor). This definition shall include homes designed for the support of those in recovery from substance abuse or other homes for disabled persons that are not required licensing by the state.

Farm, Bona Fide
A farm that meets the qualifications set forth in NCGS 153A-340 that is exempt from zoning regulations for any building or structure except for those used on the farm property for non-farm purposes.

Farm, Hobby
A small farm that is maintained by a private individual for hobby or as a lifestyle without exception of being a primary source of income.

Federal Communications Commission (FCC)
The Federal Communications Commission, or its duly designated and authorized successor agency.

Federal Aviation Administration (FAA)
The Federal Aviation Administration, or its duly designated and authorized successor agency.

Fill
A deposit of earth material placed by artificial means.

Fill Slope
Any area of placed earth material that has been or will be subject to a land disturbing activity forming an artificial incline, expressed as the ratio of horizontal to vertical projection; an area where soil is to be or has been placed by excavation or other methods used by man, and where any face of the excavated area lies in repose at any angle other than a horizontal plane.

Filling
A land-disturbing activity involving the placement of fill material, including the temporary stockpiling of fill material.

Final Objective
The type of structure or use resulting from the land disturbing activity.

Financial Institution
A bank, savings bank or other institution/business involved in the banking business.

Flood Boundary and Floodway Map (FBFM)
An official map of a community, issued by the Federal Emergency Management Agency, on which the special flood hazard areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the flood insurance rate map (FIRM).

Flood Hazard Area, Special (SFHA)
The land in the floodplain subject to a one percent or greater chance of being flooded in any given year.

Flood Hazard Boundary Map (FHBM)
An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the special flood hazard areas have been defined as Zone A.

Flood Insurance
The insurance coverage provided under the National Flood Insurance Program.

Flood Insurance Rate Map (FIRM)
An official map of a community, issued by the Federal Emergency Management Agency, on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated.

Flood Insurance Study (FIS)
An examination, evaluation, and determination of flood hazards, corresponding water surface elevations (if appropriate), flood hazard risk zones, and other flood data in a community issued by the Federal Emergency Management Agency. The flood insurance study report includes flood insurance rate maps (FIRMs) and flood boundary and floodway maps (FBFMs), if published.

Flood or Flooding
- A general and temporary condition of partial or complete inundation of normally dry land areas from:
    - The overflow of inland or tidal waters and/or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood Prone Area
See floodplain.

Flood Zone
A geographical area shown on a flood hazard boundary map or flood insurance rate map that reflects the severity or type of flooding in the area.

Floodlamp
A form of lighting designed to direct its output in a specific direction with a reflector formed from the glass envelope of the lamp itself. Such lamps are so designated by the manufacturers and are typically used in residential outdoor area lighting.

Floodlight
A form of lighting designed to direct its output in a diffuse, more or less specific direction, with reflecting or refracting elements located external to the lamp.

Floodplain
Any land area susceptible to being inundated by water from any source.

Floodplain Administrator
The Permitting and Code Enforcement Director shall be the individual appointed to administer and enforce the floodplain management regulations.

Floodplain Development Permit

Any type of permit that is required in conformance with Article V, prior to the commencement of any development activity.

Floodplain Management

The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including, but not limited to, emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodplain Management Regulations

This term describes federal, state or local regulations, in any combination thereof, which provide standards this Ordinance, building codes, health regulations, special purpose ordinances, and other applications of police power, for preventing and reducing flood loss and damage.

Flood Protection Elevation, Regulatory

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 two feet of freeboard. In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

Floodproofing

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

The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor Area Ratio (FAR)

The floor area of a building or buildings on a lot divided by the lot area.

Floor, Lowest

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.

Foot Candle (FC)

A quantitative unit measuring the amount of light (see illumination) falling onto a given point. One foot candle equals one lumen per square foot.

Foot Candle, Maintained

Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt build-up and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high-pressure sodium and 0.64 for metal halide and mercury vapor.

Franchise Architecture

Defined as building design that is trademarked or identified with a particular franchise, chain, or corporation and is generic or standard in nature.

Freeboard

For the purposes of this Ordinance, freeboard shall mean:

- 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 BFE plus the freeboard establishes the regulatory flood protection elevation.
- A vertical distance between the elevation of the design high-water and the top of a dam, diversion ridge, or other water control device.

Frontage

The length along the street right-of-way line of a single property tract or roadside development area between the edges of the property lines. Property at a street intersection (i.e., corner lot) has a separate frontage along each street.

G

Glare
The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, causing annoyance, discomfort, or loss of visual performance and ability.

Grade
For the purposes of this Ordinance, grade may be defined as:

- The slope of a road, a channel, or natural ground.
- The finished surface of a canal bed, roadbed, top of embankment, or bottom of excavation; any surface prepared to a design elevation for the support of construction such as paving or the laying of a conduit.
- To finish the surface of a canal bed, roadbed, top of embankment, or bottom of excavation, or other land area to a smooth, even condition.

Grade, Existing
The grade prior to any land-disturbing activity.

Grade, Finish (Finished Grade)
The final grade of the site, and that the topography of which will conform to the approved plan.

Grade, Highest Adjacent (HAG)
The highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

Grade, Lowest Adjacent (LAG)
The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

Grade, Rough
The condition of grading, excavation or land-disturbing activity up to the condition that approximately conforms to the approved plan or plan.

Grading
Any scraping, excavating or filling of the earth's surface or combination thereof.

Grading, Phase of
Phase of grading consists of two types: rough and fine.

Grass
A member of the botanical family *Gramineae*, characterized by blade-like leaves that originate as a sheath wrapped around the stem.

Ground Cover
For the purposes of this Ordinance, ground cover may be defined as:

- Any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.
- (Horticulture) Low-growing, spreading plants useful for low-maintenance landscape areas.

Group Home
A residential home provided by an agency, organization or individual for persons who need sheltered living conditions for rehabilitation, but not including mentally ill persons who are dangerous to others as defined in NCGS 122C-3(11)b (or its successor).

H

Habitat
The environment in which the life needs of a plant or animal are supplied.
Hazard to Air Navigation
An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
Hazardous Material
Any substance listed as such in:

- The Federal Superfund Amendments and Reauthorization Act (SARA) section 302, Extremely Hazardous Substances (42 USC 111000 et seq.);
- The Federal Comprehensive Environmental Response;
- The Compensation and Liability Act (CERCLA), Hazardous Substances (42 USC 9601 et seq.); or
- Section 311 of the Federal Clean Water Act (33 USC 1251 et seq.; oil and hazardous substances).

Hazardous Waste
Any waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency.
Hazardous Waste Management Facility
As defined in NCGS Ch. 130A, Art. 9, a facility for the collection, storage, processing, treatment, recycling, recovery, or disposal of hazardous waste.
Height (Airport)
For the purpose of determining the height limits in all zones set forth in this section and shown on the airport hazard zoning map, the datum shall be mean sea level (msl) elevation unless otherwise specified.
Height, Building
The vertical distance measured from the lowest grade point adjacent to the building wall to the highest point of the roof surface or parapet for flat and shed roofs, to the highest break line of mansard/gambrel roofs, and to the median height between edge of eave and the highest ridge for pitched/gable and hip roofs. The existing natural grade of the property may not be raised around a new building or foundation in order to comply with the height requirements of this Ordinance. Chimneys, bell towers, steeples, copulas and other similar decorative elements may extend an additional ten feet above the highest point of the roof or parapet.
Height, Wireless Telecommunications
When referring to a tower or structure, height shall be defined as the distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.
High Quality Waters
Bodies of water classified as such in 15A NCAC 2B.0101(e)(5), General Procedures, which is incorporated herein by reference to include further amendments pursuant to NCGS 150B-14(c).
High Quality Water (HQW) Zones
Areas in the coastal counties that are within 575 feet of high quality waters and for the remainder of the State areas that are within one mile and drain to HQWs.
Historic Structure
See structure, historic.
Home Occupation
Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof.

Home Occupation, Rural
Home occupations that by their nature are not compatible on small lots near other residences, and may require an outdoor storage area for goods and materials associated with the business. Examples include auto repair and general contractors.
Horizontal Surface (Runway)
A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
Hydraulic Fracturing
The forcing open of fissures in subterranean rocks by introducing liquid at high pressure to extract oil or gas.
Hydrograph
A graph showing for a given point on a stream the discharge, stage (depth), velocity, or other property of water with respect to time.
Hydrology
The science of the behavior of water in the atmosphere, on the surface of the earth, and underground.

I

Illuminance
The amount of light falling on a surface, measured in lux or foot-candles.
Illuminating Engineering Society of North America (IESNA)
The Illuminating Engineering Society of North America, a nonprofit professional organization of lighting specialists that has established recommended design standards for various lighting applications.
Illumination
See lighting, direct illumination.
Impervious
Not allowing infiltration.
Impervious Surface
Areas developed and/or whose surface is treated or covered by impenetrable materials so as to prevent or limit the infiltration of rain water. Examples of development and surface treatments that render a surface impervious include:

- Buildings (green roofs shall not count as impervious surfaces);
- Asphalt, BST, and other pavement materials;
- Concrete and cement;
- Stone, brick, concrete block, and similar materials;
- Gravel; and
- Compacted soil.

Impoundment
Generally, an artificial water storage area, as a reservoir, pit, dugout, sump, etc.
Industrial Development
Any nonresidential development that requires a National Pollutant Discharge Elimination System (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.
Industry, Heavy
A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials; or a use engaged in storage of, or manufacturing processes using flammable or explosive materials; or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions, including but not limited to the following: acids (except non-corrosive acids), ammonia, ammonium nitrate, animal byproducts, bleaching powder, cellulose, chlorine, creosote and creosote treatment,

detergents, enamels, lacquers, linoleum, oilcloth, paints, paper pulp, pigments, lime, plastic, rubber (except tire re-cappers), soaps, tannery products, turpentine, varnishes, whiting and/or wood fillers, and environmentally hazardous materials.

Internet Sweepstakes/Video Sweepstakes Operation, Café, or Parlor

Any establishment that:

(1) Is established for the purpose of providing internet gaming services.
(2) Utilizes internet-based gaming to facilitate said services to patrons.
(3) Where patrons purchase internet or phone minutes in order to play games that are based on random chance.
    - Games offered at the establishment require no physical or mental dexterity; a winning game can only be achieved through statistically random means.
    - Games offer the opportunity for patrons to gain prizes through the means of using internet or phone minutes as tools to achieve acquisition. When prizes are achieved, the patron may be given the opportunity to sell back acquired prizes to the vender, who in turn gives currency back to the player. The establishment makes a profit from patrons losing money through the means of internet and phone minutes.
    - Games that require dexterity or any other physical/mental skill set for success shall not be included in this definition. Internet cafés without sweepstakes redemptions, video arcades, wifi cafés etc. shall not be considered internet/sweepstakes redemption café uses and shall not be included in this definition.

Intersection

The point at which two or more public streets or roads meet and/or cross. For the purpose of this Ordinance, an intersection shall begin at the nearest edge of the crossing road or from the beginning of an exit ramp and the end of an acceleration ramp, whichever distance is greater.

J

Jackson County Board of Commissioners

The governing body of Jackson County with the exception of when applications for special use permits are located within the zoning jurisdiction of a municipality. In these cases, Jackson County Board of Commissioners means the governing body of the municipality in which the zoning jurisdiction is located.

Joint Access Driveway

A single driveway serving two or more lots. A joint access driveway may cross a lot line or be on a lot line, and the owners may have an easement for the shared use function of the driveway.

Junk

Old or scrap copper, brass, iron, steel or other metals, or materials including but not limited to tires, household appliances, furniture, rope, rags, batteries, glass, rubber debris, waste, trash, construction debris, plumbing fixtures, or any discarded, dismantled, wrecked, scrapped, or mined motor vehicle or parts thereof.

Junk Yard

Any land or area used, in whole or in part, for commercial storage and/or sale of waste paper, rags, scrap metal, or other junk, and including storage of junked vehicles or machinery and dismantling of such vehicles or machinery.

Junked Vehicle

A motor vehicle that:

- is partially dismantled or wrecked;
- cannot be self-propelled or moved in the manner in which it was originally intended to move; or
- does not display a current license plate when the motor vehicle is required by laws of this state to have such a license plate to operate on public roads, unless stored within an enclosed structure.

L

Lake
Natural or artificial bodies of water or two or more acres and/or where the deepest part of the bas at low water exceeds two meters (6.6 feet). This term does not include artificial bodies of water with a recirculation system. See also watercourse, natural and watercourse, artificial.

Land Disturbing Activity
(1) Any use of the land by any person in residential, industrial, educational, institutional, or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation; and,
(2) Any grading of land, any clearing of vegetation, and any construction or rebuilding of a building or structure. This term shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, the upkeep of yard and grounds, repairs, and the cutting of firewood for personal use.

Landfill
A facility for the disposal of solid waste on land in a sanitary manner in accordance with Chapter 130A Article 9 of the North Carolina General Statutes (NCGS 130A-290 et seq.). For the purpose of this article, the term landfill does not include composting facilities.

Light Source
The element of a lighting fixture that is the point of origin of the lumens emitted by the fixture.

Light Trespass
Light emitted by a lighting installation that falls outside the boundaries of the property on which the installation is sited. Light trespass has adverse effects on residents, vehicle operators and pedestrians, and the natural environment.

Lighting, Cutoff
A light distribution designation for a fixture that has no more than 2.5 percent of the lamp's light (intensity) emitted at or above a horizontal (plane) line drawn through the bottom of the fixture and no more than ten percent of the lamp's light (intensity) emitted (at an) in the area between that horizontal line and a line drawn at an angle ten degrees below that horizontal (plane) line in all directions around the fixture.

Lighting, Direct Illumination
Illumination resulting from light emitted directly from a lamp, luminary, or reflector and is not diffused through translucent signs or reflected from other surfaces such as the ground or building faces.

Lighting, Full Cutoff
A light distribution designation for a fixture that has no light (intensity) emitted at or above a horizontal (plane) line drawn through the bottom of the fixture and no more than ten percent of the lamp's light (intensity) emitted in the area between that horizontal line and a line drawn at an angle ten degrees below that horizontal (plane) line, in all directions around the fixture.

Lighting, Fully Shielded
A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed. See also lighting, full cutoff.

Lighting, Holiday/Festive
Lighting that is installed with the intent to operate during a designated temporary period of time where a specific theme or event is a focus of attention.

Lighting, Indirect Illumination
Direct light that has been reflected or has scattered off other surfaces.

Lighting, Semi-Cutoff

A light distribution designation for a fixture that has no more than five percent of the lamp's light (intensity) emitted at or above a horizontal line drawn through the bottom of the fixture and no more than 20 percent of the lamp's light (intensity) emitted (at an) in the area between that horizontal line and a line drawn at an angle ten degrees below the horizontal line, in all directions around the fixture.

Lighting, Temporary

Lighting used for a limited duration, but in no case longer than 30 days.

Loam

A soil textural classification in which the proportions of sand, silt, and clay are well balanced. Loams have the best properties for cultivation of plants.

Local Government

Any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, including those acting through a joint program pursuant to the provisions of the Act.

Lodging Facility

Motel, hotel or other business providing lodging to guests for a fee.

Lot

A parcel of land or any combination of several parcels of land occupied or intended to be occupied by a principal use or structure, together with accessory structures or uses such as accessways, parking areas, yards, and open spaces required by this ordinance. This also includes the terms parcel, plot, property, or tract.

Lot, Existing

See lot of record.

Lot of Record

A lot included within a plat which has been recorded in the Office of the Register of Deeds of Jackson County or a lot described by metes and bounds, the description of which has been so recorded.

Lot of Record, Nonconforming

See nonconforming lot of record.

Lumen

A quantitative unit used to identify the amount of light emitted by a light source. A lamp is generally rated in lumens.

Luminaire

An assembly that holds the lamp (bulb) in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast, housing, and the attachment parts. A luminaire is sometimes referred to as a lighting fixture.

Luminaire Classification System (LCS)

Defines the distribution of light from a luminaire within three primary solid angles. The angles include uplight, backlight and forward light distribution. These angles are then further divided into secondary solid angles. Additional information and explanation of LCS can be found in the IESNA-TM-15-07 document.

M

Maintenance

The servicing, repairing, or altering or any structure, premises, appliance, apparatus, sign, or equipment to perpetuate the use or purpose for which such structure, appliance, apparatus, sign, or equipment was originally intended.

Manufactured Home

A detached manufactured housing unit built on a chassis, with a body exceeding eight feet and a body length of at least 32 feet; this said residential dwelling unit shall be designed for transportation after fabrication on its own wheels or flatbeds, or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy except for minor and incidental unpacking and assembly operations, including but not

limited to, location on jacks or other temporary or permanent foundation. Section and modular housing units shall be considered as manufactured homes; however, recreation vehicles and campers shall not be considered a manufactured home.

Manufactured Home, Class A

A manufactured home meeting or exceeding the United States Department of Housing and Urban Development standards (all manufactured homes built after June 14, 1976), which is of multi-sectional or double-wide design.

Manufactured Home, Class B

A manufactured home constructed to meet or exceed United States Department of Housing and Urban Development code requirements for manufactured homes, and which has a gable roof having a pitch with a minimum vertical rise of three and one-half feet for each 12 feet of horizontal run.

Manufactured Home Park

Any lot, tract, or parcel of land used, maintained, or intended to be used, maintained, leased, or rented for occupancy, by two or more manufactured homes, together with accessory structures provided in connection therewith. A manufactured home park site often requires improvements and utilities for the long-term placement of manufactured homes that may include services and facilities for residents.

Manufactured Home Park, Level I

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, access, buffers).

Manufactured Home Park, Level II

Inclusive of definition for MHP Level 1 with the addition of enhanced road standards to include interior roads with an all-weather surface and shoulders on each side

Manufactured Home Park, Level III

Inclusive of definitions for MHP Levels I and II with the addition of turnarounds as needed, paved roads on slopes exceeding minimum grades, and minimum frontage on main roads.

Market Value

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.

Massage Business

Any establishment or place wherein massages are administered or where any person engages in, conducts or carries on, or permits to be engaged in or conducted or carried on, any business of giving Turkish, Swedish, vapor, sweat, electric, salt, magnetic, or any other kind or character of massage, baths, alcohol rub, fomentation, manipulation of the body, or similar procedure. This definition shall not be construed to include a hospital, nursing home, medical clinic, school, community college, or university, or the office of a duly licensed physician, surgeon, physical therapist, chiropractor or osteopath, or to a student at a school, community college, or university engaged in a program teaching therapeutic massage and/or body work, or to a certified massage and body work therapist who has met the qualifications established in G.S Article 36 of Chapter 90 as amended, and is currently licensed as a massage and body work therapist, or barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck, or the shoulders.

Mean Sea Level

For the purposes of this Ordinance, the National Geodetic Vertical Datum (NGVD) as corrected in 1929, the North American Vertical Datum (NAVD) as corrected in 1988, or other vertical control datum used as a reference for establishing varying elevations within the floodplain, to which Base Flood Elevations (BFEs) shown on a FIRM are referenced. Refer to each FIRM panel to determine datum used.

Median Opening, Directional

A directional median opening provides for left-turns in one direction only. These medians are preferred because they provide for the predominant movement and are much safer for the traveling public. Typically, directional median openings only provide for left turns from the major street to the side street. No left turns or straight across movements are allowed from the side street.

Median Opening, Full
A full median opening provides for all movements at the intersection or driveway. The use of full median openings is reserved for situations where there is sufficient spacing and other crossover designs cannot adequately meet the operational needs of the location.
Menu Board
A freestanding or wall mounted sign primarily designed for the display of menu items and prices for restaurants providing drive through service.
Mining Industry
A mining industry is one that extracts naturally occurring mineral solids (such as coal and ores), liquid minerals (such as crude petroleum), and gases (such as natural gas). Mining industries perform activities such as drilling, quarrying, well operations, beneficiating (such as crushing, screening, washing, and flotation), and other product preparation/processing performed at the mining site. The term mining industry includes all mining support activities including exploration (except geophysical surveying).
Monopole (Wireless Telecommunications)
A single, freestanding pole-type structure supporting one or more antennas. A monopole is not a utility pole.
Multi-Family Dwelling Unit
See dwelling unit, multi-family.

N

Natural Ground Surface
The ground surface in its original state before any land-disturbing activity.
Neighborhood Retail Establishments
Establishments primarily engaged in the provision of frequently or recurrently needed goods for household consumption, such as prepackaged food and beverages and limited house-hold supplies and hardware. Convenience stores shall not include fuel pumps or the selling fuel for motor vehicles.
Noise
Any sound which does not comply with the Jackson County Noise Ordinance.
Non-Buildable Protected Area
An area of land that is protected and cannot be built on or used for a purpose other than those described in Section 5.3 (d) and shown as a Non-Buildable Protected Area on a recorded plat and dedicated by document recorded in the Jackson County Register of Deeds.
Nonconforming Lot of Record
A lot described by a plat or a deed that was recorded prior to the effective date of the ordinance from which this article is derived (or its amendments) that does not meet the minimum lot size or other development requirements of Article VIII.
Nonconforming Situation
A situation that occurs when, on the effective date of this appendix, the use of an existing lot or structure does not conform to one or more of the regulations applicable to the permitting standards specified in Article VIII.
Nonconforming Use
Any preexisting structure, object of natural growth, or use of land that is inconsistent with the provisions of this Ordinance or any amendment thereto.
Non-Encroachment Area
the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.
Non-Precision Instrument Runway

A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area-type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned, and for which no precision approach facilities are planned, or indicated on an FAA planning document or military service military airport planning document.

North Carolina Sedimentation Control Commission

The appointed commission that administers the North Carolina Sedimentation Control Program according to the N.C. Sedimentation Pollution Control Act of 1973, which regulates construction, industry, government, and natural resource conservation.

Nursing Care Home

A facility maintained for the purpose of providing skilled nursing care and medical supervision at a lower level than that available in a hospital.

O

Obstruction

Any structure, growth, or other subject, including a mobile object, which exceeds a limiting height set forth in of this Ordinance.

Off-Site Sediment Damage

The removal or transport of sediment across the boundaries of a land disturbing activity, resulting in deposition of such materials in any lake or natural watercourse or any land, public or private, not owned by the person responsible for the land disturbing activity.

Open Drain

Natural watercourse or constructed open channel that conveys drainage water.

Outdoor Display

The temporary placement of commercial materials, inventory or goods including, but not limited to, furniture, crafts, farm implement sales, and farmers markets, outside the building in which the principal business selling the goods is located. The display must be located on property owned or maintained by the business displaying the goods. Displayed goods must comply with the standards set forth in this Ordinance. Such display must be clearly incidental and subordinate to the principal business.

Outdoor Performance Area

An area permanently dedicated to the public presentation of music, dance, theater, media arts, storytelling, oratory, or other performing arts, whether publicly or privately owned, including but not limited to amphitheaters and similar open or semi-enclosed structures.

Outdoor Sports Field

An area designed for recreation (public or privately owned). These areas include, but are not limited to, baseball/softball diamonds, soccer fields, football fields, golf courses, golf driving ranges, tennis courts, racetracks, firearm shooting ranges, and swimming pools.

Outdoor Storage

Storage of any materials, merchandise, products, lumber and building supply materials, landscape materials, stock, supplies, machines, operable and/or inoperable, vehicles, equipment, manufacturing materials, or chattels of any nature which are not kept in a structure having at least four walls and a roof for more than 24 hours continuous hours.

Outfall

The point, location, or structure where wastewater or drainage discharges from a sewer to a receiving body of water.

Outlet

Point of water disposal from a stream, river, lake, tidewater, or artificial drain.

P

Parabolic Aluminized Reflector (PAR) lamp
A precision pressed-glass reflector lamp which may utilize either an incandescent filament, a halogen filament tube or an HID arc tube. PAR lamps rely on both the internal reflector and prisms in the lens for control of the light beam.
Parcel
See lot.
Peak Discharge
The maximum instantaneous flow from a given storm condition at a specific location.
Percolation
The movement of water through soil.
Percolation Rate
The rate, usually expressed as inches/hour or inches/day, at which water moves through the soil profile.
Perennial Stream
A natural or man-made surface channel maintains water in its channel throughout the year.
Permeability, Soil
The quality of a soil that enables water or air to move through it. Usually expressed in inches/hour or inches/day.
Person Conducting Land Disturbing Activity
Any person who may be held responsible for a violation unless expressly provided otherwise by this Ordinance or any order adopted pursuant to this Ordinance.
Pervious
Allowing movement of water.
Pervious Surface
A surface that is open to passage or entrance of water.
Planning Board
The Jackson County Planning Board.
Planning Department
The Jackson County Planning Department and its staff.
Planning Director
The Jackson County Planning Director or his/her designee.
Plat
A map or plan of a parcel of land which is to be or has been subdivided.
Point Source
Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. (P.L. 92-500, Section 502(14).
Pollution, Air
The emission of air contaminants for which a permit is required by NCGS 143-215.108.
Pollution, Nonpoint Source
Pollution that enters a water body from diffuse origins on the watershed and does not result from discernible, confined, or discrete conveyances.
Post-FIRM
Construction or other development for which the start of construction occurred on or after the effective date of the initial Flood Insurance Rate Map (FIRM).

Pre-FIRM
Construction or other development for which the start of construction occurred before the effective date of the initial Flood Insurance Rate Map (FIRM).
Premises
A single tract of real property that is not divided by a street, right-of-way, or lot.
Prescriptive Easement
A right to use another's property which is inconsistent with the owner's rights and which is acquired by a use, open and notorious, adverse and continuous for the statutory period. To a certain extent, it resembles title by adverse possession but differs to the extent that the adverse user acquires only an easement and not title.
Primary Surface (Runway)
A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Article VII of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
Principally Above Ground
That at least 51 percent of the actual cash value of the structure is above ground.
Professional Engineer
A person duly registered and licensed in the state in accordance with the provisions of NCGS Ch. 89C.
Protected Mountain Ridges

- For the purposes of Article V, Section 7, Mountain Ridge Protection, all mountain ridges whose elevation is at least 3,000 feet, and whose elevation is 500 feet or more above the elevation of an adjacent valley floor.
- For the purposes of Article V, Section 8, Mountain and Hillside Development, all mountain ridges whose elevation is at least 2,500 feet, and whose elevation is 400 feet or more above the elevation of an adjacent valley floor.

Public or Community Potable Water and Wastewater System
means any potable water distribution system and any wastewater collection system that is owned or operated by a unit of government or other public entity, private enterprise, community association, or other similar organization.
Public Safety and/or Nuisance
Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Q

Quadrangle Map
The most recently published U.S. Geological Survey 7.5-minute topographic map prepared at a scale of one to 24,000.

R

Rainfall Intensity
The rate at which rain is falling at any given instant, usually expressed in inches per hour.
Reasonably Available Control Technology (RACT)
Devices, systems, process modifications, other equipment or techniques reasonable available to lower emission rates, taking into account:

- the necessity of imposing new controls in order to attain and maintain a national ambient air quality standard as defined by the U.S. National Ambient Air Quality Standards (NAAQS);
- the social, environmental, and economic impact of the additional controls; and
- alternative means of providing for attainment and maintenance of the NAAQS.

Recharge
Replenishment of groundwater reservoirs by infiltration and transmission from the outcrop of an aquifer or from permeable soils.
Recharge Basin
A basin provided to increase infiltration for the purpose of replenishing groundwater supply.
Recreational Facilities, Governmental
Facilities, such as parks, playgrounds, recreation centers and the like, owned or operated by governmental agencies for public recreational uses.
Recreational Uses, Restricted to Membership
Recreational uses, such as country clubs, operated for the social and recreational benefits of members, guests, and employees and not as a business for profit.
Recreational Vehicle (RV)
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
Top of the lowest floor for structures within special flood hazard areas designated as zone A1-A30, AE, A, A99 or AO.
Reforestation Plan
A plan, prepared by a registered forester, for replacing harvested timber by replanting or by natural regenerative processes (such as coppicing, seed trees, etc.), consistent with recommended best management practices for forestry in North Carolina.
Regulated District
A defined area within Jackson County that has adopted zoning regulations to promote the health, safety, and general welfare of the community.
Replacement Pole
The pole of equal proportions and of equal height or such other height that would not constitute a substantial modification to an existing structure in order to support wireless communication facilities or to accommodate collocation. Requires removal of the wireless support structure it replaces.
Residence, Single-Family
See dwelling unit, single family.
Resident
Any person residing within Jackson County.

Residential Development
Buildings for residence such as attached and detached single-family dwellings, apartment complexes, condominiums, townhouses, cottages, etc., and their associated outbuildings such as garages, storage buildings, gazebos, etc., and customary home occupations.
Residential Structure
See structure, residential.
Residuals
Any solid or semi-solid waste generated form a wastewater treatment plant, water treatment plant or air pollution control facility permitted under the authority of the environmental management commission.
Retaining Wall
Any manmade (artificial) grade separation that is not a slope. A retaining wall may also be defined as a structure or device placed on the face of a cut slope or fill slope that covers the slope face and that holds the earth material in place by use of properly designed external and internal structural components.
Retention
The storage of storm water to prevent it from leaving the development site; may be temporary or permanent.
Retention Structure
A natural or artificial basin that functions similar to a detention structure except that it maintains a permanent water supply.
Ridge
The elongated crest or series of crests at the apex or uppermost point of intersection between two opposite slopes or sides of a mountain based on geological formations and not vegetation and includes all land within 100 feet below the elevation of any portion of such line or surface along the crest.
Right-of-Way
An interest in land to the county which provides for the perpetual right and privilege of the county, its agents, franchise holders, successors, and assigns to construct, install, improve, reconstruct, remove, replace, inspect, repair, maintain, and use a public street, including related and customary uses of street rights-of-way such as sidewalks, bike paths, landscaping, mass transit facilities, traffic control, traffic control devices and signage, sanitary sewer, stormwater drainage, water supply, cable television, electric power, gas, and telephone transmission and related purposes in, upon, over, below, and across the rights-of-way.
Riparian
Of, on, or pertaining to the banks of a stream, river, or pond.
Riparian Buffer
An area of trees, shrubs, or other vegetation that borders a watercourse, wetland, or other water body for the purpose of reducing the quantity of stormwater runoff and improving water quality.
Riverine
Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
Road, Access and Haul
All roads, either permanent or those to be obliterated after completion of land disturbing activities, used for private travel, construction vehicles, earth-moving or heavy equipment or other machinery, and constructed and used in conjunction with land disturbing activities which require a permit under this article.
Road, Collector
A road serving as the connecting street between local residential roads and the thoroughfare system.
Road, Dead-end
A road that is more than 2,500 feet in length, open at one end only without special provisions for turning around and has collector characteristics.
Road, Loop
A road that has its beginning and ending points on the same route. Loop roads are more than one mile in length and have collector characteristics.
Road, Major Residential
A road providing access to and serving traffic generated by 21 to 50 homes and/or subdivision lots.

Road, Minor Residential
A road with a length of not more than 5,280 feet that provides access to and serves traffic generated by nine to 12 homes and/or subdivision lots.
Road, Public
Any road or highway which is now or hereafter designated and maintained by the North Carolina Department of Transportation as part of the State Highway System, whether primary or secondary, hard surfaced or other dependable highways.
Road, Service
A public or private street, auxiliary to and normally located parallel to a controlled access facility that maintains local street continuity and provides access to parcels adjacent to the controlled access facility.
Road, Subdivision Access
Road built through adjoining property(s) to provide access to the property being developed. This type of road would not provide direct access to plotted lots.
Runoff
That portion of precipitation that flows from a drainage area on the land surface, in open channels or in stormwater conveyance systems.
Runoff, Stormwater
See stormwater runoff.
Surface Runoff
Precipitation that falls onto the surfaces of roofs, streets, the ground, etc., and is not absorbed or retained by the surface, but collects and runs off.
Runway
A defined area on an airport prepared for landing and takeoff of aircraft along its length.
Runway, Approach Surface
A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in section VIII of this Ordinance. In the plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
Runway, Larger Than Utility
A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.
Runway, Precision Instrument
A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS) or a precision approach radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
Runway, Utility
A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
Runway, Visual
A runway intended solely for the operation of aircraft using visual approach procedures.

S

Salvage Yard
Any nonresidential 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.
Sand
For the purposes of this Ordinance, sand may be defined as:

- Soil particles between 0.05 and 2.0 mm in diameter.
- A soil textural class inclusive of all soils which are at least 70% sand and 15% or less clay.

Saturation
In soils, the point at which a soil or an aquifer will no longer absorb any amount of water without losing an equal amount.
School
Any public or private institution for the teaching of children.
Search Ring
The area within which a wireless support facility or wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.
Sediment
Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site or origin by air, water, gravity, or ice and has come to rest on the earth's surface either above or below sea level.
Sediment Control Plan, Approved
A written course of action including maps, drawings, calculations or assumptions, found by the erosion control officer or other duly appointed agent to satisfy all requirements of this article, which details the timing and proper installation of erosion control measures or devices which have a reasonable probability, if implemented, of restraining accelerated erosion and off-site sediment damage associated with a land disturbing activity.
Sedimentation
The process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land disturbing activity or into a lake or natural watercourse.
Semi-Nude/Semi-Nude Condition
The showing of the female breast below a horizontal line across the top of the areola at its highest point or the showing of male or female buttocks. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit, or other wearing apparel provided the areola is not exposed in whole or part.
Sensitive Natural Area
Any area, which is sensitive or vulnerable to physical or biological alteration, as identified now or hereafter by the North Carolina Natural Heritage Program and which contains one or more of the following:
- Habitat, including nesting sites, occupied by rare or endangered species.
- Rare or exemplary natural communities.
- Significant landforms, hydro forms, or geological features.
- Other areas so designated by the North Carolina Natural Heritage Program, which are sensitive or vulnerable to physical or biological alteration.

Service Station
See automotive service station.
Setback
Required setbacks are the shortest measured horizontal distance between a property line/right-of-way and the closest point to a structure.
Settling Basin
An enlargement in the channel of a stream to permit the settling of debris carried in suspension.
Shared drive
A road with a length of not more than 2,650 feet that provides access to and serves traffic generated by eight or fewer homes and/or subdivision lots.
Sheriff
The Jackson County Sheriff or his/her designee.
Shopping Center
A building or group of buildings totaling 25,000 square feet or more of gross floor area, either connected or free-standing, which is designed with common parking, pedestrian movement, ingress and egress, and used for the sale

of merchandise or services to the public. No outparcel shall be included in the calculation of building square footage to qualify as a shopping center.

Sight Distance Triangle

The triangular area formed by a diagonal line connecting two points located on an intersecting driveway with a roadway, that is kept clear of obstructions for motorists both entering and exiting the site. Streets connecting to roadways under the jurisdiction of the North Carolina Department of Transportation (NCDOT), shall conform to the NCDOT "Policy on Street and Driveway Access to North Carolina Highways" (latest revision). Sight triangles for all other access connections are formed by a 10-foot side measured along the edge of the driveway approach and a 25-foot side measured along the edge of the traveled way . Within the sight distance triangle area, no fence, wall, sign, graded slope or embankment, parked vehicle, hedge, foliage, tree or other planting, and no other object or structure shall be placed, erected or maintained which will obstruct visibility at a height greater than 2.5 feet.

Sign

Any display of letters, words, numbers, figures, devices, emblems, pictures, logos or any other means whereby the same are made visible for the purpose of making anything known, whether such display be made on, or attached to, or as a part of a structure, surface or any other object whether natural or manmade. The term sign includes sign structure.

Sign, Abandoned

A sign which has not been utilized for a period of 180 days or more; or a sign of which the contents no longer identify or advertise a bona fide business, lessor, service, owner, product, or activity; or a sign the contents of which pertains to a place, time, event or purpose which no longer exists, applies or which has occurred.

Sign Area

The area of a sign shall be considered to be that of the smallest rectilinear figure (but which shall have a continuous perimeter of not more than eight straight lines) which encompasses all lettering, wording, design or symbols, together with any background difference on which the sign is located, if such background is designed as an integral part of and related to the sign. Any additions or extensions shall be included in the area of a sign, but supports and bracing which are not intended as part of the sign shall be excluded. In the case of a multi-faced sign, the area of the sign shall be considered to include all faces visible from one direction.

Sign, Animated

Any sign that uses or incorporates flashing, blinking or strobe lighting, sound, moving parts or components that provide the sign motion or give the illusion of motion or movement.

Sign, Attached

Any off-premise sign that is attached, painted or otherwise affixed to a wall, pillar or other supporting part of a structure.

Sign, Banner

A display, informational sign, or other advertising device constructed of cloth, canvas, or fabric, with or without structural frame, intended to advertise an event, holiday, or business or for the purpose of internal way-finding.

Sign, Changeable Copy

Any permanently unframed sign that is primarily devoted to and designed for changeable copy text and graphics. The copy shall not be changed more than twice in a 24-hour period.

Sign, Development Identification

A sign bearing only the name of the multiple tenant development.

Sign, Exempt

Any sign which is specifically listed as exempt from this Ordinance Exempt signs are not regulated by the terms of Article 7 and Article 9, and shall not require a permit.

Sign, Freestanding

Any sign supported wholly or in part by some structure other than the building or buildings housing the business or entity to which the sign pertains.

Sign, Governmental

A sign which is owned or authorized by a local, state or federal government agency or authority and include but not limited to traffic warning or regulatory signs or signals, building identification, directional, informational and welcome signs.

Sign Height

The vertical distance between the highest part of the sign or its supporting structure, whichever is higher, and the base of the sign at grade.

Sign, Identification

An on-premise sign in the Cashiers Regulated District used to identify or advertise the name, logo, or other identifying symbol of a building, business, profession, etc. conducted on the property upon which the sign is located.

Sign, Illegal

Any sign erected or maintained in violation of a preceding ordinance or erected, altered, moved, repaired, maintained or replaced in violation of this Ordinance.

Sign Illumination, Direct (internally illuminated)

A sign designed to emit artificial light directly (or through transparent or translucent material) from a light source within or attached to such sign.

Sign Illumination, Indirect (externally illuminated)

A sign designed to have illumination from a detached light source, shielded so that no direct rays from the light source are visible elsewhere than on the lot where said illumination occurs. If such shielding is inoperative, such sign shall be deemed to be a directly illuminated sign.

Sign, Joint Identification

A sign bearing the names of individual tenants located within a multiple tenant development (may include the name of the development).

Sign, Nonconforming

Any sign legally in existence prior to the adoption and effective date of the ordinance, or any applicable amendment thereto, which does not conform to the provisions of this Ordinance, as amended. An illegal sign is not a nonconforming sign.

Sign, Non-Illuminated

A non-illuminated sign contains neither direct nor indirect illumination.

Sign, Monument

A free-standing structure, greater than six feet in height, that is permanently affixed to the ground by solid supports so that the sign face, in its entirety, is situated above and between the outermost edges of the supporting base or support structures, and so that the permanent sign base for the structure has an aggregate width of no less than 40 percent of the width of the sign cabinet or face.

Sign, Off-Premise

Any sign used for displaying, advertising, identifying or directing attention to a business, service, activity or place, including products or services sold or offered for sale on premises other than on the premises where such sign is displayed.

Sign, Off-Premise Advertising

Any sign advertising a product, service, business or activity which is sold, located or conducted elsewhere than on the premises on which the sign is located, or which said product, service business or activity is sold, located or conducted on such premises only incidentally, if at all.

Sign, Off-Premise Directional

Any off-premises sign indicating the location of or directions to a business, office or other activity. The sign may provide the name of the business or activity, and directions or symbols indicating directions. If a sign exceeds the maximum permitted area, it shall be construed and regulated as an off-premises advertising sign.

Sign, On-Site

Any sign which directs attention to a business, product, operation, service or activity sold or offered for sale, or existing on the same lot where the sign is located.

Sign, Portable

A sign with a permanent frame and a display area for changeable copy designed or intended to be relocated and not permanently affixed to the ground or structure. This includes signs on wheels, trailers or any other device that is designed for movement from one location to another.

Sign, Prohibited

Any sign or element of a sign that is specifically listed as prohibited in Section 7.5.

Sign, Real Estate

A sign advertising the sale, lease or rental of an interest in property.

Sign, Roof
An off-premises sign attached, painted or otherwise affixed to the roof of a building or structure.
Sign, Suspended or Transom
A sign that is suspended from the underside of a horizontal plane surface and is supported by that surface.
Sign, Temporary
A sign with or without a structural frame and intended for a limited period of display; provided, however, a temporary sign does not include a portable sign as herein defined.
Sign, Wind
A suspended or erected sign made of a flexible material such as plastic, canvas, or waterproof paper, including, but not limited to, feather signs, pennants, spinners, or streamers designed to grab attention with the wind.
Sign Value
The value of an existing sign shall be the value for tax purposes of any sign so listed. If the tax value is not available, the value means the original cost of the sign. In the absence of information as to the original cost submitted by the sign owner, the sign enforcement officer shall estimate the original cost based upon the best information reasonably available.
Silt
For the purposes of this Ordinance, silt may be defined as:

- Soil fraction consisting of particles between 0.002 and 0.05 mm in diameter.
- A soil textural class indicating more than 80% silt.

Siltation
Sediment resulting from accelerated erosion which is settleable or removable by properly designed, constructed, and maintained control measures; and which has been transported from its point of origin within the site of a land disturbing activity; and which has been deposited, or is in suspension in water.
Single-Family Dwelling Unit
See dwelling unit, single-family.
Site plan
a plan, prepared to scale, that accurately shows all information required by these regulations with respect to a development proposal.
Smoke
The visible vapor and gases given off by a burning or smoldering substance.
Slope
Slope Degree of deviation of a surface from the horizontal; measured as a numerical ration or percent. Expressed as a ratio, the first number is the horizontal distance (run) and the second is the vertical distance (rise), e.g., 2:1. Slope can also be expressed as the rise over the run. For instance, a 2:1 slope is a 50 percent slope.
Soil
For the purposes of this Ordinance, soil may be defined as:

- The unconsolidated mineral and organic material on the immediate surface of the earth that serves as a natural medium for the growth of land plants.
- Naturally occurring superficial deposits of earth material overlying bedrock.

Solid Waste Disposal Site
As defined in NCGS 130A-290(a)(36), a solid waste disposal site is any place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method.
Specified Anatomical Areas
For the purposes of this Ordinance, specified anatomical areas means:

- Less than completely and opaquely covered:
    - Human genitals, pubic region;
    - Buttock; or
    - Female breast below a point immediately above the top of the areola;
- Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities
For the purposes of this Ordinance, specified sexual activities means:

- Human genitals in a state of sexual stimulation or arousal;

- Acts of human masturbation, sexual intercourse or sodomy; or
- Fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.

Stabilize
To establish groundcover sufficient and adequate to prevent erosion. Temporary stabilization measures are those that are sufficient to prevent erosion until the appropriate time for establishing permanent groundcover.

Storage Length
Additional lane footage added to a turning lane to hold the maximum number of vehicles likely during a peak period so as not to interfere with through travel lanes.

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

Storm, Ten-Year
The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in ten years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent moisture conditions.

Storm, Twenty-Five-Year
The surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent moisture conditions.

Stormwater 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.

Stormwater Control Measures (SCMs)
Structural or nonstructural devices used singularly or in combination to reduce stormwater runoff and associated pollutants to receiving waters in order to achieve water quality protection goals. Formerly termed Best Management Practices (BMPs).

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

Stream
A natural or manmade surface channel in which water flows most of the year.

Streambanks
The usual boundaries, not the flood boundaries, of a stream channel. Right and left banks are named facing downstream.

Street (road)
A right-of-way for vehicular traffic which affords the principal means of access to abutting properties.

Structure
Anything installed, constructed or erected by a human, including a mobile object that requires location on the land or attachment to something having permanent location on the land. The term includes but is not limited to: a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.; walls, fences, gates, mailboxes, reflectors or mirrors associated with driveways, residential parking areas and private bridges; and buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines. The term structure includes the term building.

Structure, Accessory (Appurtenant Structure).
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.

Structure, Existing (Wireless Telecommunications)

A wireless support structure erected prior to the application for collocation or substantial modification under this article that is capable of supporting the attachment of wireless communication facilities, including, but not limited to, electrical transmission towers, buildings and water towers.

Structure, Historic

Any structure that is:

- 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 CLG.

Structure, Multi-Family

See multi-family dwelling unit.

Structure, Residential

A vacant or occupied structure intended for single-family or multi-family residential use.

Structure, Single Family

See single-family dwelling unit.

Structure, Water-Dependent

Any structure for which the use requires access to or proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots and commercial boat storage areas are not water-dependent structures.

Swale

An elongated depression in the land surface that is at least seasonally wet, is usually heavily vegetated, and is normally without flowing water. Swales conduct stormwater into primary drainage channels and may provide some groundwater recharge.

Subdivider

Any person, firm or corporation who subdivides or develops any land deemed to be a subdivision as herein defined.

Subdivision

All divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose of sale or building developments (whether immediate or future) and shall include all division 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 authorized by this article:

- 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 article;
- The division of land into parcels greater than ten acres where no street right-of-way dedication is involved;
- The public acquisition by purchase of strips of land for the widening or opening of streets;
- The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of this Ordinance;
- The division of a tract into parcels in accordance with intestate succession as prescribed by a probated will or as documented in NCGS § 29
- The division of a tract into plots or lots used as a cemetery.

Subdivision, Family

A subdivision containing no more than eight lots for the purpose of conveying the resulting parcels or lots to a grantee or grantees who are in any degree of lineal kinship to the grantor, or to a grantee or grantees who are within three degrees of collateral kinship to the grantor. Degrees of kinship shall be computed in accordance with

NCGS 104A-1. Lots can be conveyed as a gift, as settlement of the property owner's estate, or for a nominal consideration.

Subdivision, Major

A subdivision which does not meet the definition of a minor subdivision or a family subdivision and/or is the development of property for more than eight lots or buildings and/or 60 or more bedrooms.

Subdivision, Minor

A nonfamily subdivision where:

- Eight or fewer lots are created with adequate access to an existing state-maintained road or non-state-maintained road which is constructed to minimum state standards as verified by the state department of transportation; and
- No new public or community wastewater is proposed.

Subsidiary

An affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

Substantial Damage

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 Improvement

Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:
(1) Any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or
(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Substantial Modification (Wireless Telecommunications)

The mounting of a proposed wireless facility on a wireless support structure that substantially changes the physical dimensions of the support structure. A mounting is presumed to be a substantial modification if it meets any one or more of the criteria listed below. The burden is on the local government to demonstrate that a mounting that does not meet the listed criteria constitutes a substantial change to the physical dimensions of the wireless support structure.

- Increasing the existing vertical height of the structure by the greater of (i) more than ten percent or (ii) the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet.
- Except where necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable, adding an appurtenance to the body of a wireless support structure that protrudes horizontally from the edge of the wireless support structure the greater of (i) more than 20 feet or (ii) more than the width of the wireless support structure at the level of the appurtenance.
- Increasing the square footage of the existing equipment compound by more than 2,500 square feet.

T

Tall Buildings or Structures

Any building, structure or unit within a multi-unit building, with a vertical height of more than 40 feet measured from the top of the foundation of said building, structure or unit and the uppermost point of said building, structure or unit; provided, however, that where such foundation measured from the natural finished grade of the

crest or the natural finished grade of the high side slope of a ridge exceeds three feet, then such measurement in excess of three feet shall be included in the 40-foot limitation described herein; provided, further, that no such building, structure or unit shall protrude at its uppermost point above the crest of the ridge by more than 35 feet. Tall buildings or structures do not include:

- Water, radio, telephone or televisions towers or any equipment for the transmission of electricity or communications or both.
- Structures of a relatively slender nature and minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills.
- Buildings and structures designated as National Historic Sites on the National Archives Registry.

Technical Review Committee
A committee established to provide technical advice and assistance to the Planning Director. Its membership shall consist of representatives of the Planning Department, inspections department, health department, emergency services department and county tax office, as well as representatives of the state department of transportation and the Tuckaseigee Water and Sewer Authority.

Temporary Use
A use that is in operation for a limited amount of time and that does not use permanent facilities or makes use of permanent facilities only for a limited time. Temporary use permits are required only for those temporary uses that are in operation for at least one day or eight hours.

Tent Sales
Sales of goods and/or services that take place in a temporary or non-permanent structure, such as a tent, pavilion, or greenhouse. The tent sale shall be on the property of and conducted by an established business located within the Regulated Districts as a special event to promote said business.

Terrace
A relatively long, narrow linear step or break that is excavated or built into unconsolidated earth material of a slope, which generally runs with the contour. It is built to control runoff, reduce erosion, and provide for maintenance of the slope.

Toe of slope
The base or bottom of a slope at the point where the ground surface abruptly changes to a significantly flatter grade.

Topography
General term to include characteristics of the ground surface such as plains, hills, mountains, degree of relief, steepness of slopes, and other physiographic features.

Tower
Means a lattice-type or monopole structure, guyed or freestanding, or other structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal. A tower is a wireless support structure as defined in this article.

Toxic Substance
Any substance or combination of substances (including disease-causing agents), which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth) or physical deformities in such organisms or their off spring or other adverse health effects.

Tract
All contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

Traffic Generator, Major
A land use or development program estimated to generate more than 1,000 gross vehicle trips (entering/exiting combined). See North Carolina Administrative Code 19A NCAC 02B.0602(b)(3)(c).

Traffic Impact Study
A report initiated in response to a proposed development that compares the anticipated roadway conditions with and without the development. The report may include an analysis of mitigation measures.

Transitional Surfaces (Runway)

These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each one foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.

Travelway
See road.

Tree
A plant having at least one well-defined stem or trunk and normally attaining a mature height of at least 15 feet, with an average mature spread of 15 feet.

U

Uncovered
The removal of ground cover from, on, or above the soil surface.

Undertaken
The initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.

Utility Pole
A structure owned and/or operated by a public utility, municipality, electric membership corporation or rural electric cooperative that is designed specifically for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

V

Variance
A grant of relief from the requirements of this Ordinance, including requirements adopted by the State of North Carolina that are incorporated into this Ordinance.

Variance, Major
For the purposes of the water supply watershed regulations provided in Article V, a variance from the minimum statewide water supply watershed protection criteria that results in any one or more of the following:

- The relaxation, by a factor greater than ten percent, of any management requirement under the low-density option;
- The complete waiver of a management requirement; or
- The relaxation of any management requirement that applies to a development proposal intended to qualify under the special intensity allocation (SIA).

Variance, Minor
For the purposes of the water supply watershed regulations provided in Article V a variance from the minimum statewide water supply watershed protection criteria that results in the relaxation, by a factor of up to ten percent of any buffer or built-upon area requirements under the low-density option.

Vegetative Buffer
See buffer, vegetative.

Vehicular Canopy
A roofed, open, drive-through structure designed to provide temporary shelter for vehicles and their occupants while making use of a business's services.
Vehicular Use Area
All portions of the site or property designed to receive vehicular traffic, including parking, driveways, dumpster pads, loading and unloading areas.
Velocity
The average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.
Vibration
Any ground-transmitted movement that is perceptible to the human sense of touch.
Violation
The failure of a structure or other development to be fully compliant with this Ordinance. For the purposes of the flood damage prevention regulations set forth in Article V of this Ordinance, a structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Articles II and III is presumed to be in violation until such time as that documentation is provided.
Violation, Continuing
Violations of this Ordinance or an approved application, permit, plan or plat which are occurring after the date for compliance as set forth in a notice of violation served upon the person responsible for an activity covered under this Ordinance.

W

Wall Pack
A type of light fixture typically flush-mounted on a vertical wall surface.
Water Quality
A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.
Water Surface Elevation (WSE)
The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.
Water Tower
A water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.
Watercourse
A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.
Watercourse, Artificial
A surface or underground watercourse constructed by man.
Watercourse, Natural
Any perennial or intermittent surface water approximately shown on either the most recent version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS). This term shall include any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded, in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.

Notwithstanding the foregoing, the administrator may determine that a water body does or does not qualify as a natural watercourse depending upon the presence of surface waters in accordance with the provisions of 15A NCAC 2B.0233(3)(a) or other methods approved by the state division of water quality.

Watercourse, Receiving

The watercourse into which runoff or effluent is discharged.

Watershed

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

Watt

The standard unit of power in the International System of Units (SI), equivalent to one joule per second and equal to the power in a circuit in which a current of one ampere flows across a potential difference of one volt.

Wireless Communication Facility

The set of equipment and network components, inclusive of the underlying wireless support structure or tower, and including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and wireless communications services to a discrete geographic area.

Wireless Communication Facility, Concealed

Any wireless facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not readily apparent to a casual observer.

Wireless Communication Facility Permit

The permit issued by the Jackson County Board of Commissioners following the review and approval process set forth in this article allowing the construction of a new wireless support structure or a substantial modification as defined in this article. The permit is a special use permit and the process for obtaining such a permit, as set forth in Section 3.7.15, requires a public hearing.

Wireless Communication Facility, Small

As described in NCGS 160A-400.51, a small wireless facility shall be defined as one in which the antennae, whether in an enclosure or exposed, measure no more than 6 cubic feet. All other supporting equipment (meters, switched, grounding equipment, and the like) can be no more than 28 cubic feet.

Wireless Support Structure

A new or existing structure, including but not limited to a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless communication facilities.

Wireless Telecommunications Height

See height, wireless telecommunications.

Wireless Telecommunications Maintenance, Ordinary

To ensure that wireless communication facilities and wireless support structures are kept in good operating condition. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself. Ordinary maintenance includes replacing accessory equipment within an existing equipment compound and relocating existing antennas to different height levels on an existing monopole or tower upon which they are currently located but does not include replacing existing antennas with new antennas of any size, weight, shape and/or color. Ordinary maintenance includes replacement of damaged equipment with similar equipment provided the replacement equipment does not exceed the height, diameter, weight, or other attribute of the original equipment by more than ten percent. ordinary maintenance does not include substantial modifications.