

The Town of North Wilkesboro Unified Development Ordinance

North Wilkesboro, North Carolina



XX,XX,2025

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Effective Date:

Planning Board Review and Recommendation: **xx,xx,2025**
Approved by the Town Board of Commissioners: **xx,xx,2025**

Acknowledgements

MAYOR AND THE BOARD OF COMMISSIONERS

Marc Hauser, Mayor
Angela Day, Commissioner
Kristopher Hurley, Commissioner
Otis Church, Commissioner
Andrew Palmer, Commissioner
Michael Parsons, Commissioner

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ARTICLE I. GENERAL PROVISIONS

1.1 Authority

These regulations are adopted pursuant to the authority vested in the Town of North Wilkesboro by its charter, the Session Laws, and the General Statutes of North Carolina, particularly Chapter 160D-702 and any special local legislation enacted by the General Assembly for the Town of North Wilkesboro.

1.2 Purpose

The purposes of these regulations are to: promote the health, safety, morals, and general welfare of the community; to lessen congestion in the streets; to secure safety from fire, panic and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate and economic provision of public facilities and infrastructure; to conserve the value of buildings; and to encourage the most appropriate use of land throughout the corporate area and extraterritorial zoning jurisdiction, in accordance with adopted plans and policies.

1.3 Title

These regulations shall be known as the Unified Development Ordinance of the Town of North Wilkesboro, North Carolina, and may be cited as the “Ordinance”, the “Code”, or the “UDO”. The map referred to herein titled “Official Zoning Map, North Wilkesboro, North Carolina” may be cited as the “Zoning Map”.

1.4 Jurisdiction

These regulations govern the development and use of all land and structures within the corporate limits and the extraterritorial zoning jurisdiction of the Town of North Wilkesboro.

1.5 Zoning Map

The Town Board, upon the recommendation of the Planning Board, has adopted a series of zoning maps entitled “Official Zoning Maps, Town of North Wilkesboro, NC” which are maintained by the Planning Director. The Zoning Map is available in both digital and paper form for public inspection. The zoning maps set out and delineate the zoning districts established in Section XX. The zoning maps and notations thereon are hereby designated, established, and incorporated as a part of these regulations and shall be as much a part of these regulations as if they were fully described herein.

1.6 Severability

If any section, specific provision, or standard of these regulations, including any zoning district boundary that now exists or may exist in the future, is found by a court of competent jurisdiction to be invalid for any reason, the decision of the court shall not affect the validity of any other section, provision, standard, or district boundary of these regulations except the provision in question. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

1.7 Effective Date

These regulations shall become effective on the date of their adoption by the Board of Commissioners of the Town of North Wilkesboro.

1.8 Applicability

No building, structure, or land shall be used, occupied, or altered; nor shall any building, structure, or part thereof be erected, constructed, reconstructed, moved, enlarged, or structurally altered; nor shall any changed use be established for any building, structure, or land, unless in conformity with the general provisions of this ordinance and the specific provisions for the district in which it is located, except as otherwise provided by these regulations.

1.9 Relation to Other Ordinances.

If the provisions of this ordinance conflict with the provisions of any other validly enforceable ordinance(s), the most stringent provisions shall control.

1.10 Consistency With Adopted Plans

- A.** As a condition of adopting and applying zoning regulations under N.C.G.S Chapter 160D, the Town shall adopt and reasonably maintain a land use plan that sets forth goals, policies, and programs intended to guide the present and future physical, social, and economic development of the jurisdiction. The development regulations contained herein should be consistent with the adopted Town of North Wilkesboro Comprehensive Plan, adopted in June 2018, and any subsequent revisions.
- B.** All proposed subdivisions of land shall be placed and designed in a manner consistent with the adopted plans and policies of the Town.

1.11 Transitional Provisions

A. Conforming Uses and Structures

- 1.** Any use or structure existing prior to the effective date of this Ordinance that conforms to the regulations of this Ordinance for permitted uses and satisfies the dimensional requirements and any other applicable regulations of the district in which it is located may be continued, provided any use, structural, or other changes shall comply with the provisions of this Ordinance.
- 2.** Any use or structure existing prior to the effective date of this Ordinance that would be permitted by this Ordinance with a special use permit in the district in which it is located may be continued as if a special use permit had been issued, provided that any use, structural, or other changes shall comply with the provisions of this chapter.
- 3.** Any use or structure existing prior to the effective date of this Ordinance that would be permitted by this Ordinance with Conditional Zoning (or previously as a Conditional District), may be continued, provided that any use, structural, or other changes shall comply with the Conditions of the Conditional District and any associated plan approved as a portion of the original rezoning, otherwise the provision of this Code shall apply.

B. Effect of Amendment

If subsequent amendments to this Ordinance or the Zoning Map result in the creation of additional nonconformities or conformities, such nonconformities or conformities shall be governed by the provisions of this Article IX Nonconformities, unless otherwise stated in the amendment.

C. Applications and Prior Approvals

1. Applications Submitted but Not Approved Prior to Effective Date

Any complete application submitted before the effective date of this Ordinance, but not yet approved, is subject to Permit Choice, as outlined in N.C.G.S 160D-108. Development may be completed in conformance with applicable permits and conditions of the regulations in effect at the time of submission of the application, even if such application does not fully comply with the provisions of this chapter.

2. Applications Submitted and Approved Prior to the Effective Date

Where a permit, site plan, subdivision, planned development, or special use was approved prior to the effective date of this Ordinance, the provisions of the ordinance that was in effect at the time of approval shall apply, subject to the limitation of Vested Rights as outlined in Section 9.23 and provided they do not conflict with the original conditions of approval.

3. Construction Begun Prior to Adoption

Nothing in this Ordinance shall be deemed to require any change in the plans, construction, or designed use of any building or structure upon which a building permit was secured prior to the adoption of this Ordinance.

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ARTICLE II. ZONING DISTRICTS

2.1 Zoning Districts Established

A. Types of zoning districts.

All areas within the zoning jurisdiction of the Town of North Wilkesboro are hereby divided into zoning districts within which the use of land and water areas; the location, height, bulk, appearance and use of structures; the provision of parking and loading areas; and the provision of buffers and screening areas are regulated as herein provided. Zoning districts within the Town of North Wilkesboro shall fall within one of the following three categories.

1. Conventional zoning districts.

Each conventional district category serves a different purpose and imposes its own set of requirements and restrictions on the use of land in addition to the general requirements and restrictions imposed on all land or uses within the zoning jurisdiction. A conventional district may be replaced by a conditional district or layered with an overlay district.

2. Conditional zoning districts.

- a. Most conditional districts are established as parallel or counterpart districts to a conventional district. In such cases, references in the zoning ordinance to the conventional district shall be construed to also include the counterpart conditional district. In addition, there are several districts which exist only as conditional districts and do not have counterpart conventional districts.
- b. Each conditional district with a counterpart conventional district is intended to accomplish the purposes of the counterpart district through the development of identified uses at a specific location in accordance with this article. All regulations and uses which apply to a conventional district also apply to the counterpart conditional district, and no use shall be allowed in the conditional district that is not allowed in its counterpart conventional district.
- c. Additional conditions which may be placed upon the development by the petitioner as part of the rezoning process shall be binding upon property within a conditional district in perpetuity or until the property is re-zoned by the Town Board. Such conditions may include increased buffers, architectural features, access, parking, hours of operation, or any other feature of the development that is integral to meeting the spirit and intent of this ordinance or that serves to mitigate the impacts of the development on adjacent property or the community at large. Such conditions must be enforceable by the Town, presented by the petitioner during the public hearing as part of the rezoning petition, and agreed to by the Town Board of Commissioners during the rezoning process.
- d. This is a voluntary procedure which is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative or speculative proposals

3. Overlay districts.

Overlay districts are established to provide for certain additional requirements, to permit uses not otherwise permitted in the underlying district, to prohibit uses allowed in the underlying district, or to establish special development requirements for uses permitted. Thus, where overlay districts exist and there is a conflict between the requirements and/or uses specified between the overlay and the underlying district, the standards of the overlay district shall prevail. Otherwise, the standards of the underlying district shall also be in effect for any area

additionally zoned for an overlay district. A zoning map change either establishing or changing any overlay district shall be subject to the same procedures and requirements as any other zoning map change. In certain areas, two or more overlay districts may apply.

2.2 Districts Named

ABBREVIATION	DISTRICT NAME
R20 & R20-CD	Rural Residential
R10 & R10-CD	Low Density Residential
R6 & R6-CD	High Density Residential
OI & OI-CD	Office and Institutional District
NB & NB-CD	Neighborhood Business District
CBD	Central Business District
GB & GB-CD	General Business District
HB & HB-CD	Highway Business District
LI & LI-CD	Light Industrial District
GI & GI-CD	General Industrial District
RFD	Riverfront District
MF-CD	Multi-Family Conditional District
PD-CD	Planned Development Conditional District
AO	Airport Overlay District
WSO	Watershed Overlay District
FPO	Floodplain Overlay District

2.3 Zoning District Boundary Interpretation

- A. Where district boundaries are shown within a street or alley right-of way, railroad or utility line right-of-way, recorded easement, or navigable or non-navigable waterway, such boundaries shall be construed to be in the center of the right-of-way, easement, or waterway.
- B. Where district boundaries are so indicated that they approximately follow lot lines, or town, city, or county borders, such lines shall be construed to be said district boundaries, unless otherwise indicated.
- C. Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, or railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning map. If no distance is shown, such distance shall be determined by use of the scale shown on the official zoning maps.
- D. Where a district boundary line divides a single lot, each part of the lot shall be used in conformity with the standards established by these regulations for the district in which that part is located.
- E. If, because of error or omission in the maps, any property within the jurisdiction of this ordinance is not shown as being in a zoning district, such property will be classified as "OPEN" until changed by amendment.

- F. When a zoning case file contains detailed, verifiable information regarding the boundary, that information will be used as the correct boundary location.
- G. In instances where none of the above methods are sufficient to resolve the boundary location, the Board of Adjustment shall establish the boundary location.

2.4 Zoning District Descriptions

A. Rural Residential District (R20 and R20-CD)

This district is established to provide a location for low density residential dwellings and limited light commercial uses in a suburban or rural setting in areas that are not yet urbanized and do not have all urban-type utilities. The established regulations for this district are designed to encourage the protection of natural features and allow for rural living. This is completed through increased environmental protections and encouragement of contextual development practices.

B. Low Density Residential District (R10 and R10-CD).

This district is established to provide moderate-density neighborhood consisting of single-family residences in a suburban setting. Uses located in this district are expected to have access to community water and sewer facilities. Other uses in this district can include limited private and public community uses.

C. High Density Residential District (R6 and R6-CD)

This district is established to provide a high-density neighborhood including single-family houses, duplexes and limited private and public community uses. All uses in this district are expected to have access to community water and sewer facilities. Pedestrian access must be considered for all uses provided within this district, so as to maximize connectivity between the Town's most dense residential district and surrounding uses.

D. Office and Institutional District (OI and OI-CD).

This district is established as a relatively high-density area intended primarily for offices, institutions and commercial activities not involving the sale of merchandise at retail, and public and private community uses. Uses outside of those listed are greatly limited within this district. As such, this district may also be used to buffer residential districts from more intense commercial and industrial districts, where possible.

E. Neighborhood Business District (NB and NB-CD).

This district is established for the use of those businesses and other uses which are properly and necessarily located in and near residential areas and which cater to the everyday needs of a limited residential area. As such, the list of uses allowed in this district is more limited than other commercial districts. The standards designed for these uses are intended to protect surrounding residential areas from any undesirable aspects of nearby commercial uses. Any use within this district is intended to serve the local residences and therefore shall not create or expand traffic congestion. Instead uses should be designed to support walking and cycling trips.

F. Central Business District (CBD).

This district is established as the central core of the town and is established for those uses which normally require a central location and which provide merchandise and services to be used by the entire town and its surrounding area. It is intended that this district shall develop and be maintained as a tight-knit core of commercial and cultural activity. As such, the district promotes a mixture of office, institutional, retail, and residential uses. This district promotes design and aesthetic consistency, as many of the structures are historic in nature, while also considering flexibility to encourage unique placemaking opportunities. Pedestrian access shall be a fundamental design consideration in this district.

G. General Business District (GB and GB-CD).

This district is established to provide a location for those businesses and services which do not necessarily require a central location but which are more properly located out from the central core of commercial activity. Such uses shall be located and designed in such a manner to promote aesthetics and to minimize traffic impacts on adjoining streets.

H. Highway Business District (HB and HB-CD).

This district is established to serve the town as compact and efficient retail shopping, consumer services and wholesaling areas along designated highways and thoroughfares within town and surrounding ETJ. The district is intended to serve automobile traffic of persons residing in and/or travelling through North Wilkesboro. As such, the district is designed to promote inviting aesthetics and proper traffic considerations. The district also provides space for indoor and outdoor recreational uses which require large lots.

I. Light Industrial District (LI and LI-CD).

This district is established to allow light manufacturing, wholesale sales, research centers, limited retail sales, and accessory land uses incidental to and in support of heavier industrial uses. Uses within this district are intended to have few external impacts on neighboring properties, including noise, odor, or vibration. The district is also designed to mitigate such impacts through setbacks, buffers, and screening requirements.

J. General Industrial District (GI and GI-CD).

This district is established to allow industrial land uses, including, but not limited to, manufacturing, processing and assembling of parts and products, distribution of products at wholesale, transportation terminals and a broad variety of specialized commercial and industrial operations. Uses allowed in this district can have a significant effect on the environment, public utilities, traffic volumes, or nearby properties. As such, this district is designed to mitigate impacts through the most robust setbacks, buffers, and screening requirements required by this ordinance.

K. Riverfront District (RFD)

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L. Multi-Family Conditional District (MF-CD).

The multi-family conditional district is established to accommodate multi-family projects which due to their design and/or scale may not be compatible with existing single family residential neighborhoods. This district is intended to accommodate duplex, triplex, patio homes, apartments, condominiums, and townhouse developments which may not as a whole integrate well into existing neighborhoods due to intensity of use.

1. Maximum residential density shall be 10 dwelling units per acre, unless otherwise granted by the Town Board of Commissioners during the conditional district rezoning process.
2. Multifamily developments with thirty (30) or more units shall have an on-site resident manager. This manager shall have on-site office hours of twenty (20) hours per week. These office hours must be posted on or near the door to the manager's office, and these hours must be between the hours of 8:00 a.m. and 6:00 p.m. Management shall post on or near the door to the manager's office an emergency contact number that enables residents to speak to a live person (not a recording) whenever the on-site manager does not have office hours.
3. Multifamily developments that contain four (4) or more dwelling units and that are located immediately adjacent to existing single-family residential districts shall have an opaque vegetative buffer at least thirty (30) feet in width between the proposed development and any

adjacent property zoned for single- family residential use. No buildings or parking shall be located within the buffer required by this subsection.

M. Planned Development Conditional District (PD-CD).

The planned development (PD) conditional district is established to permit flexibility in site design and land use codes for specialized projects and uses that are to be planned, developed and managed on a unified basis. Planned development proposals should be able to be supported by the existing, surrounding transportation systems and should be harmonious with surrounding development. Developers must conduct a pre- application meeting with town staff before submission of any application materials. Staff shall discuss details of the project, town policies, the town's vision for the property, and address concerns.

1. Permitted uses. Proposed uses shall be submitted by developer as part of the application process.
2. Dimensional requirements and supplemental standards.
 - a. Lot sizes shall be determined on a case-by-case basis and will depend on the design of the development and the types of uses proposed. However, developments may be subject to all overlay district requirements.
 - b. PD projects shall be a maximum of two hundred acres in size. All proposals shall conform to this size requirement except that proposals for tracts of less than thirty-five acres adjoining existing planned developments or the CBD district may be considered as long as they demonstrate that they are, in function and design, an extension of the existing CBD district.
 - c. The area of the PD shall be divided into blocks, streets, lots, and open space.
 - d. There shall be a substantial mix of housing types in exclusively residential PD projects; however, no more than sixty-five percent of dwelling units shall be multi-family housing.
 - e. Similar land uses shall front across each street. Dissimilar categories shall abut at rear lot lines when possible.
 - f. All uses shall be conducted completely within enclosed buildings, except that sidewalk sales, cafes, and open-air markets shall be permitted.
 - g. All streets and alleys shall terminate at other streets or alleys (e.g., cul-de- sacs and dead end streets shall be minimized).
 - h. Every PD that contains more than 20 dwelling units shall provide at least one square, or park or other form of open space no smaller than one acre. No portion of such neighborhood shall be more than six hundred feet from a square, park or open space.
 - i. The overall PD development must conform to the Town's adopted Comprehensive Plan.

N. Airport Overlay District (AO)

This district is intended to restrain influences which are adverse to the property and safe conduct of aircraft operations in the vicinity of the Wilkes County airport, to prevent creation of conditions hazardous to aircraft operation, to prevent conflict with land development which may result in loss of life and property, and to encourage development which is compatible with airport use characteristics within the intent and purpose of zoning.

O. Watershed Overlay (WSO)

It is the purpose of this district to protect the quality of drinking water for the Town of North Wilkesboro by setting standards for the development that occurs within designated public water supply watershed areas. It is further intended that the establishment of watershed regulations reflect the protection of critical environmental areas in accordance with the State of North Carolina's Water Supply Watershed Protection Rules

P. Floodplain Overlay (FPO)

The flood prone areas within the jurisdiction of Town of North Wilkesboro 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. The intent of this district is to minimize public and private losses due to flood conditions within flood prone areas by provisions and regulations of this district.

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2.5 Measurements and Dimensions

A. General

No lot, even though it may consist of one (1) or more adjacent lots of record in single ownership, shall be reduced in size so that the lot area per dwelling unit, lot width, yard and lot coverage requirements, and other requirements of this chapter are not maintained. This prohibition shall not be construed to prevent the purchase or condemnation of narrow strips of land for public utilities or street right-of-way purposes.

B. Lot

A parcel of land recorded with Wilkes County, or a parcel described by metes and bounds, the description of which has been so recorded.

1. Lot Types

a. Interior

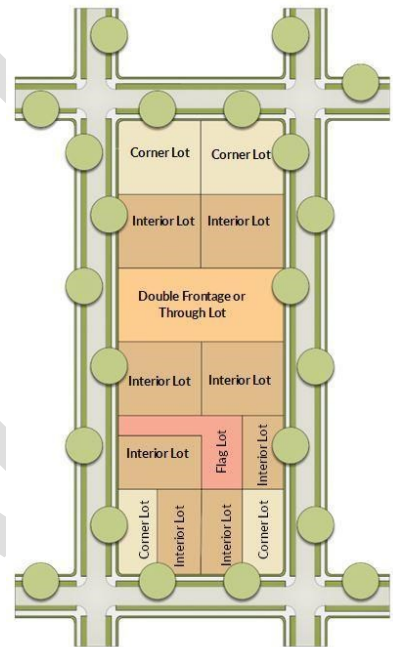
A lot other than a corner lot or a through lot, where only one property line fronts onto a street and all other lot lines are shared with other lots.

b. Corner Lot

A lot that occupies the interior angle at the intersection of two or more right-of-way lines.

c. Double Frontage, Reverse Frontage, or Through Lot

A continuous lot of the same depth as the width of a block, and which has street frontage along two or more property lines.



2. Lot Area

- Area shall be measured in gross square feet or acres.
- Lot area shall be that area included in a single, undivided piece of land.
- Minimum lot areas shall be exclusive of existing or proposed public or private right-of-way, resource conservation areas, and required recreation and open space.

C. Lot Coverage

The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings.

D. Impervious Surface

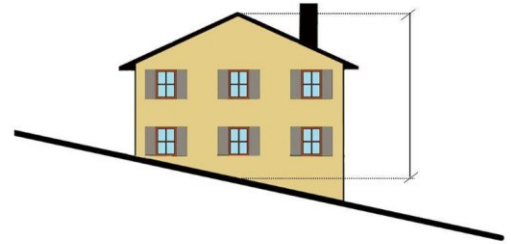
The maximum area of the lot that is permitted to be covered by buildings, including both principal structures and accessory buildings, paved areas such as driveways, uncovered porches or patios, or solid decks. For the purposes of calculating impervious surface, wooden slatted decks and the water area of a swimming pool are considered pervious.

E. Building Separation

The required separation between any two (2) buildings within a residential district located on the same lot or parcel of land. This distance shall be a minimum of ten (10) feet.

F. Height Calculations

For purposes of this Ordinance, the height of a structure shall be the vertical distance measured from the average elevation of the finished grade of all sides of a building, measured at the midpoint of each side, to the topmost elevation of the roof or to the topmost projection of the building above any roof, including parapet walls. Enclosed penthouses or equipment rooms are considered a part of the building and included in the calculation of building height



Measured from the average finished ground level to the highest point of the ridge.

1. The maximum heights as indicated in the various districts may be exceeded for the following uses:
 - a. Roof equipment not intended for human occupancy and which is accessory to the structure upon which it is placed, such as skylights, transmissions or television towers,
 - b. Housing for elevators
 - c. Stairways,
 - d. Water tanks,
 - e. Ventilating fans, air conditioning equipment or similar equipment,
 - f. Steeples, spires, belfries, cupolas or chimneys,
 - g. Radio and television antennae.

G. Width

1. Building Width

Building width shall be measured by the distance along the front plane of any building (as determined by the location of an entrance fronting onto a street).

2. Parcel or Lot Width

Parcel or lot width shall be measured by the distance between the side lot lines (generally running perpendicular to a street), measured at the front setback line, parallel to the front property line or along the chord of the front property line.

H. Density

The number of residential dwelling units per acre of land, determined by dividing the number of dwelling units by the total number of acres in the parcel to be developed.

I. Reduction of Lot and Yard Areas Prohibited

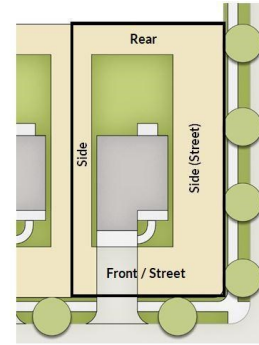
1. No required yard or lot area existing at the time of adoption of this Ordinance or any amendment subsequent thereto shall be reduced in size below the minimum requirements set forth herein, except as the result of street widening or other taking for public use or conveyance in lieu thereof.

2. Yards or lots created after the effective date of this Ordinance shall meet the minimum requirements established by this Ordinance. This prohibition shall not be construed to prevent the condemnation of land for public purposes.

J. Setbacks and Yards

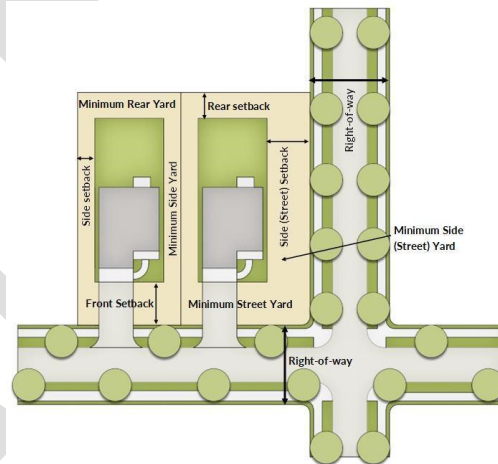
1. Defined

- a. **Setback.** The distance by which any building or structure must be separated from the lot line. Usually conveyed as the minimum distance permitted.
- b. **Yard.** The unoccupied, open space, at grade, on a lot extending from the lot line to the building. Usually conveyed as the minimum width permitted.



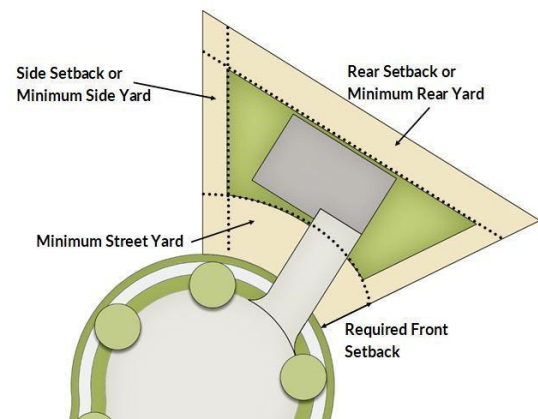
2. Types

- a. Front or Street
- b. Rear
- c. Side
- d. Corner



3. Measurement of Required Yards and Location of Minimum Setbacks

- a. Depth of a required front or corner yard shall be measured perpendicular to the street right-of-way line so that the yard established is equal to the minimum front or side (street) setback required by district regulations.
- b. The width of a required side yard shall be measured perpendicular to the side lot line so that the yard established is equal to the minimum side setback width required by district regulations.
- c. Depth of a required rear yard shall be measured perpendicular to the rear lot line in such a manner that the yard established is equal to the minimum rear setback required by district regulations.
- d. For lots located on a cul-de-sac, the street yard shall be measured as a line that extends parallel to the arc of the street right-of-way at a distance measured perpendicularly along the side lot lines and equal to that of the required minimum front setback required by the district regulations.



4. General

- a. All street yard and setbacks shall be measured from the edge of the property line. In instances where the property line extends to the middle of the roadway, the setbacks shall be measured from the edge of pavement or back of curb.
- b. Double frontage or through lots shall have a defined front and rear yard based on the historical development patterns of the blockface. Where there is no historical development pattern, the front yard shall be considered the yard which is adjacent to the primary road frontage or architectural front of the building.
- c. Every part of every required yard shall be open and unobstructed above grade upward to the sky except as provided or as otherwise permitted in this chapter.
- d. No part of a yard or other open space required for any structure or used for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space similarly required for another structure or use.

K. Location of Required Yards on Irregular Lots

The location of required front, side and rear yards on irregularly shaped lots shall be determined by the Administrator. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing and location of buildings and structures on individual lots.

L. Yard / Setback Encroachments

The following encroachment standards shall apply to all required yards, so long as they do not extend into any easements:

- 1. An attached and uncovered ground level (i.e., no greater than four feet in height) slab may extend into a required rear yard but shall be no closer to a rear lot line than one-half (1/2) of the required rear yard setback. Said slab may not be covered or enclosed in the future or otherwise be converted into heated floor space unless the full yard requirements for the structure are met.
- 2. Chimneys, pre-fabricated chimneys, flues, or smokestacks may extend a maximum of four feet into a required yard.
- 3. Building eave or roof overhang may extend up to twenty-four (24) inches into a required yard; provided that such extension is at least three feet from the property line, its lower edge is at least seven and a half (7½) feet above the ground elevation, and it is located at least five feet from any other building or eave.
- 4. Sills and ornamental features may project up to twenty-four (24) inches into any required yard.
- 5. Except in the CBD, fire escapes may project up to eight (8) feet into any required yard.
- 6. Signs may extend into required yards in conformance with standards found in Article VII.
- 7. Pedestrian bridges, breezeways, building connections, and supports of these structures may extend into required yards upon findings by the approving authority that the connecting feature is necessary to provide safe pedestrian access or to improve transit access.
- 8. Security gates and guard stations may be located within any required yard.
- 9. Unenclosed patios, decks or terraces, including lighting structures, may extend up to four (4) feet into any required side yard, or up to eight (8) feet into any required rear yard.

10. Mechanical equipment for residential uses, such as HVAC units and security lighting, may extend into any required side yard but shall remain at least four (4) feet from the property line.
11. Bay windows, entrances, balconies, and similar features that are less than ten (10) feet wide may extend up to eighteen (18) inches into any required yard but shall remain at least six (6) feet from the property line.
12. Structures below and covered by the ground may extend into any required yard.
13. Driveways may extend into any required yard, provided that, to the extent practicable, they extend across rather than along the setback area and may be no closer than two (2) feet from the side property line, except for residential driveways which may coincide along a property line.
14. Planters, retaining walls, fences, hedges, and other landscaping structures may encroach into any required yard, subject to visibility restrictions.
15. Utility lines located underground and minor structures accessory to utility lines (such as hydrants, manholes, and transformers and other cabinet structures) may encroach into any required yard.

2.6 Dimensional Standards

District		Min. Lot Size (Sq. Ft.) ¹	Min. Lot Width (ft) ²	Min. Setbacks			Max. Bldg. Height (ft)
				Front	Side	Rear	
R20	Residential	20,000	100	40	12	35	35
	Non-Residential	40,000	100	40	20	35	35
R10	Residential	10,000	75	35	10	30	35
	Non-Residential	20,000	75	40	15	30	35
R6	Residential	6,000	50	20	6	20	35
	Non-Residential	20,000	50	30	12	30	35
OI	Residential	6,000	60	25	8	25	50 ⁴
	Non-Residential	10,000	60	25	8	25	50
NB		0	0	10	15	5	35
CBD		0	0	0	0	0	80
GB		0	50	10	25 ⁶	20	50
HB		0	100	20	25 ⁶	10	50
LI		0	50	30	30 ⁶	30 ⁶	80 ⁴
GI		0	50	40	30 ⁶	30 ⁶	80 ⁴
MF-CD		2 acres ³	Varies ⁵	Varies ⁵	Varies ⁵	Varies ⁵	Varies ⁵
PD-CD		Varies ⁵					
WSO		Varies ⁵	Same as Underlying District				

AO		Same as Underlying District	Varies ⁵
FPO		Same as Underlying District	

¹ Lot area requirements may be larger for lots within the WS-II or WS-IV Watershed areas

² Lot width to be measured at minimum required setback.

³ Minimum lot size within MF-CD refers to the overall project area. Maximum residential density shall be 10 units per acre.

⁴ Height may be increased 1 foot for every additional 1 foot of setback provided for the building or portion thereof exceeding the height limit

⁵ To be determined during the conditional zoning district process

⁶ May be reduced to zero if the uses is not adjacent to a residential use

2.7 Overlay Zoning District Regulations

A. Airport Overlay District.

1. Permitted uses.

Uses permitted by right, uses with supplemental standards conditions, and uses permitted upon the issuance of a special use permit are listed in the table of uses in Article III.

2. Dimensional requirements and supplemental standards.

a. Airport height limitation zones. In order to carry out the provisions of this article, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the airport. Such zones are shown on the official zoning map described in this article. 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 zones are hereby established as sub-classifications of the airport overlay district and are defined as follows:

- (1) Precision Instrument Runway Approach Zone (AO-A1). The inner edge of this approach zone coincides with the width of the primary surface and is one thousand feet wide. The approach zone expands outward uniformly to a width of sixteen thousand feet at a horizontal distance of fifty thousand feet from the primary surface. Its center-line is the continuation of the centerline of the runway.
- (2) Runway Larger Than Utility Visual Approach Surface (AO-A2). The inner edge of this surface begins at and corresponds with the width of the primary surface and is one thousand feet wide. This surface rises uniformly at a 20:1 slope to a width of one thousand five hundred feet at a horizontal distance of five thousand feet from the primary surface along the extended runway centerline.
- (3) Runway Larger Than Utility with a Visibility Minimum as Low as Three-Fourths-Mile Non-precision Instrument Approach Zone (AO-A3). The inner edge of this approach zone coincides with the width of the primary surface and is one thousand feet wide. The approach zone expands outward uniformly to a width of four thousand feet at a horizontal distance of ten thousand feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

- (4) Transitional zones (AO-T). The transitional zones are the areas beneath the transitional surfaces.
 - (5) Horizontal zone (AO-H). The horizontal zone is established by swinging arcs of ten thousand feet radii 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.
 - (6) Conical zone (AO-C). 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 four thousand feet.
- b. Airport and surrounding area height limitations. Except as otherwise provided in this article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created under this article to a height in excess of the applicable height herein established for such zone. However, nothing in this article shall be construed as prohibiting the erection, alteration, or maintenance of any structure or growth of any tree at or to a height which is below the limitations set forth herein. Such applicable height limitations are hereby established for each of the zones in question as follows:
- (1) Precision Instrument Runway Approach Zone (AO- A1). Slopes fifty 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 ten thousand feet along the extended runway centerline; thence slopes upward forty feet horizontally for each foot vertically to an additional horizontal distance of forty thousand feet along the extended runway centerline.
 - (2) Runway Larger Than Utility Visual Approach Zone (AO-A2). The inner edge of this surface begins at and corresponds with the width of the primary surface and is one thousand feet wide. This surface rises uniformly at a 20:1 slope to a width of one thousand five hundred feet at a horizontal distance of five thousand feet from the primary surface along the extended runway centerline.
 - (3) Runway Larger Than Utility With a Visibility Minimum as Low as Three- Fourths-Mile Non-precision Instrument Approach. Zone (AO-A3). Slopes thirty-four 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 often thousand feet along the extended runway centerline.
 - (4) Transitional zone (AO-T). 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 one hundred fifty feet above the airport elevation which is one thousand three hundred and one 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 five thousand feet measured at ninety-degree angles to the extended runway centerline from the edge of the approach surface.

- (5) Horizontal zone (AO-H). Established at a height of one hundred fifty feet above the airport elevation or an elevation of one thousand four hundred fifty-one feet above mean sea level
- (6) Conical zone (AO-C). Slopes twenty feet outward for each foot upward beginning at the periphery of the horizontal zone and at one hundred fifty feet above the airport elevation and extending to a height of three hundred fifty feet above the airport elevation, or an elevation of one thousand six hundred fifty-one feet above mean sea level.

c. Airport zoning related to sanitary landfill location.

Due to the increased attraction of birds in the vicinity of sanitary landfills and the potential hazards which birds create to aircraft operations, the following provisions shall apply:

- (1) No sanitary landfill shall be located within ten thousand feet from a runway of any airport.
- (2) Sanitary landfills which are proposed to be located farther than ten thousand feet from a runway of any airport but within the conical surface will be reviewed on a case by case basis by the Board of Adjustment, which may in turn consult with the FAA. If, in the opinion of the Board of Adjustment or the FAA, the proposed landfill poses a threat to safe aircraft operations, then the landfill shall not be allowed in the proposed location.

3. Protective area map.

The protective surfaces and zones herein established are shown on the drawings entitled "Official Zoning Map – Airport Overlay" which are a separate but integral part of this section, and are kept on file in the office of the Planning Director.

4. Use Restriction.

Notwithstanding any other provision of this article, no use may be made of land or water within any zone established hereunder 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.

5. Nonconforming uses.

- a. **Regulations Not Retroactive.** The regulations prescribed in this article shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this article, or otherwise interfere with the continuance of a 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 this article and is diligently prosecuted to completion thereafter. The foregoing provisions, however, are subject to Section 9.24.
- b. **Marking and Lighting.** Notwithstanding the preceding provision of this article, 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 Wilkes County airport board to indicate to the operators of

aircraft in the vicinity of the airport the presence of such airport obstruction, provided that Wilkes County agrees to bear all cost and expense for such installation, operation and maintenance.

6. Applications

- a. In addition to the requirements of of this ordinance, applications for building or zoning compliance (certifications of zoning compliance) shall contain such further information as may reasonably be required by the Zoning Administrator in order to determine whether the proposed use complies with the requirements of this article.

- b. **Permits and variances.**

- (1) Issuance of Permit. No certification of zoning compliance, shall be issued by the Zoning Administrator under Section 8.8 of this ordinance with respect to any use within an "AO" zone unless said use complies with all of the requirements of this article; provided, however, that:
 - (a) In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any use or structure except in cases where, because of terrain, land contour, or topographic features, such use or structure would extend above the height limits prescribed for such zones.
 - (b) In areas lying within the limits of the approach zones, no permit shall be required for any use or structure except in cases where such use or structure would extend above the height limit prescribed for such approach zones.
 - (c) In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any use or structure except when such use or structure, because of terrain, land contour, or topographic features, would extend above the height limit prescribed for such transition zones.
- (2) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree, in excess of any of the height limits established in this Article.

- c. **Nonconforming Uses.** No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or tree to become a greater hazard to air navigation than it was on the effective date of this article or any amendments thereto, or than it is when the application for a permit is made.

- d. **Nonconforming Uses Abandoned or Destroyed.** Whenever the Administrator determines that a nonconforming tree or structure has been abandoned or more than sixty percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the requirements of this article.

- e. **Variances.**

- (1) Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this article may apply to the Board of Adjustment for a variance from such regulation in accordance with the procedures of Article IX of this ordinance.

The application for a variance shall be accompanied by a written determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace and the airport.

(2) Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this article. Additionally, no application for variance to the requirements of this article may be considered by the Board of Adjustment unless a copy of the application has been furnished to the airport manager and the Wilkes County airport board for advice as to the aeronautical effects of the variance. If the airport manager and/or the airport board does not respond to the application within thirty days after receipt, the Board of Adjustment may act on its own to grant or deny said application.

f. Obstruction Marking and Lighting. Subject to the provisions of Article VI any permit or variance granted, if such action is deemed advisable to effectuate the purpose of this article and is reasonable under the circumstances, may be so conditioned as to require the owner of the structure or tree in question to install, operate, and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Board of Adjustment, this condition may be modified to require the owner to permit Wilkes County, at its own expense, to install, operate, and maintain the necessary markings and lights.

B. Watershed Overlay (WO).

Please refer to Chapter V for Environmental Standards.

C. Floodplain Overlay (FPO).

Please refer to Chapter V for Environmental Standards.

ARTICLE III. USES AND USE STANDARDS

3.1 Establishment of Uses

Except as otherwise provided herein, regulations governing the use of land and structures are hereby established as shown in the Table of Permitted Uses in [3.4](#).

3.2 Uses Not Mentioned

Where a particular use category or use type is not specifically allowed under this Ordinance or is also not prohibited or restricted by this Ordinance, the Administrator may permit the use category or type if the criteria of subsection A below are met. The Administrator shall give due consideration to the intent of this Ordinance concerning the district(s), involved, the character of the uses specifically identified, and the character of the use(s) in question.

- A. Criteria for Evaluating Unlisted Uses: In order to determine that the proposed uses(s) has an impact that is similar in nature, function, and duration to the other uses allowed in a specific zoning district, the Administrator shall assess all relevant characteristics of the proposed use, including but not limited to the following:
1. The volume and type of sales, retail, wholesale
 2. Size and type of items sold and nature of inventory on the premises.
 3. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing.
 4. The nature and location of storage and outdoor display of merchandise; enclosed, open, inside or outside the principal building.
 5. Predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders).
 6. The type, size and nature of buildings and structures.
 7. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts.
 8. Transportation requirements, including the modal split for people and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes and whether trip purposes can be shared by other uses on the site.
 9. Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other uses.
 10. The amount and nature of any nuisances generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation and fumes.
 11. Any special public utility requirements for serving the proposed use, including but not limited to water supply, wastewater output, pre-treatment of wastes and emissions required

or recommended, and any significant power structures and communications towers or facilities.

12. The impact on adjacent properties created by the proposed use will not be greater than that of other uses in the zoning district.

B. Determination of Unlisted Use(s) by the Administrator

All determinations by the Administrator made pursuant to this section shall be in writing. In making the determination described in this section, the Administrator shall initiate an amendment to this Ordinance if the particular use or category of use(s) is likely to be common or to recur frequently, or if the omission is likely to lead to public uncertainty and confusion.

3.3 Using the Table of Uses

- A. The following table lists the primary uses permitted in each zoning district by issuance of a zoning permit according to the below denotations:
 1. Permitted (P): A "P" in the Table of Uses indicates that the use is allowed by right in the designated zoning district and may also be required to adhere to any underlying zoning districts.
 2. Permitted with Supplemental Standards (PS): A "PS" in the Table of Uses indicates that the use is allowed with additional standards and they are referenced accordingly.
 3. Special Use Permit (S): An "S" in the Table of Uses indicates that the use is allowed only with a valid Special Use Permit.
 4. Not Permitted (-): A "-" in the Table of Uses indicates the use is not permitted.
- B. If a use is not listed in the table of uses then it is considered an unlisted use and shall be evaluated pursuant to [section 3.2, Uses Not Mentioned](#). Any use not permitted, prohibited, or restricted by this Ordinance as an "unlisted use" shall only be permitted if approved by the Administrator pursuant to the provisions in Section 3.2 above.
- C. Standards associated with overlay districts and other requirements of this Ordinance may be more or less restrictive than those listed herein. Where a conflict occurs, the more stringent standard shall be utilized, unless otherwise specified.
- D. Regulations for uses incidental or accessory to the primary uses in the Table of Uses may also have additional standards detailed elsewhere.

3.4 Table of Uses

Primary Uses	R20	R10	R6	MF-CD	OI	NB	CBD	GB	HB	LI	GI	Use Standards
Agricultural Uses												
Agricultural industry	PS	-	-	-	-	-	-	P	P	P	P	3.5
Agriculture, bona-fide farms, including processing or sale of products grown on the same zoning lot	PS	-	-	-	-	-	-	-	-	-	-	3.5.x
Agricultural												3.5.x

Primary Uses	R20	R10	R6	MF- CD	OI	NB	CBD	GB	HB	LI	GI	Use Standards
implement sale, repair, rental or storage	PS	-	-	-	-	-	-	P	P	P	-	
Livestock sales and auctions	-	-	-	-	-	-	-	PS	P	P	-	3.5.x
Commercial Uses												
Adult establishments	-	-	-	-	-	-	-	-	PS	-	-	3.6.x
Amusements, commercial, indoor	-	-	-	-	-	-	P	P	P	-	-	
Amusements, commercial, outdoor	-	-	-	-	-	-	-	PS	PS	-	-	3.6.x
Automatic teller machine	-	-	-	-	P	P	P	P	P	P	P	
Banking and financial services	-	-	-	-	P	P	P	P	P	P	-	
Brewpub	-	-	-	-	-	-	P	P	P	P	-	
Broadcast studios (radio and television)	-	-	-	-	P	-	-	P	P	P	-	
Building materials supply	-	-	-	-	-	-	-	P	P	P	P	
Car wash	-	-	-	-	-	-	-	PS	PS	PS	PS	3.6.x
Convenience store	-	-	-	-	-	PS	P	P	P	-	-	3.6.x
Farmers market	-	-	-	-	-	-	P	P	P	-	-	
Feed and seed stores	-	-	-	-	-	-	P	P	P	-	-	
Flea markets	-	-	-	-	-	-	-	PS	PS	-	-	3.6.x
Food and beverage store	-	-	-	-	-	P	P	P	P	-	-	
Fuel dealer	-	-	-	-	-	-	-	PS	PS	PS	PS	3.6.x
Gasoline station, large	-	-	-	-	-	-	-	P	P	-	-	
Gasoline station, neighborhood	-	-	-	-	-	PS	PS	P	P	-	-	3.6.x
General retail	-	-	-	-	-	P	P	P	P	PS	-	3.6.x
Heavy machinery sales, repair, leasing, maintenance or storage	-	-	-	-	-	-	-	P	P	P	P	
Junk yard	-	-	-	-	-	-	-	-	-	-	PS	3.6.x
Kennel	PS	-	-	-	-	PS	-	P	P	-	-	3.6.x
Laundry and linen supply service	-	-	-	-	-	-	P	P	P	P	P	
Motor vehicle paint or body shop	-	-	-	-	-	-	-	P	P	P	-	
Motor vehicle sales, rental and leasing (Franchised and Non-Franchised)	-	-	-	-	-	-	-	PS	PS	-	-	3.6.x

Primary Uses	R20	R10	R6	MF- CD	OI	NB	CBD	GB	HB	LI	GI	Use Standards
Motor vehicle repair and maintenance	-	-	-	-	-	-	-	P	P	P	-	
Nightclub, Bar, Lounge, Private Club	-	-	-	-	-	S	S	PS	PS	-	-	3.6.x
Nursery, lawn and garden supply store, retail	-	-	-	-	-	S	-	PS	PS	PS	PS	3.6.x
Outdoor display and sales of merchandise	-	-	-	-	-	-	-	PS	PS	PS	-	3.6.x
Outdoor storage	-	-	-	-	PS	-	-	-	-	PS	PS	3.6.x
Parking lot or deck	PS	PS	PS	PS	PS	PS	P	P	P	P	P	3.6.x
Pawn shop	-	-	-	-	-	-	-	P	P	-	-	
Raceways and drag strips	-	-	-	-	-	-	-	-	-	-	S	3.6.x
Restaurant, with drive-through service	-	-	-	-	-	-	-	P	P	P	-	
Restaurant, without drive-through service	-	-	-	-	-	P	P	P	P	P	-	
Retail, non-store	-	-	-	-	P	P	P	P	P	P	-	
Riding stables	PS	-	-	-	-	-	-	PS	-	-	-	3.6.x
Shopping center, large	-	-	-	-	-	-	-	P	P	-	-	
Shopping center, small	-	-	-	-	-	P	P	P	P	-	-	
Shooting range, indoor	-	-	-	-	-	-	-	P	P	-	-	
Shooting range, outdoor	S	-	-	-	-	-	-	-	-	S	S	3.6.x
Studios (art, dance, music, or photographic)	-	-	-	-	P	P	P	P	P	P	-	
Veterinary services		-	-	-	P	P	P	P	P	-	-	
Industrial Uses												
Abattoirs	S	-	-	-	-	-	-	PS	-	P	P	3.7.x
Asphalt and concrete plant and contractors	-	-	-	-	-	-	-	-	-	-	P	
Brewery	-	-	-	-	-	-	P	P	P	P	P	
Building contractors, general	-	-	-	-	P	-	P	P	P	P	P	
Building contractors, heavy	-	-	-	-	-	-	-	PS	PS	P	P	3.7.x
Bulk storage of petroleum products	-	-	-	-	-	-	-	-	-	P	P	
Data Centers									P	P	P	

Primary Uses	R20	R10	R6	MF- CD	OI	NB	CBD	GB	HB	LI	GI	Use Standards
Distilleries	-	-	-	-	-	-	P	P	P	P	P	
Dry cleaning and laundry plants	-	-	-	-	-	-	-	-	-	P	P	
Feed and flour mills	-	-	-	-	-	-	-	-	-	P	P	
												x
Laboratory (analytical, experimental testing, research and development)	-	-	-	-	-	-	-	-	-	P	P	
Laboratory, medical or dental	-	-	-	-	P	-	-	P	P	P	-	
Landfill, land clearing and inert debris	PS	-	-	-	-	-	-	-	-	PS	PS	3.7.x
Manufacturing A	-	-	-	-	-	-	-	P	P	P	P	
Manufacturing B	-	-	-	-	-	-	-	-	-	P	P	
Manufacturing C	-	-	-	-	-	-	-	-	-	-	PS	3.7.x
Microbrewery	-	-	-	-	-	-	P	P	P	P	P	
Printing or binding	-	-	-	-	P	P	P	P	P	P	-	
Solar Farms	S									PS	PS	3.7.x
Storage and salvage yard	-	-	-	-	-	-	-	-	-	-	PS	3.7.x
Terminal, freight	-	-	-	-	-	-	-	-	PS	PS	PS	3.7.x
Warehousing (excluding self-storage)	-	-	-	-	-	-	-	PS	PS	P	P	3.7.x
Warehousing, self-storage	-	-	-	-	-	S	-	PS	PS	PS	PS	3.7.x
Wholesale trade	-	-	-	-	-	-	-	P	P	P	P	
Winery	P	-	-	-	-	-	P	P	P	P	P	
Government and Institutional Uses												
Child care institution	PS	-	-	-	P	PS	-	P	P	-	-	3.8.x
Church or religious institution,	P	PS	PS	-	P	P		P	P			3.8.x
Civic, fraternal, cultural, and community facilities not otherwise listed	PS	-	-	-	P	P	P	P	P	-	-	3.8.x
College or university	PS	-	-	-	P	-	PS	P	P	PS	-	3.8.x
Community center	PS	-	-	-	P	P	PS-	P	P	-	-	3.8.x
Correctional institution	-	-	-	-	-	-	-	-	-S	S	S	3.8.x
Daycare center	PS	-	-	-	PS	PS	PS	PS	PS	PS	-	3.8.x
Daycare, home	PS	PS	PS	-	PS	PS	PS	PS	PS	-	-	3.8.x
Funeral home	-	-	-	-	P	-	-	P	P	-	-	
Government offices,												

Primary Uses	R20	R10	R6	MF- CD	OI	NB	CBD	GB	HB	LI	GI	Use Standards
courthouses, and similar governmental facilities not otherwise listed	P	P	P	P	P	P	P	P	P	P	P	
Group care facility	PS	-	-	-	PS	-	-	PS	PS	-	-	3.8.x
Group home (A & B)	PS	PS	PS	-	-	-	-	-	PS-	-	-	3.8.x
Habilitation facility - A	-	-	-	-	P	P	P	P	P	-	-	
Habilitation facility - B	-	-	-	-	P	-	-	P	P	-	-	
Homeless shelter	-	-	-	-	-	-	-	PS	PS	-	-	3.8.x
Library, Museum, Art Galleries	P	-	-	-	P	P	P	P	P	-	-	
Nursing care institution and congregate care facilities	PS	-	-	-	P	-	-	P	P	-	-	3.8.x
Post office	P	-	-	-	P	P	P	P	P	-	-	
Progressive care community	PS	-	-	-	P	-	-	P	P	-	-	3.8.x
Public safety stations including police, fire, and rescue services	P	-	-	-	P	P	P	P	P	P	P	
Schools, elementary and secondary, including school stadiums (public)	PS	-	-	-	PS	-	PS	PS	PS	-	-	3.8.x
Schools, vocational, private, or professional	PS	-	-	-	PS	-	PS	PS	PS	PS	-	3.8.x
Commercial yard waste composting	-	-	-	-	-	-	-	-	-	-	P	
Professional Offices and Medical Uses												
Health services, miscellaneous	-	-	-	-	P	-	P	P	P	P	-	
Hospital	-	-	-	-	P	-	-	P	P	P	-	
Medical and surgical offices	-	-	-	-	P	P	P	P	P	P	-	
Offices, professional	-	-	-	-	P	P	P	P	P	P	P	
Recreational Uses												
Arenas	S	-	-	-	-	-	-	P	P	P	P	3.9.x
Assembly halls, coliseums, armories, Ballrooms and exhibition buildings	-	-	-	-	P	-	-	P	P	-	-	
Reception Hall/Events Venue	-	-	-	-	-	-	P	P	P	-	-	
Golf course and driving range	P	P	P	-	-	-	-	P	P	-	-	3.9.x

Primary Uses	R20	R10	R6	MF-CD	OI	NB	CBD	GB	HB	LI	GI	Use Standards
Park and open space areas	P	P	P	-	P	P	P	P	P	P	P	
Recreation services, indoor	S	-	-	-	P	P	P	P	P	P	-	3.9.x
Recreation services, outdoor	PS	PS	PS	-	PS	PS	PS	PS	PS	PS	PS	3.9.x
Recreational vehicle park	S	-	-	-	-	-	-	PS	PS	PS	PS	3.9.x
Resort	S							PS	PS	PS	PS	3.10.E x
Swimming Pool (Public, Private)	PS	PS	PS	-	PS	PS	PS	PS	PS	PS	PS	3.9.x
Residential Uses												
Boarding or rooming house for up to 2 boarders	PS	PS	PS	-	-	-	-	-	-	-	-	3.10.x
Cluster subdivisions	PS	PS	PS	-	-	-	-	-	-	-	-	3.10.x
Dormitory	S	-	-	P	S	-	S	-	-	-	-	
Manufactured Home	PS	-	-	-	-	-	-	-	-	-	-	3.10.x
Manufactured home park	PS	-	-	-	-	-	-	-	-	-	-	3.10.x
Residential building, duplex	PS	-	PS	P	-	-	-	-	-	-	-	3.10.x
Residential building, triplex/quadplex	-	-	S	P	-	-	-	-	-	-	-	
Residential building, multi-family; Townhouse	PS	-	PS	P	-	-	-	PS	PS	-	-	3.10.x
Residential building, single family	P	P	P	-	-	-	-	-	PS	-	-	3.10.x.
Upper-Story Residential	-	-	-	-	-	P	P	P	P	-	-	
Ground-Floor Residential	-	-	-	-	-	-	S	PS	PS	-	-	3.11.x
Overnight Accommodations												
Bed and breakfast establishment	PS	PS	PS	-	PS	PS	PS	PS				3.11.x.1
Hotel	-	-	-	-	-	-	P	P	P	-	-	
Lodge	-	-	-	-	-	-	P	P	P	P	-	
Motel	-	-	-	-	-	-	-	P	P	-	-	
Service Uses												
Cemetery	PS	-	-	-	PS	PS	-	PS	PS	-	-	3.12.x
Columbarium	PS				PS	PS		PS	PS			3.12.x
Personal services	-	-	-	-	P	P	P	P	P	-	-	
Terminal, bus or taxi	-	-	-	-	-	-	P	P	P	-	-	

Primary Uses	R20	R10	R6	MF-CD	OI	NB	CBD	GB	HB	LI	GI	Use Standards
Utilities												
Utilities, above ground	PS	PS	PS	-	PS	PS	PS	PS	PS	PS	PS	3.13.x
Utilities, below ground	P	P	P	-	P	P	P	P	P	P	P	
Wireless Telecommunication Facilities	S	S	S	S	S	S	S	S	S	S	S	Appendix C.
Miscellaneous and Temporary Uses												
Airports and Heliports	S	-	-	-	PS	-	-	PS	PS	PS	PS	3.14.x
Fairgrounds	-	-	-	-	-	-	-	PS	PS	-	-	3.14.x
Manufactured home, temporary	S	S	-	-	-	-	-	-	-	-	-	3.14.x
Temporary Alternative Landscaping	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.14.x
Temporary Recreation Vehicle Park	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.14.x
Temporary storage units	PS	PS	PS	-	-	-	-	PS	PS	PS	PS	3.14.x
Accessory Uses												
Accessory Dwelling Unit	PS	PS	PS									3.15.x
Accessory Structures and Uses	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	PS	3.15.x
Food Truck	-	-	-	-	PS	-	PS	PS	PS	PS	PS	3.15.x
Home occupations	PS	PS	PS	-	PS	PS	PS	PS	PS	PS	PS	3.16.x
Outdoor Display, Accessory	-	-	-	-	-	-	-	PS	PS	PS	-	3.16.x
Outdoor Storage, Accessory	-	-	-	-	PS	-	-	-	-	PS	PS	3.16.x

3.5 Agricultural Use Standards

A. Agriculture

1. When located within the corporate limits:
 - a. There shall be a separation of no less than two hundred fifty feet between structures housing the agricultural industry and the closest point of any property located in a residential district or developed for residential or mixed-use purposes.
 - b. The use shall be located on a lot containing no less than six acres.
 - c. Agricultural uses shall maintain a minimum ten-foot vegetated buffer, or equivalent control as determined by the soil and water conservation commission along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute) topographic maps.

B. Agriculture Equipment Sales and Service.

1. Outdoor storage of implements and equipment shall be located in the rear or side yard only.
2. Outdoor storage shall be screened with opaque fencing or appropriate vegetation.

C. Livestock Sales and Auctions.

There shall be a separation of no less than one hundred feet between structures housing the sale or auction and/or confinement of livestock and the closest point of any property located in a residential district or developed for residential or mixed-use purposes.

1. The use shall be located on a lot containing no less than six acres.
2. Sales and auctions shall maintain a minimum ten-foot vegetated buffer, or equivalent control as determined by the soil and water conservation commission along all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 scale (7.5 minute) topographic maps.

3.6 Commercial Use Standards

A. Adult Establishments.

1. No adult establishment shall be located within one thousand five hundred feet (determined by a straight line and not street distance) of the closest boundary line of any residential zoning district, or of any point on the closest property line of any church, school, day care, public park, residence or playground as measured by a horizontal, straight line distance from the closest point on the closest boundary line of the property occupied by the adult establishment.
2. No adult establishment shall be located within one thousand five hundred feet (determined by a straight line and not street distance) of any other adult establishment as measured by a horizontal, straight-line distance from the closest point on the closest boundary line of the property occupied by each.
3. No more than one adult establishment may be located within the same structure.
4. Mini-motion picture booths shall be constructed without doors, and shall orient the customer entrance of each booth toward the principal sales counter.
5. Patrons of adult establishments shall be separated from entertainers, performers or entertainment employees by a minimum of six feet.
6. All performers or entertainment employees of adult establishments shall perform on an elevated stage or platform, elevated from the main floor by at least three feet.
7. No printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible to the public or an adjacent property or use, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the establishment.
8. All windows, doors, entries and the like for all adult uses shall be so located, covered, screened or otherwise treated that any view of the interior of the establishment are not possible from any public or semipublic area, street or way.

9. No patron or employee parking shall be allowed in the rear yard of the property.

B. Amusements, Commercial, Outdoor.

1. Outdoor amusement facilities shall be separated by an opaque screen from any abutting property located in a residential district;
2. No permanently established amusement facilities, such as miniature golf courses, skateboard courses, or mechanical rides shall be located within two hundred feet of the closest point of any abutting property located in a residential district;

C. Car Wash

1. The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.
2. Car washes, vacuums, and similar service devices shall be a minimum of twenty feet from the nearest portion of an adjacent residential zoning district or residential use.
3. Car washes accessory to a principal use shall be located in the side or rear yard only.
4. Self-service and Full-service car washes are not permitted in the LI, Light Industrial, and GI, General Industrial zoning districts.

D. Convenience Store.

No outdoor sales, storage or display of goods shall be allowed with the exception of live plants, ice or seasonal sales.

E. Flea Markets.

1. All structures associated with the market shall be at least three hundred linear feet from any lot located in a residential district.
2. Overnight storage of all merchandise shall be indoors.
3. The premises shall be kept maintained and clear of debris and trash.
4. No on-street parking is permitted.
5. Parking spaces and aisles shall be adequately delineated and separated from the vendor areas to ensure safe circulation. Parking shall be in accordance with Section 6.4.
6. Noise must be limited to such a level as to not disturb neighbors and be in accordance with all Town of North Wilkesboro ordinances and regulation.
7. There shall be a designated onsite supervisor responsible for supervising all flea market activity.

F. Fuel Dealers.

1. All storage tanks, pumping equipment, loading and unloading must be located in the rear yard and in a fenced area.
2. All tanks and structures cannot be within 100 feet of a residentially zoned lot.

G. Gasoline Station, Neighborhood.

1. Any accessory motor vehicle repair service shall store any wrecked, partially dismantled, or inoperative vehicles located on-site in an enclosed building.
2. The overnight storage of all merchandise and vehicles shall be indoors and all repair work and similar activities shall be conducted entirely within enclosed structures.
3. All fuel pumps shall be located a minimum of twenty feet from any adjacent property line.
4. In Neighborhood Business zones, no outdoor sales, storage or display of goods shall be allowed with the exception of live plants, ice and seasonal sales.

H. General Retail

1. Within Industrial District
 - a. Retail uses, not including storage areas, shall only occupy 25% of the total structures' footprint.
 - b. Uses accessory to primary industrial uses shall not be included in these standards.
 - c. Retail spaces within an industrial area shall have direct access to a major or minor thoroughfare.

I. Junk Yard.

1. The entire perimeter of the junkyard shall be enclosed by an opaque fence or vegetative screen at least six feet in height.
2. The lot containing the junkyard must be a minimum of five acres.
3. When lots are adjacent to residentially zoned lots or residential uses, a minimum setback of seventy five feet.

J. Kennel.

1. Any structure which houses animals which is not fully enclosed shall be located at least one hundred feet from any lot line and two hundred fifty feet from a residential use district.
2. Any run located partially or wholly outdoors shall be located at least one hundred feet from any lot line and two hundred fifty feet from a residential or mixed-use district.

K. Motor Vehicle Sales, Rental, and Leasing (Franchised and Non-Franchised):

1. Franchised dealerships shall be permitted with conditions in the General Business (GB) and Highway Business (HB) districts under the following conditions:

- a. NC-DMV: Must be able to meet all license requirements as found in Form LT-415 (NC Minimum Dealer License Requirements).
- b. Minimum required lot area for vehicles: 15,000sf (0.34 Acre).
- c. Minimum required lot area for any combination of passenger vehicles, boats, transport tractor and trailers: 60,000sf (1.37 Acres).
- d. Parking Lot type: All proposed parking areas must be paved with asphalt concrete, including those for customer parking.
- e. Parking Lot layout: Aisle spacing and parking spacing must conform to Section 6.4.
- f. Vehicle Location: Vehicles may not be located within 5 feet of any property line/road right of way line, and may not be located within 20 feet of any property line abutting a residential district. Furthermore, no automobiles may be placed within any public right of way.
- g. Screening: All boundaries of a property containing such uses that directly adjoin a Single Family residential district shall be buffered with a solid fence extending from the ground to a height of not less than 6 feet or a vegetative screen/buffer as outlined in Section 6.7.
- h. Outdoor Vehicle Display Area Screening: All outdoor vehicle display areas shall be screened by a perimeter landscape area in accordance with Section 6.7. No vehicles displayed for sale or awaiting work or pick-up shall be located within a required landscape area, or in any public rights-of-way.
- i. Combination Uses: Vehicle bays may not face the street front. All accessory or subordinate uses must meet all applicable Town ordinances.

L. Nightclub, Bar, Lounge, Private Club.

- 1. Separation Requirement: All Nightclubs, Private Clubs, Bars, and Lounges in the GB and HB districts shall be located no closer than 500 feet to any residential district or use, church, or school as measured from property line to property line.
- 2. Private Clubs shall meet the following standards:
 - a. Private clubs shall be open to members of the club and their guests only.
 - b. Outdoor seating areas for private clubs shall not be permitted within two hundred fifty feet of a residential use or a residentially zoned lot.
 - c. Music, loud speakers, and similar noise devices shall not be permitted outdoors. Noise emanating from the club shall not exceed ambient noise levels in the surrounding area at a distance of more than one hundred feet from any point of the property containing the club.

M. Nursery, Lawn and Garden Supply Store, Retail.

- 1. Up to two storage containers/trailers are permitted to be placed on the lot.

2. Where permitted as a principal use on a lot, the area of storage for live plants shall be no closer than ten feet from an abutting street right-of-way, and the area of storage for all other items shall be no closer than forty feet from an abutting street right-of-way.

N. Outdoor Display and Sales of Merchandise.

1. All display and sales of merchandise shall be conducted completely within enclosed buildings, except where expressly permitted below:
2. Outdoor seating for restaurants, provided that such:
 - a. Shall not be located in any street right-of-way where handicap access, pedestrian and/or vehicular movement is inhibited;
 - b. Shall be permitted only along the business tenant bay or storefront façade; and
 - c. Shall not block the entrance to the business or building.

O. Outdoor Storage.

1. Items must be placed within an enclosed building or approved outdoor storage area at the end of each business day.
2. Up to two storage trailers are permitted to be placed on a single lot or in conjunction with a single principal use.
3. Only vehicles and equipment awaiting or in process of repair which are not visibly damaged or are not used or intended to be used as "parts" vehicles shall be permitted.
4. Where permitted as an accessory use in conjunction with a building, the area of storage shall not be placed in any front yard abutting a street.
5. Where permitted as a principal use on a lot, the area of storage shall be no closer than twenty-five feet from an abutting street right-of-way.
6. All areas established for outdoor storage, including security fencing of such areas, shall be screened from view from the public street(s) and from all abutting properties by an opaque or vegetative screen at least six-feet in height.
7. A motor vehicle storage yard created or expanded after the adoption date of this article shall have an enclosed storage area not exceeding one acre.
8. No repair work shall be done on motor vehicles while stored in the storage yard. No parts or other articles may be removed from the vehicles except for security purposes, nor shall any parts or articles be sold. The sale of whole vehicles shall be permitted only to satisfy a mechanic's lien or by order of a law enforcement agency.
9. Fencing shall be set back a minimum of ten feet from public street rights-of-way.
10. Vertical stacking of motor vehicles is prohibited.
11. Any gasoline, oil, or other materials spilled or collected on site shall be contained and disposed of in accordance with state and federal laws.

P. Parking Lot or Deck.

1. Parking lots and decks not accessory to a building on the same development site shall meet all requirements elsewhere herein for such uses, except that:
2. Parking lots, as a principal use, within residential districts shall only service uses allowed within residential zoning districts.
3. Parking lots in all nonresidential areas must meet screening and landscaping requirements as given in [Article VI](#).
4. Parking decks shall, to the maximum extent practicable, meet the design standards for buildings.

Q. Raceways and Drag Strips.

1. Vehicular access to the use shall be provided only by way of a major or minor arterial.
2. A minimum separation of one hundred feet, fully vegetated, shall be provided between the fenced use area and any abutting property line.
3. Existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year-round opaque buffer from abutting properties.

R. Riding Stables.

1. Lots shall maintain a fence shall be maintained around the entire perimeter of the lot housing the stable.
2. All buildings and animal waste storage shall be fifty feet from any property line.

S. Shooting Range, Outdoor.

1. All new shooting ranges shall be designed, constructed, and operated in strict compliance with the National Rifle Association (NRA) standards specified in the latest edition of "The NRA Range Sourcebook". In addition, construction standards shall comply with all appurtenant North Carolina Building and Fire Codes.
2. All shooting stations on a range facility shall be located a minimum of one hundred fifty (150) feet from any property line.
3. Warning signs meeting NRA guidelines for shooting ranges shall be posted at one hundred foot intervals along the entire perimeter of the range facility.
4. All outdoor shooting ranges stations shall be located at least 500 feet from any occupied dwelling, excluding those dwellings occupied by the range owner and staff of the range.

T. Retail Uses in Industrial Districts.

1. Retail uses, not including storage areas, shall only occupy 25% of the total structures' footprint.

2. Uses accessory to primary industrial uses shall not be included in these standards.
3. Retail spaces within an industrial area shall have direct access to a major or minor thoroughfare.

3.7 Industrial Use Standards

A. Abattoirs.

1. All activities associated with the slaughtering of animals shall be screened from public view.
2. There shall be a separation of no less than fifty feet between structures housing the slaughtering activity and/or the confinement of animals and the closest point of any property located in a residential district or developed for residential purposes.

B. Building contractors, heavy.

All outdoor storage of equipment and building materials shall be kept at least fifty linear feet from any adjacent residential use and shall be located in a side or rear yard only and shall be screened from public view.

C. Landfill, land clearing and inert debris (LCID).

1. Any on-site LCID landfill must comply with the regulations of the State of North Carolina's Division of Waste Management.
2. An LCID landfill cannot be the principal use of the lot.
3. Any such landfill must be closed in an approved fashion within six months of completion of construction or within twelve months of cessation of construction, if the development project has not been completed.
4. The location of any such landfill must be indicated on the preliminary subdivision plan and the final subdivision plat, if applicable. Further, any parcel or lot which contains any part of any such landfill must have notification of the existence of the landfill recorded as part of the deed for the lot or parcel.
5. No portion of any such landfill may be located within fifty feet of any property line which constitutes the external boundary of the project. This includes structures, equipment storage, parking areas, and fill areas, except that access drives may cross this area.

D. Manufacturing C

1. Quarries or other extractive industries are only permitted in the GI, General Industrial zoning district with a Special Use Permit with the following standards:
 - a. Operations Affected by Regulations. Mining operations which affect more than one acre of land, including borrow pits which disturb more than one acre of land at any one time, shall meet the following regulations:

- b. Dimensional Requirements. Dimensional requirements for mining operations are specified below. Buildings shall meet the setback and other dimensional requirements of the underlying zoning district.
- c. Dimensional Requirements for Mining Operations - Required Minimum Distance from any Public Right-of-Way or from Property that is Adjacent to:

Mining Activity	GI Zoning District
Any extraction area, road, or pit.	50 feet
Any crushing of rock, processing of stone, gravel, or other material.	100 feet
Any blasting.	200 feet

- 2. Waste transfer stations are only permitted in the GI, General Industrial zoning district with a Special Use Permit with the following standards:
 - a. Recyclable materials from residential sources shall be limited to tires, scrap metal such as lawnmowers and play equipment; white goods such as refrigerators, clothes dryers and stoves; lead acid batteries; motor oil; cardboard; and other recyclables of residential origin.
 - b. The area of active use must be enclosed by a fence, not easily climbable, from of at least six (6) feet in height, and the fence must be located at least twenty feet from the public street right-of- way and one hundred feet from abutting property lines.
 - c. A minimum separation of one hundred feet, fully vegetated, shall be provided between the fenced use area and any abutting property line; existing vegetation shall be preserved to the extent practicable and supplemented with new plantings as may be required to provide a year round opaque buffer from abutting properties.
 - d. The site shall be screened from the street(s) by a screen composed of a masonry wall or a solid (opaque) fence, planted on the exterior side with a semi- opaque vegetative screen with expected height of at least eight feet at maturity; security fencing shall be placed on the interior side of the vegetation and wall or fence.
 - e. The active use areas of the site shall be separated by one hundred feet from all public streets.
 - f. That active use portions of the site will be entirely fenced with non-climbable fencing material to a height of at least six feet, which shall be installed on the interior of the buffer and screen.
 - g. No active area will be located within one hundred feet of any property line or within two hundred feet of abutting property located in a residential district or developed for residential, institutional, or mixed use.
 - h. Vehicular access to the proposed use will not be provided by a minor collector or neighborhood street, and access roads to the site will connect directly to a designated arterial.

E. Mining Activity

1. GI Zoning District
 - a. Any extraction area, road, or pit: 50 feet from property line
 - b. Any crushing of rock, processing of stone, gravel, or other material: 100 feet from property line
 - c. Any blasting: 200 feet from property line
2. Easements. No excavation shall take place within easements for underground transmission lines for oil, natural gas, or other potentially hazardous material.
3. Fencing. Any excavation to a depth greater than five feet shall be fenced. However, no fencing shall be required on any property where such fencing would be impracticable, as determined by the Administrator, by reason of location of such property in a floodplain.
4. Access. The site of the mining operation shall have direct access onto a major or minor thoroughfare. Any road which the mining operation accesses may be required to be improved to necessary industrial capacity as a condition of approval.
5. Spillage and Effluent. The loading of trucks shall be accomplished in such a way as to prevent spillage on roads. The effluent of extraction or processing going into streams must comply with requirements of State law.
6. Flooding. Whenever a mining operation would in the course of its operation create a flooding hazard, the operator, before commencing any such excavation, and at such other times during the excavation as may be necessary, shall erect such dikes, barriers, or other structures as will afford the same protection as if no excavation were made. No mining operation shall impede the flow of any watercourse.
7. Operational Statement. The petitioner will file an operational statement with the Administrator which shall include the following:
 - a. The approximate date to begin operation and its expected duration;
 - b. Estimated type and volume of extraction;
 - c. Description of method of operation, including the disposition of topsoil, overburden, and by-products;
 - d. Description of equipment to be used in the extraction process; and
 - e. Any phasing of the operation and the relationship of the various phases.
8. Temporary or Permanent Discontinuance of Operations. Notice of intent to discontinue temporarily a mining operation shall be filed with the Administrator in advance of such temporary discontinuance. Notice of intent to discontinue permanently a mining operation shall be filed with the Administrator not less than three months in advance.
9. Maintenance. During any period that a mining operation is discontinued temporarily, the site, along with all structures, machinery, and fencing, shall be properly maintained in a safe and orderly condition.

10. Reuse or Rehabilitation of Site. Notice of permanent discontinuance of mining operation shall include a plan for reuse or rehabilitation of the site. Except where redevelopment for another permitted use is in progress on the site of a discontinued mining operation, the last operator shall perform the following within one year:
 - a. Buildings and Equipment. All buildings and equipment shall be removed;
 - b. Materials. All nonregulated waste piles, overburden, and other materials shall be graded so that the material assumes its natural angle of repose. These materials shall be planted with vegetation so as to prevent erosion;
 - c. Walls. Any quarry walls shall be cleared of loose materials;
 - d. Water Collection and Drainage. Any excavation shall be so graded as to provide for natural drainage; if the collection of water in an excavation is unavoidable, the area shall be fenced.
11. Other Requirements. The operator of any mining operation shall file with the Administrator, in addition to any exhibits required elsewhere in this Ordinance, evidence of ownership or control of property, plans for rehabilitation, and notices of intent, as required herein. The Administrator shall inspect the premises annually to determine that all specific conditions are being met. Violation of the requirements herein shall make the operator liable to the penalties set forth in this ordinance.
12. Sand Dredging Operations. In addition to complying with the applicable provisions of this section, sand dredging operations shall be conducted in a manner which does not result in the erosion of the banks of a stream.

F. Solar Farms

1. Solar power electric generation structures shall not exceed a height of 25 feet.
2. Ground-mounted solar energy systems shall meet the minimum zoning setback for the zoning district in which located.
3. Active solar systems shall be screened from routine view from public right-of-way or adjacent residentially zoned property.

G. Storage and Salvage yard.

1. Any gasoline, oil, or other materials spilled or collected on the site shall be contained and disposed of in accordance with state and federal laws.
2. All activities associated with storage, wrecking, or processing shall be fully screened from public view.

H. Terminal, freight.

1. The area designated for truck parking shall be located no closer than forty feet from an abutting street right-of-way.

2. The area of truck parking shall be screened from view from the street(s) and from all abutting properties by an opaque screen. Wherever security fencing is desired, it shall be placed on the interior side of the screening materials.
3. The use shall be located on or have direct access to a major or minor arterial; truck terminals shall not be sited such that collector streets are regularly traversed to access the larger capacity road.

I. Warehousing (excluding self-storage).

All warehousing operations shall be served directly off a major or minor arterial.

J. Warehousing, self-storage.

1. The only commercial uses permitted on the site of a self-service storage facility use shall be the rental of storage bays and the pickup and deposit of goods or property in storage. Storage bays shall not be used to manufacture, fabricate, or process goods; service or repair vehicles, small engines, or electrical equipment, or to conduct similar repair activities; conduct garage sales or retail sales of any kind; or conduct any other commercial or industrial activity on the site;
2. A security or caretaker quarters use may be established on the site of a self- storage facility;
3. Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address;
4. Except as provided in this section, all property stored on the site of a self- service storage facility use shall be entirely within enclosed buildings;
5. Open storage of recreational vehicles and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self-service storage facility use, provided that the following standards are met:
 - a. The storage shall occur only within a designated area. The designated area shall be clearly delineated;
 - b. The storage area shall not exceed fifty (50) percent of the buildable area of the site;
 - c. The storage area shall be entirely screened from view from adjacent residential areas and public roads by a building and/or solid fencing with landscaping on the outside of the fence;
 - d. Storage shall not occur within the area set aside for minimum building setbacks;
 - e. No dry stacking of boats shall be permitted on site; and
 - f. No vehicle maintenance, washing or repair shall be permitted.
6. Vehicle storage shall be permitted and if stored within a structure all NC Building and Fire Codes shall be met in regards to storage and ingress/egress;
7. The development shall not encroach into any buffer required by this ordinance; the minimum required setback from any property line shall be the greater of any required buffer or setback;

8. The following on-site circulation standards shall apply:
 - a. Interior parking shall be provided in the form of aisle ways adjacent to the storage bays. These aisle ways shall be used both for circulation and temporary customer parking while using storage bays. The minimum width of these aisle ways shall be twenty-one (21) feet if only one-way traffic is permitted, and 30 feet if two-way traffic is permitted;
 - b. The one-or two-way traffic flow patterns in aisleways shall be clearly marked. Marking shall consist at a minimum of use of standard directional signage and painted lane markings with arrows;
 - c. Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radii of aisleways.
9. Outdoor lighting.
 - a. Only if a facility abuts a residentially zoned property, a photometric plan will be required at the time of permitting and levels must remain 10.0 fc or below and light shall not trespass over the abutting property lines;
 - b. No exterior loudspeakers or paging equipment shall be permitted on the site;
 - c. Storage bay doors shall not face any abutting property located in a residential district, nor shall they be visible from any public street; and
 - d. The exterior facades of all structures shall receive uniform architectural treatment; only masonry, stucco, and painting of surfaces are allowed. No metals facades shall be allowed.

3.8 Government and Institutional Use Standards

A. Child care institution.

1. Outdoor play and/or recreation areas shall be located behind the front building line in the rear yard or side yard only.
2. All outdoor play and recreation areas shall be surrounded by a fence or wall at least four feet in height.
3. Outdoor activities are limited to the fenced area.
4. At least one off-street passenger loading/unloading space separate from required parking shall be provided for each twenty people enrolled. Adequate on- site turnaround area shall be provided for all loading/unloading and parking spaces.

B. Church or religious institutions

1. Exterior lighting shall be directed or screened per [Article VI](#).

2. Convents, rectories, parsonages, or similar uses may be placed on the site as accessory uses.
3. Accessory uses such as church offices, religious bookstores serving the immediate congregation, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities, and day care centers on the same site or sites contiguous to the principal use shall be permitted. Similar uses on non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such.
4. No merchandise or merchandise display shall be visible from outside the building;
(2) All signs advertising the primary and accessory uses shall be regulated per [Article VII. Signage.](#)
5. Direct access to the site shall be provided by a publicly accessible road.

C. Civic, fraternal, cultural, and community facilities not otherwise listed; Club or lodge, private non-profit.

1. Such use has direct access to an arterial or collector street.
2. No active part of the site (buildings, parking, recreational areas, etc.) are permitted within fifty feet of an adjacent single family residential use.
3. An auditorium or assembly hall is only permitted provided that:
 - a. Such use is permitted as a principal use in the district; or
 - b. Such use is limited to a seating capacity of no more than one hundred fifty people.

D. College or university

1. Schools shall be located on streets sized to accommodate normal traffic volumes of existing uses plus the additional traffic projected to be generated by the school(s).
2. Accessory and incidental buildings shall be placed within established rear yards and side yards that do not abut a street.
3. Where chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs minimum three feet in height (expected height at maturity minimum six feet), six feet on center at installation.

E. Community center

Any community center having a seating capacity in excess of five hundred persons shall have direct access to a major or minor arterial.

F. Correctional institution

1. The principal structure and any accessory use or structure (excluding property boundary fencing) shall be located at least five hundred feet from any property located in a residential district or mixed-use district.

2. An opaque screen shall be constructed on the exterior of security fencing wherever it is adjacent to a street or property in a residential district.
3. The use shall be located on a lot of at least ten acres if the facility has beds for more than one hundred inmates.
4. The use will be located on a lot of at least five acres if the facility has beds for one hundred or fewer inmates.

G. Daycare center.

1. Outdoor play and/or recreation areas shall be located behind the front building line in the rear yard or side yard only..
2. All outdoor play and recreation areas shall be surrounded by a fence or wall at least four feet in height.
3. Outdoor activities are limited to the fenced area.
4. At least one off-street passenger loading/unloading space separate from required parking shall be provided for each twenty people enrolled. Adequate on- site turnaround area shall be provided for all loading/unloading and parking spaces.

H. Daycare, home.

1. A day care home must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling. All building and lot standards for residential dwellings shall be maintained.
2. The facility shall be staffed by persons residing in the dwelling in which the day care is located except that no more than one non-resident may work at a daycare home.
3. The day care shall be located in a structure originally constructed as and designed for a single-family dwelling which shall be the principal structure on the lot. The structure shall not be altered in any manner which diminishes its value as a single-family dwelling or which changes its exterior residential character. Signage is not allowed.
4. The owner of the daycare home shall reside on premises.

I. Group care facility.

1. Spacing Requirement. A group care facility may not be located within a distance of one-half mile from any other group care facility. All measurements shall be made by drawing straight lines from the nearest point of the lot line where the proposed group care facility is to be located to the nearest point of the lot line of another group care facility.

J. Group home A or B.

1. Group Home A provides room and board, personal care, and rehabilitation services in a supportive family environment for not more than six residents, exclusive of supervisory

personnel, including but not limited to, handicapped persons, older adults, foster children, and abused individuals.

2. Group Home B are only permitted in the R20 zoning district and provides room and board, personal care and rehabilitation services in a supportive family environment for not more than twelve residents, exclusive of supervisory personnel, including but not limited to handicapped persons, older adults, foster children, and abused individuals.
3. The zoning lot on which the group home or care facility is proposed shall not be located within a 2,000 LF radius of a zoning lot containing another such facility.
4. No external evidence of such use, distinguishing the group home from a regular single-family dwelling, shall be visible from adjacent property, public or private.
5. Each facility shall be designed, built, and maintained to appear as similar to a residential structure as possible.
6. Buffers and screening shall be provided, as required in Article IV.

K. Homeless Shelter.

1. Spacing-A homeless shelter shall not be located within 2,000 linear feet of any other homeless shelter, as measured in a straight line from the closest edge of the property occupied by the homeless shelter to the proposed site.
2. Supervision - An employee or volunteer must maintain continuous on-site supervision during hours of operation.
3. The facility shall meet the Town's currently adopted Minimum Housing Code and applicable adopted State Building and Fire Codes.

L. Nursing care institutions and congregate care facilities.

1. Any facility which is licensed to have more than fifty residents shall maintain a side setback of at least twenty feet and a rear setback of at least forty feet when the side or rear yard is in or abuts a residential district.
2. Driveway access to accessory structures shall be through the main entrance to the facility.
3. Accessory structures shall be arranged to provide for adequate on-site vehicular and pedestrian traffic.
4. Any portion of a building, which contains living areas, shall be set back a minimum of fifteen feet from internal driveways and parking areas. This standard shall only apply to the living areas of buildings which contain a mixture of uses such as offices, storage and living areas.
5. No single building shall be greater than 40,000 square feet if located within five hundred feet, as measured in any direction from the closest point, from an adjacent residentially zoned lot.

M. Progressive care community.

1. Accessory buildings shall only include accessory dwellings containing no more than four dwelling units, recreation centers and similar facilities, dining halls, and maintenance buildings. All other buildings shall be principal buildings, the use of which shall be for congregate or nursing care.
2. Driveway access to accessory structures shall be through the main entrance to the community.
3. Structures shall be arranged to provide for adequate on-site vehicular and pedestrian traffic.
4. Paved walkways shall be provided between accessory dwellings, the principal building, and all common facilities such as dining halls and recreation centers.
5. All lease/sale arrangements for accessory dwellings shall be under the direct control of the management company responsible for the progressive care community.
6. No single building shall be greater than 40,000 square feet if located within five hundred feet, as measured in any direction from the closest point, from an adjacent residentially zoned lot.
7. No site shall have a density greater than ten units per acre for accessory residential dwellings. For the purposes of calculating density all land lying underneath and within twenty feet of any congregate care or nursing care facility and all loading/unloading, garbage collection, and parking areas associated with congregate care or nursing care facilities shall be excluded from the total acreage.
8. A minimum of five acres shall be required. All land used for the progressive care community shall be contiguous and shall not be divided or transected by public roads, private roads granting easement(s) to tracts of land not included within the community, or natural features which would visually and functionally divide the development, including, but not limited to, preventing the free flow of pedestrian and vehicular traffic.
9. All structures are limited in occupancy to persons aged sixty-two years or older, the physically handicapped, and their spouses except for rooms or units occupied by resident staff personnel performing duties directly related to the operation of the facility.

N. Schools, elementary and secondary, including school stadiums (public).

1. Accessory and incidental buildings shall be placed within established rear yards and side yards that do not abut a street.
2. Where chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs minimum three feet in height (expected minimum height at maturity is six feet), six feet on center at installation.
3. Schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s).
4. Schools with an anticipated enrollment of 500 or more students shall be on a lot which abuts an arterial, and primary vehicular access shall be provided from the arterial.

O. Schools, vocational, private, or professional.

1. Schools shall be located on streets sized to accommodate traffic volumes of background uses plus the additional traffic projected to be generated by the school(s).
2. Accessory and incidental buildings shall be placed within established rear yards and side yards that do not abut a street.
3. Where chain link and similar fencing material are installed in an established yard abutting a street, such fencing shall be planted on the exterior side with evergreen shrubs minimum three feet in height (expected minimum height at maturity is six feet), six feet on center at installation.
4. Truck driving schools with outdoor maneuvering areas shall be allowed in the LI districts only.

3.9 Recreational Use Standards

A. Arenas.

1. The facility shall have direct access to a major arterial.
2. All facilities shall be located at least one hundred linear feet from any lot line and three hundred linear feet from a residential district.

B. Recreation services, outdoor.

1. Service areas will be separated by an opaque screen from the view from any street and from abutting properties.
2. Chain link and similar fencing materials, if used, shall be planted on the exterior side with evergreen shrubs minimum three feet in height at maturity and six feet on center at installation.
3. Outdoor lighting associated with outdoor recreational facilities shall not shine directly into yards of a residential use nor into the windows of a residential structure.
4. Outdoor speaker systems shall not be permitted.
- 5.

C. Recreational vehicle park.

1. Density. The maximum density of any recreational park shall be 15 recreational vehicle spaces per acre.
2. Park Size. The minimum contiguous area of any recreational vehicle park shall be five acres.
3. Site Area. The minimum area devoted to each recreational vehicle space shall be 1,000 square feet.

4. **Vegetative Buffer.** A 20-foot-wide vegetative buffer composed primarily of evergreen trees to shield the park and/or campground from view shall be required on the perimeter of a recreational vehicle park and campground including adjacent to any public rights-of-way.
5. **Setbacks.** All recreational vehicle spaces shall be located a minimum of 50 feet from all adjacent property lines and public rights-of-way.
6. **Access.** Recreational vehicle parks shall have direct access to a major or minor thoroughfare. Recreational vehicle spaces shall only have direct access to an internal private street which accesses a public street. No recreational vehicle space shall have direct vehicular access to a public street.
7. **Floodplains.** No recreational vehicle sites shall be located in the floodplain.
8. **Sanitary Facilities, Sewage and Garbage Disposal.** Adequate sanitary facilities, sewage and garbage disposal shall be provided and shall conform to all applicable codes.
9. **Length of Stay.** No recreational vehicle shall be used as a permanent place of residence. Occupancy extending beyond 180 days shall be presumed to be permanent occupancy and prohibited in a recreational vehicle park. Additionally, all recreation vehicles must be fully licensed and ready for highway use. (A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions).
10. **An evacuation plan must be developed for evacuation of all residents in the recreational vehicle park.** This plan shall be filed with and approved by the floodplain administrator, local emergency management coordinator, and distributed to all first responders including: the North Wilkesboro Fire Department, Police Department, Rescue Squad and Wilkes County EMS. Monitoring of potential flood conditions as well as the notification steps for emergency evacuation during egress of recreational vehicles must be included in the evacuation plan.
11. **Accessory Uses.** Management offices, recreational facilities, toilets, showers, dumping stations, coin-operated laundry facilities, and other uses and structures incidental to the operation of a recreational vehicle park are permitted as accessory uses to the park. In addition, other uses may be permitted as accessory uses in the district where such uses are not allowed as principal uses, subject to the following restrictions:
 - a. **Size.** Such establishments and the parking areas related to their operations shall not occupy more than five percent of the gross area of the park.
 - b. **Clientele.** Such establishments shall be restricted in their use to the occupants of the park.
 - c. **Visibility.** Such establishments shall present no visible evidence from any street outside the park of a commercial nature which would attract customers other than occupants of the park.
 - d. **Access.** Such establishments shall not be directly accessible from any public street, but shall be accessible only from a street within the park.
 - e. **Manufactured Homes.** No manufactured home may be parked or stored in a recreational vehicle park, except that one manufactured home may be located within the park for the exclusive use as the principal dwelling unit for the park manager or operator.

D. Swimming Pool (Public, Private).

1. Private

- a. Private swimming pools are permitted as accessory uses in designated zoning districts.
- b. Outdoor, underground swimming pools shall be enclosed by a fence or equal enclosure not less than four feet in height. All gates or doors shall have self-closing and self-latching devices. However, this fencing requirement is not applicable in cases where the owner's lot or premises is completely enclosed by a fence.
- c. Pools, not including paved areas around the pool perimeter, shall maintain a setback of 5 feet from any property line.
- d. Seasonal, temporary, inflatable pools are exempt from these requirements.
- e. Permanent, above-ground pools must be fully screened with opaque fencing from view of the street and/or abutting properties and must meet setbacks as stated in 3. above.

2. Public

- a. No construction at the pool site, including, without limiting the foregoing, paved parking areas and aprons or other paved areas adjacent to the pool, shall be closer to any adjoining property owner or to any adjacent street than ten feet,
- b. The pool shall be constructed in compliance with all lawful requirements imposed by the Town, the state or any other appropriate governmental agency relating to the establishment and maintenance of watersheds and relating to the control of pollution and sedimentation,
- c. The pool shall be served by the Town water and sewer system,
- d. The pool site shall have a buffer consisting of natural growth as listed in the table of permitted uses. In addition, the pool must be surrounded by a fence at least four feet in height.
- e. The pool shall cease all operations no later than 10:00 p.m. on any night,
- f. No commercial sales of any type shall be allowed at the pool site,
- g. The bylaws or other governing document for the operation of the pool site shall provide that the pool will be operated at all times without liability or responsibility upon the Town and that, in the event of the cessation of operation of the pool, the Town shall have no obligation regarding the continued maintenance or operation of the same,

E. Resort.

- 1. There shall be a minimum of ten (10) acres for any Resort use and a minimum of 125 acres for clay target shooting and/or game lands. Clay target shooting and game lands shall also meet all national and state requirements for hunting and recreational shooting.
- 2. A Resort must be comprised of a minimum of at least three recreational amenities, not including lodging, all of which must be located on a single parcel.

3. All shooting areas shall follow the North Carolina Wildlife Resources Commission guidance on distant requirements for discharging a weapon near property lines and/or residences on or adjacent to the areas of shooting. Required permits and additional regulations will be determined through the North Carolina Wildlife Resources Commission and any other regulatory agencies.
4. If a security gate is installed at the entrances, local government emergency services shall have gated access control.
5. Rental units are permitted on site at a density of up to sixteen (16) dwelling units per acre.
6. Setbacks and heights for structures shall be those required in the zoning district in which the use is located.
7. Structures and dwelling units must comply with the applicable building codes and minimum housing codes.
8. Caretaker's dwellings shall be allowed at a density rate of (1) per five (5) acres of the site.
9. If a recreation vehicle park is included, all state, County and Town requirements for a recreational vehicle park must be met in addition to other Resort requirements.
10. If a shooting range is included, all state, County and Town requirements for a shooting range must be met in addition to other Resort requirements.

3.10 Residential Use Standards

A. Boarding or rooming house for up to 2 boarders

1. In any residential zoning district, no more than two off-street parking spaces shall be provided in the front yard.
2. Off-street parking in the side and rear yards shall be screened in accordance with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential uses.

B. Cluster subdivisions

1. All lots within the development shall be accessed solely by interior streets, except that lots used for permitted non-residential uses may have driveway access to adjacent streets if approved by the Town.
2. No non-residential use in the development shall be permitted within one hundred fifty feet of the perimeter of the development site unless the adjacent zoning district permits such use.
3. The overall density of the cluster subdivision shall not exceed that of a un-clustered subdivision. Land remaining undeveloped as a result of clustering shall be dedicated for open space either to the Town of North Wilkesboro, an approved homeowners' association, or a non-profit entity, after obtaining consent.

C. Dormitory

In any residential zoning district, no more than two off-street parking spaces shall be provided in the front yard. Off-street parking in the side and rear yards shall be screened in accordance

with parking lot landscaping and screening requirements. Parking shall be placed on the lot in a manner designed to have the least physical impact on adjoining residential use.

D. Manufactured home.

1. All homes shall be oriented to ensure that the longer side is parallel, or as close as possible, to the centerline of the public roadway, unless otherwise approved by the Administrator.
2. All homes shall have their entire perimeter enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the State of North Carolina regulations for manufactured/mobile homes. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not be limited to: brick masonry, concrete block masonry; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufacturer's specifications.
3. The towing tongue shall be removed, under skirted or screened with shrubbery. Such shrubbery shall be of a height to ensure a total visual barrier of the towing apparatus, and maintained continuously.

E. Manufactured home park.

1. Ownership and Management.
 - a. All parks must be under unified development control and ownership.
 - b. All parks containing over 20 homes shall provide a resident manager or contracted management company who can be reached during normal business hours.
2. Minimum Park Area. Manufactured home parks shall:
 - a. Be located on a minimum two-acre tract (with a minimum of three manufactured home spaces at first occupancy) and shall not exceed four homes per gross acre.
 - b. Specifically designate a passive recreational area equaling at least two hundred square feet per home space in parks containing ten or more home spaces.
3. Minimum Home Spacing. A manufactured home shall be sited so that:
 - a. it is located at least twenty feet from adjacent homes; and
 - b. a minimum ten-foot setback from all interior roads is maintained.
 - c. home spaces shall be properly staked.
4. Signs and Markers.
 - a. Each manufactured home park shall have located at its entrance, perpendicular to the public road, a permanent non-lighted sign not to exceed sixteen square feet and not less than twelve square feet, indicating the park name in a minimum of six-inch letters on both sides of the sign.

- b. Each proposed home space in a manufactured home park shall be clearly marked by a permanent home space number sign or marker. The home space number shall be of a size (numbers shall be at least three inches high), reflectivity and color, and in a location which is readily identifiable by emergency personnel and inspectors. All home space numbers shall be consistent within a park and must be approved by the Town.

5. Design Standards for Sites and Homes.

- a. All homes shall have their entire perimeter enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the State of North Carolina regulations for manufactured/mobile homes. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not be limited to, the following list: brick masonry; concrete block masonry; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufacturer's specifications.
- b. The towing tongue shall be removed, under skirted, or screened with shrubbery. Such shrubbery shall be of a height to ensure a total visual barrier of the towing apparatus, and maintained continuously.

6. Utilities and Roadways.

- a. The site proposed shall have an accessible, adequate, safe and potable supply of water capable of furnishing a minimum of six gallons per minute at a minimum pressure of twenty pounds per square inch per mobile home space. Where a public supply of water of such quality is available, connection shall be made thereto and its supply shall be used exclusively. The development of an independent water supply to serve the mobile home park shall be made only after express approval has been granted by the Wilkes County Health Department.
 - (1) All water piping shall be constructed and maintained in accordance with state and local laws; the water piping system shall not be connected with non-potable or questionable water supplies, nor subject to the hazards of back-flow or back-siphonage.
 - (2) Individual water service connections shall be provided for direct use at each mobile home space and shall be so constructed that they will not be damaged by the parking of mobile homes.
 - (3) Where an individual water system is used to serve the mobile home park, with water obtained from wells, such system shall have been approved by the county health officer and shall have been drilled or driven. Springs or other sources of supply shall not be used, except after approval by the Wilkes County Health Department.
 - (4) Every well shall be located and constructed in such a manner that neither underground nor surface contamination will reach the water supply from any source. A minimum distance of one hundred feet shall be maintained between the water supply and any sewage disposal facility.
- b. The site proposed shall provide sewage disposal which shall comply with state and local plumbing laws and regulations.

- (a) Each mobile home space shall be provided with at least a four inch sewer connection. The sewer connection shall be provided with suitable fittings, so that a watertight connection can be made between the mobile home drain and the sewer connection. Such individual mobile home connections shall be so constructed that they can be closed when not linked to a mobile home.
 - (b) Sewer lines shall be constructed in accordance with recommendations and standards of the public works department. All sewer lines shall be adequately vented and shall be laid with sufficient earth cover to prevent breakage from traffic.
 - (c) Where the sewer lines of the mobile home park are not connected to a public sewer, a sewage-treatment plant or septic tank and field system approved by the Wilkes County Health Department shall be provided. The effluent of a sewage treatment plant shall not be discharged into any waters of the state, except with prior approval of the appropriate state authority and the Wilkes County Health Department.
 - (d) The disposal plant shall be located where it will not create a nuisance or health hazard to the mobile home park or to the owner or occupants of any properties in the vicinity. The approval of the Wilkes County Health Department shall be obtained on the type of treatment proposed and on the design of the disposal plant prior to construction.
- c. All roadways intended for public dedication and acceptance must be built to adopted plans and policies of the Town, including but not limited to the thoroughfare plan for North Wilkesboro
 - d. All private roadways in the park must be at least 24 feet wide. In addition, all private drives must be kept in good condition; free of potholes, ruts, and other driving hazards.
 - e. All utilities must be underground.

7. Refuse and Garbage.

- a. The site proposed shall provide racks or holders for all refuse containers. Racks or holders shall be so designed as to prevent containers from being tipped, to minimize spillage and container deterioration and to facilitate cleaning around them. There shall be one rack or holder to each mobile home space of a sufficient size to accommodate a refuse container of thirty-two-gallon maximum capacity. The developer should provide for garbage pick-up at least once a week.
- b. All common dumpsters must be screened from view with vegetation or appropriate fencing as defined in Article 6.5.

F. Residential building, duplex.

- 1. Duplexes are permitted on corner or through lots in R-20 and R-6 districts according to the following standards:
 - a. The entrances to each unit may face different streets.
 - b. The dwelling shall meet the minimum front yard setback from both streets upon which a unit faces.

- c. Structures originally constructed as single-family homes may not be converted to duplex dwellings.

G. Residential building, multi-family; townhouse

1. Standards for multi-family and townhouse developments in the General Business and Highway Business Districts.

- a. Primary access to the development site shall be from a state or Town- maintained street. The developer may be required to provide turn lanes and other off-site transportation improvements to ensure safe and adequate access; ownership of the roadway will determine if necessary.
- b. Site design shall include the following:
 - (1) Walkways shall connect all buildings with parking areas, play areas, clubhouses, and existing public sidewalks adjacent to the development site.
 - (2) Design standards (applicable only to multi-family):
 - (a) All buildings shall include at a minimum five of the following decorative features:
 - (i) Decorative shake
 - (ii) Board and batten
 - (iii) Decorative porch railings/posts
 - (iv) Shutters
 - (v) Decorative/functional air vents on roof or foundation
 - (vi) Recessed windows
 - (vii) Trim around windows
 - (viii) Decorative windows
 - (ix) Decorative brick/stone
 - (x) Decorative gables
 - (xi) Decorative cornices
 - (xii) Tin/metal roof

2. Standards for multi-family and townhouse developments located within the MF-CD district.

- a. Site design shall include the following:
 - (1) Walkways shall connect all buildings with parking areas, play areas, clubhouses, and existing public sidewalks adjacent to the development site.
 - (2) Design standards (applicable only to multi-family):
 - (a) All buildings shall include at a minimum five of the following decorative features:
 - (i) Decorative shake
 - (ii) Board and batten
 - (iii) Decorative porch railings/posts

- (iv) Shutters
- (v) Decorative/functional air vents on roof or foundation
- (vi) Recessed windows
- (vii) Trim around windows
- (viii) Decorative windows
- (ix) Decorative brick/stone
- (x) Decorative gables
- (xi) Decorative cornices
- (xii) Tin/metal roof

b. Open space shall account for a minimum of twenty-five percent of the total land area of the development site. (Note: Watershed regulations may require more pervious coverage.) For the purpose of this article, open space may include wooded areas, yards, playgrounds, and other active recreation space.

c. Private active recreation space shall be provided for all complexes containing more than twenty dwelling units at the rate of one hundred square feet per dwelling unit. Such space may also count towards the unobstructed open space requirements outlined in Article IV. Recreation space shall be designed to reduce any impact of night lighting or noise on nearby dwelling units located on or adjacent to the site. Said areas shall be developed and maintained in a neat and orderly condition in order to provide a safe, healthful, and attractive living environment. Common recreational areas shall be easily accessible by pedestrian walkways so they can be conveniently and safely reached and used. Furthermore, common recreational areas shall be constructed on substantially flat (no more than five percent grade) land which is well drained and otherwise capable of serving the purposes intended. No streets, access easements, rights-of-way, parking areas, or required buffer shall be used or counted towards the required recreational space.

3. Standards for townhouse developments located within the R-20 and R-6 districts.

- a. The building shall meet the minimum front yard setback from each street upon which a unit faces and shall meet all other applicable setbacks for the district in which it is located.
- b. Common parking facilities shall be screened from the property line exterior to the development site and shall not be visible to adjacent single-family parcels. Such parking facilities shall not be designed for more than twelve parking spaces and shall not be closer than one hundred feet to another such parking facility.

H. Single-Family Residential in Highway Business Zoning

1. Single-Family Residential shall be allowed in Highway Business (HB) zoning under the following circumstances:

- a. The property has an existing residential structure which will be reoccupied and complies with North Carolina State Building Code;

I. Ground-Floor Residential

1. Ground-Floor Residential shall be allowed in Central Business District zoning with a Special Use Permit under the following circumstances:

- a. The building footprint must be larger than 4,500 square feet.
- b. The ground floor of the building must be raised at least one floor above the alley.

- c. Residential use may not take more than 40% of the ground floor area and must be the farthest use from the primary street frontage in a building.
 - d. Residential units must be a minimum of 800 square feet.
 - e. Retail and Restaurant, without drive-through service, may be the only ground floor non-residential land use in the building.
 - f. No residential use is allowed in any basement units.
 - g. No entrance from residential use to commercial use is allowed.
 - h. No entrance, other than a side hallway along the property line mirroring existing CBD facades, is allowed from residential units to the street front.
2. Ground-Floor Residential shall be allowed in the General Business District and the Highway Business District permitted by supplemental standards as follows:
- a. Up to two (2) units will be permitted on one parcel
 - b. Residential use may not take more than 40% of the ground floor area
 - c. Maximum square footage of the ground floor residential space is 1,000 square feet
 - d. A separate entrance for each unit shall grant access to the exterior
 - e. The units shall meet all applicable adopted Minimum Housing Code and State Building and Fire Code requirements.

3.11 Overnight Accommodations

A. General

Dwelling units arranged for short term stays of less than 30 days for rent or lease.

B. Examples

Examples include bed and breakfast establishments, hotels, motels, inns, and extended stay facilities.

C. Specific Uses and Supplemental Standards

1. Bed and Breakfast Establishments.

- a. The bed and breakfast facility shall be compatible in scale of structure and scale of development with residential structures in the neighborhood in which it is located. The principal use of such dwelling structures is residential. The exterior of the structure shall be harmonious with surrounding properties. The bed and breakfast use shall be operated in a primary, single- family residential structure and not in any accessory structure.

- b. The operation shall be conducted by persons who own and reside within the dwelling unit. It shall be permissible to employ the equivalent of one full-time person to assist in the operation.
- c. The use shall be located in a structure that was originally constructed as a dwelling.
- d. The structure must contain at least one full bathroom for the exclusive use of the owner and other members of the immediate household, plus a minimum of one private bathroom for every two guest bedrooms. Each full, discrete bathroom must include a minimum of a commode, a sink and a bath or shower and meet current building code requirements.
- e. The rental of rooms shall be on a daily or weekly basis to tourists, vacationers or similar transients. The rental period shall not exceed 14 consecutive days in any thirty-day period.
- f. There shall be no cooking facilities or kitchen-type appliances in the rental dwelling rooms. Only a breakfast meal may be provided in a common area by the owner of the facility. It is intended by this subsection that meals may be provided only to registered guests of the facility. No meals shall be served to the general public.
- g. Smoke alarms shall be installed in all rental rooms and in common areas.
- h. The total rented dwelling rooms shall be a minimum of three and not exceed eight. The total occupancy, including the owner(s), shall not exceed ten persons.
- i. Each room must have access to a hall or exterior door.
- j. When provided, parking shall be located on the parcel on the basis of one space per rental dwelling room in addition to two spaces for the owner(s). Such parking areas shall be maintained in a dust-free, rut-free condition and shall be visually screened with a vegetated buffer if adjacent to an existing residential structure or a vacant lot on which a residential structure can be built. Parking shall not be permitted in front yards.
- k. Events conducted for compensation (ex. weddings, receptions, and parties) shall be permitted only if there is sufficient overflow parking available on site or off-street. Overflow parking does not have to be paved or graveled but must be on a suitable, even surface.
- l. No display of goods, products, services, or other advertising shall be visible from outside the building.
- m. No dwelling may be used as a bed and breakfast unless and until it shall have been permitted by the Wilkes County Health Department.
- n. Lighting of the premises shall be harmonious with surrounding property. Lighting shall not create glare or interfere with the reasonable enjoyment of adjacent properties.
- o. Noise generated within the structure shall not exceed a volume normally associated with residential occupancy. Between 9:00 p.m. and 6:00 a.m., noise originating within the structure shall not be audible beyond the property lines.
- p.

- q. There shall be no other bed and breakfast inn within 600 feet of the property measured in horizontal distance (straight line). This distance requirement may be reduced by the approving authority with a determination that public health, safety and welfare shall be preserved.

3.12 Service Use Standards

A. Cemetery.

1. Tombstones, crypts, monuments and mausoleums must be located at least twenty-five feet from any street right-of-way line or abutting property. Greater setbacks shall be observed if otherwise required by the zoning district in which it is located. Gravesites shall also be set back at least twenty feet from any side or rear lot lines in cemeteries (or cemetery expansions).
2. Sales of crypts shall be allowed as an accessory use on premises (for cemeteries as a principal use only). No building in conjunction with such sales shall be located closer than twenty feet from any side lot line abutting a residential district and forty feet from any such rear lot line.
3. Notwithstanding any other provisions of this article, a minimum of three acres shall be needed for any cemetery being developed as a principal use.

B. Columbaria.

1. Columbaria structures shall be permitted as part of a cemetery and shall meet the conditions of use for a cemetery as defined in Section 3.12.A.
2. Columbaria structures shall be permitted as accessory uses to a church (by definition) and shall meet the following requirements:
 - a. Columbaria structures shall not significantly change the exterior appearance of the site visible from public rights-of-way and adjacent properties. Columbaria structures shall be constructed with minimum impact to surrounding areas.
 - b. Columbaria structures or area of internment shall not constitute a significant portion of the site.
 - c. Columbaria structures shall meet the setbacks of the underlying zoning district.
 - d. Columbaria structures shall not exceed five feet in height.
 - e. Screening may be required in accordance with Article 6.7

3.13 Utilities

A. Use Standards

1. Mechanical equipment shall be screened from view from public rights of way and ground floor residences.

2. Utility distribution lines, which deliver service to the end user from a substation fed by a transmission line providing service to an area larger than the individual parcel or project area, shall be installed underground, in accordance with N.C.G.S 160D-804.
3. Facilities used for the operation of aboveground utilities shall, whenever possible, be located on interior the properties rather than on properties aligned with other lots that have continuous street frontage.
4. Areas around water towers, water and wastewater treatment facilities, substations, and power plants shall be enclosed by a fence, not easily climbable, at least six feet in height.

3.14 Miscellaneous and Temporary Use Standards

A. Airports and Heliports

1. Airports are permitted with a Special Use Permit in the LI, GI, and R20 zoning districts.
2. Heliports are permitted with the following supplemental standards in the OI, LI, and GI districts:
 - a. Non-emergency use (i.e., uses other than for public safety or medical purposes) of private heliports between the hours of 10:00 p.m. and 6:00a.m. is prohibited.
 - b. Landing pads for on-grade heliports shall be set back a minimum of one hundred feet from any property line and four hundred feet from buildings used for residential purposes, public or private schools, hospitals, or public parks. These distance requirements may be reduced one foot for each one foot of the elevation above ground level for elevated helistops.
 - c. The helistop or heliport landing area shall be constructed of a material free of dust and loose particles which may be blown about by the down blast of the helicopter rotor.
 - d. Lighting is to be provided according to Federal Aviation Administration requirements and is to be oriented as much as possible away from adjacent uses.
 - e. An on-ground helistop shall be surrounded by a fence or other barrier which prohibits access except at controlled access points. Adequate access for fire and other emergency vehicles shall be provided to on-ground sites.

B. Fairgrounds.

1. Direct access to the site shall be provided by a major or minor arterial.
2. For outdoor flea markets only, the lot shall be at least three hundred linear feet from any lot located in a residential district.

C. Manufactured home, temporary

1. Temporary manufactured homes shall only be permitted for reasons of personal hardship defined as:
 - a. A short-term medical emergency within the immediate family.

- b. Cases of fire or destruction of a primary residence requiring temporary relocation.
2. Homes shall be permitted for a period not to exceed twelve months.
3. All homes shall be placed on the lot in harmony with existing site-built structures.
4. All homes shall have their entire perimeter enclosed from the ground to the bottom of the structure with material manufactured for this purpose in accordance with standards set by the State of North Carolina regulations for manufactured/mobile homes. Examples of commonly recognized building materials suitable for use as underpinning shall include, but not be limited to: brick masonry, concrete block masonry; natural or synthetic stone masonry; or vinyl. Assemblies, products and materials manufactured expressly for the purpose of underpinning shall be installed in accordance with the manufacturer's specifications.
5. The towing tongue shall be removed, under skirted or screened with shrubbery. Such shrubbery shall be of a height to insure a total visual barrier of the towing apparatus, and maintained continuously.
6. The home shall be placed in a side or rear yard only but shall not be located in a side yard that abuts a public street. The home shall meet all setbacks for accessory structures in the district where located.

D. Temporary storage units

1. Temporary storage units placed on sites for a period of time less than 7 days shall not require a permit.
2. A temporary permit may be issued by the Administrator allowing a temporary storage units to be placed on the property of a residence or business for the sole purpose of storing household or business goods provided that:
 - a. The residence or business is undergoing remodeling or moving to and/or from another location;
 - b. The temporary storage units may not be used for living quarters;
 - c. The temporary storage units are no larger than to 16 feet in length, eight feet in width, and eight feet in height;
 - d. The site shall have no more than two temporary storage units; and
 - e. The permit may not be issued for a period longer than 90 days but may be extended by the written approval of the Administrator if valid reasons are given to merit such an extension.

E. Temporary Alternative Landscaping

1. A temporary Zoning permit may be issued by the Administrator allowing grazing by goats only to be placed on a property for up to (14) fourteen days per permit cycle in all zoning districts. Only five (5) permits will be issued a year total on specified property.
2. Conditions placed on temporary zoning use follow:

3. All conditions will be required to obtain a temporary Zoning permit for temporary alternative landscaping:
 - a. Electric fences must be labeled with safety precautions and cannot be within the right of way, a site plan will be required at time of permitting
 - b. Applicant must provide written and signed permission with contact information from all adjoining property owners
 - c. No structures may be erected to house the goats
 - d. Permit will be restricted to extreme or invasive species vegetation removal
 - e. Upon expiration of the permit all electric fencing must be removed; and
 - f. The permit will not be extended unless extreme circumstances occur and written approval of the Planning Board if valid reasons are given to merit such an extension.

F. Temporary Recreation Vehicle Park/Campground

1. Timeline.
 - a. Campgrounds or Recreation Vehicle Parks shall be temporarily established for no more than three (3) times per calendar year and each term shall be only for (14) fourteen consecutive days.
 - b. The permit shall list the dates of operation for the temporary park or campground.
2. Utilities.
 - a. Temporary Recreation Vehicles are permitted to park without hooking up water or sewer amenities, provided their internal tank system allows for black/grey waste storage for the entirety of the stay. No dumping shall be allowed except in a designated approved waste dumping station.
 - b. Other utilities will be approved and inspected by the designated user group.
3. Miscellaneous.
 - a. No retail or food is permitted to be sold from the campers users.
 - b. An evacuation plan must be developed for evacuation of all residents in the recreational vehicle park or campground. This plan shall be filed with and approved by the Administrator, local emergency management coordinator, and distributed to all first responders including: the North Wilkesboro Fire Department, Police Department, Rescue Squad and Wilkes County EMS or applicable volunteer first responders. The plan must include notification steps for emergency evacuation during egress of recreational vehicles and/or campers.
 - c. Emergency service vehicle access must be provided throughout the park at all times.
 - d. The property owner(s) must sign off on the event through the zoning permitting process.

- e. The Administrator reserves the right to conduct inspections of the Recreation Vehicle Park/campground to ensure the regulations are being met.
- f. This ordinance shall not apply to the seasonal sales of Christmas trees.
- g. The property owner is responsible for all trash removal at the site.

3.15 Accessory Use Standards

A. Accessory dwelling unit-attached, detached

1. An accessory dwelling may be attached, within, or separate from the principal dwelling.
2. Only one accessory dwelling is allowed per residential lot of record in conjunction with the principal structure.
3. The property shall retain a single family appearance from the street.
4. Mobile and certified modular homes cannot serve to meet the requirements of this use.
5. The accessory dwelling must meet the front and side setback requirements of the underlying zoning district and be ten feet from any other structures and the rear setback.
6. A detached accessory dwelling may be a dwelling only or may combine a dwelling with a garage, workshop, studio, or similar accessory use not to exceed two stories including the accessory use.
7. The accessory dwelling shall not be served by a driveway separate from that serving the principal dwelling unless the accessory dwelling is accessed from a rear alley and the principal dwelling is accessed from a street.
8. A detached accessory dwelling shall be located in the rear yard.
9. Detached accessory dwelling shall be 50% of the primary dwelling's heated square footage or up to 1,100 square feet.
10. The principal use of the lot shall be residential and the principal structure on the lot shall be a residential building (single family, duplex, multi-family, or townhouse).
11. In NB and CBD districts, the accessory dwelling unit cannot be street or ground level. The ground level is determined where the primary front façade of the building is facing the street or right-of-way.

B. Accessory Structures and Uses.

1. In no event shall "accessory use" or "accessory structure" be construed to authorize a use or structure not otherwise permitted in the district in which the principal use is located.
2. In residential districts or on lots with residential uses, no accessory structure shall be located within a required front yard or located in front of the front facade of the principal structure, nor within three feet of a property line.
3. The number of accessory structures allowed per residential lot shall be determined by lot size.

- a. No more than three accessory structures shall be allowed per lot of two acres or less.
 - b. An additional accessory structure shall be allowed for every two acres of lot remaining.
4. No more than two accessory structures shall be utilized for vehicle storage per lot.
5. No more than one accessory structure shall be utilized in the operation of home occupations.
6. Accessory uses and structures that are clearly related to and incidental to the permitted principal use or structure on the lot are permitted in all districts.
7. Petroleum storage accessory to a permitted principal use or building is permitted.
8. Temporary buildings and storage of materials are permitted, provided that the use is in conjunction with the construction of a building on the same lot or on an adjacent lot; the temporary uses shall be terminated upon completion of construction.
9. Manufactured housing (mobile homes) shall not be used as an accessory structure in any district.
10. Barns and other similar structures accessory to an agricultural use shall not be counted towards the standards outlined in this section.

C. Food Trucks.

1. Sanitation: The food trucks vendor is responsible for the proper disposal of waste and trash associated with the operation. Under no circumstances shall grease or graywater be released or disposed of in the Town's sanitary sewer system, on the ground, street, sidewalk or anywhere other than an approved grease disposal facility.
2. Permit: A copy of the approved zoning permit shall be kept in the food truck. Prior to the issuance of the food truck permit, the vendor shall provide evidence of having obtained a NC Sales and Use Certificate for collecting and paying the proper sales taxes and prepared meals taxes, a Wilkes County Environmental Health Permit and any other applicable permits from regulatory agencies.

D. Home Occupations.

1. The home occupation must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling.
2. A home occupation conducted in an accessory structure shall be housed only in a garage or other accessory structure typically associated with a dwelling and may not occupy more than one such accessory structure.
3. The use may not employ any person who is not a resident of the dwelling.
4. A home occupation housed within the dwelling shall occupy no more than twenty- five percent of the total floor area of the dwelling.
5. There shall be no visible outside display of stock in trade which is sold on the premises.
6. There shall be no outdoor storage or visible evidence of equipment or materials used in the home occupation.

7. Operation of the home occupation shall not be evident from any dwelling on an adjacent lot, nor from a street.
8. Only vehicles used primarily as passenger vehicles will be permitted in connection with the conduct of the home occupation.
9. The home occupation shall not utilize mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisances outside the dwelling or accessory structure housing the home occupation.
10. Home occupations which draw clients to the dwelling on a regular basis shall be limited to 2 clients at one time.
11. Outdoor kilns used for the firing of pottery shall be provided with a semi-opaque screen to obstruct the view from the street and from adjacent properties located in residential districts and shall have a secured work area.
12. No advertising signs or signs that would be considered nonresidential in nature shall be permitted.

E. Outdoor Display, Accessory

1. Shall not be located in any street right-of-way where handicap access, pedestrian and/or vehicular movement is inhibited;
2. Shall be located against the building façade;
3. Shall be permitted only along the business tenant bay or store front façade;
4. Shall not block the entrance to the business or building;
5. Shall not exceed ten percent of the gross floor area of each non-related and separately operated use;
6. Shall be permitted only during the hours of operation of the business and shall be removed at the close of each business day.

F. Outdoor Storage, Accessory

1. Items must be placed within an enclosed building or approved outdoor storage area at the end of each business day.
2. Up to two storage trailers are permitted to be placed on a single lot or in conjunction with a single principal use.
3. Only vehicles and equipment awaiting or in process of repair which are not visibly damaged or are not used or intended to be used as "parts" vehicles shall be permitted.
4. Where permitted as an accessory use in conjunction with a building, the area of storage shall not be placed in any front yard abutting a street.

ARTICLE IV. SUBDIVISION AND INFRASTRUCTURE

4.1 Authority

This chapter is enacted by the board of commissioners pursuant to authority contained in Article 19, Chapter 160D-801, of the General Statutes of North Carolina.

4.2 Applicability

- A. These regulations shall govern all subdivisions of land within the corporate limits and the one-mile perimeter extraterritorial jurisdiction of the town, as now or hereafter established in Town Code Chapter 1, General Provisions 1-7, Extraterritorial jurisdiction.
- B. This chapter shall apply to all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within the definition of a subdivision as outlined in NCGS 160D-802:
 - 1. The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town of North Wilkesboro.
 - 2. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
 - 3. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
 - 4. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town of North Wilkesboro, as contained herein.
 - 5. 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 General Statutes.

4.3 Purpose

The purpose of these regulations is to establish procedures and standards for the development and subdivision of real estate within the corporate limits and extraterritorial jurisdiction of the town in an effort to, among other things, insure proper legal description, identification, monumentation and recordation of real estate boundaries; further the orderly layout and appropriate use of the land; provide safe, convenient, and economic circulation of vehicular traffic; provide adequate building sites which are readily accessible to emergency vehicles; assure the proper installation of streets and utilities; promote the eventual elimination of unsafe or unsanitary conditions because of undue concentration of population; and help conserve and protect the physical and economic resources of the town.

4.4 Conflicts with zoning ordinance

In the event of conflict between any provision of the UDO , the more stringent requirement shall prevail.

4.5 Exceptions

The standards and requirements of this chapter may be modified by the planning board in the case of a plan or program for a complete group development, which, in the judgment of the board, provides

adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the plan.

4.6 Specifications for preliminary and final plats.

The preliminary and final plats shall depict or contain the information indicated in Appendix B, Required Information on Preliminary and Final Plats, of this chapter. An "X" indicates that the information is required. Preliminary and final plats shall be clearly and legibly drawn at a scale of not less than one hundred feet to one inch and shall be drawn on a sheet size acceptable to the Register of Deeds of Wilkes County.

4.7 Recombination of land.

- A. A recombination of existing parcels shall be approved by the Administrator, subject to the following:
1. The total number of lots is not increased;
 2. The resultant lots are equal to the standards of this chapter or all resulting lots more closely conform to the minimum lot size standards in this chapter (i.e. – moving in the direction of conformity);
 3. All the metes and bounds boundaries of the affected lots are shown;
 4. All lot boundaries changed or eliminated by requested combination are indicated by dashed lines;
 5. The title block contains the word "recombination";
 6. Structures on the affected lots are shown and the requested recombination does not violate setback requirements of the Article 2 of this chapter;
 7. The recombination plat is signed by all property owners if either the number of lots is reduced or different owners for different lots are involved in the recombination;
 8. The recombination plat is signed and sealed by a registered surveyor;
 9. The recombination plat is certified by the Administrator; and
 10. The recombination plat conforms to all laws and ordinances for the recordation of maps.

4.8 Permanent reference points.

The Standards of Practice for Land Surveying in North Carolina, as adopted by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors, shall apply when installing permanent monuments.

4.9 Improvements—Within town limits.

Approval of the final plat shall be subject to the developer having guaranteed, to the satisfaction of the town, the installation of such improvements. The Town of North Wilkesboro reserves the right to inspect, reject, stop or otherwise cease the construction of all structures, service facilities, or improvements in the event the same are not being constructed in accordance with the plans, specification standards, policies, or other requirements of the town.

A. Intent of Specifications.

The intent of these specifications is to prescribe minimum requirements for street and right-of-way improvements to be undertaken by the developer within the Town of North Wilkesboro or if annexation of the subdivision to the town is desired or required by the developer. Satisfactory completion of these improvements will qualify streets and rights-of-way in the town to be accepted for maintenance by the town.

B. Improvement Responsibility.

In order to facilitate the provision of street rights-of-way and necessary improvements, the following sections establish responsibilities for the installation of streets and related improvements for each class of street.

1. Major Arterials

- a. Right-of-Way. All new major arterial streets shall meet NCDOT specifications. Along existing major arterial streets, any development which requires specific improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- b. Improvements. Installed by the public in accordance with a schedule of public street improvements, except on existing streets where specific improvements are required to meet vehicular and/or traffic needs of the particular development in which case the developer must install the necessary improvements at the time of development or when said improvements are required to be installed in accordance with an approved Traffic Impact Analysis (TIA). If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be responsible. The developer has the option, after consultation with the Administrator, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new major arterial streets or extensions of major arterial streets must limit access points to public streets or specifically approved street type entrances.

2. Minor Arterial.

- a. Right-of-Way. For new minor arterial streets the developer is responsible for the dedication of up to NCDOT standards. Along existing streets any development which requires improvements of the street to meet vehicular and/or pedestrian access needs of the particular development must dedicate the right-of-way necessary to accommodate those improvements.
- b. Improvements. Installed by the public in accordance with a schedule of public street improvements, except where specific improvements are required to meet the vehicular and/or pedestrian access needs of the particular development in which case the developer must install the necessary improvements at the time of development. If, however, a public improvement project for the street is programmed and funded, the developer may be relieved of the actual construction, but remains liable for the costs of the improvements for which he or she would otherwise be liable. The developer has the option, after consultation with the Administrator, to construct all or a portion of a new or extended street if the developer wants to make use of the street for access to the development. Development along new minor arterial streets or extensions of minor arterial streets must limit access points to public streets or specifically approved street type entrances.

3. Major and Minor Collector

- a. Right-of-Way. Dedicated by the developer.
- b. Improvement. Constructed by the developer.

4. Town Streets and Lanes.

- a. Right-of-Way. Dedicated by the developer.
- b. Improvements. Constructed by the developer.

- 5. All public streets must be constructed to comply with all applicable town or NCDOT requirements. Public improvements will be made in accordance with adopted plans, programs and budgets. It shall not be expected that the occurrence of development will result in the immediate installation of public street improvements by the public sector unless those improvements are scheduled and funded in accordance with public policies and programs.
- 6. Minimum standards for private streets shall meet minimum standards set forth by the North Carolina Department of Transportation. All private streets shall be designed by a registered professional engineer or land surveyor. Final construction quality shall be certified by a professional engineer licensed to practice in North Carolina.

C. Responsibility for State Roads.

No dedication or reservation of right-of-way for a new street or highway within a corridor for a street or highway on a plan established and adopted pursuant to G.S. 136-66.2 for a street or highway that is included in the Department of Transportation's "Transportation Improvement Program" will be required by the provisions of this chapter unless and until the Administrator has determined and certified in writing that:

- 1. The dedication or reservation does not result in the deprivation of a reasonable use of the original tract;
- 2. The dedication or reservation is either reasonably related to the traffic generated by the proposed subdivision or use of the land remaining in the original tract, or the impact of the dedication or reservation is mitigated by measures provided in this chapter. For these purposes the term "original tract" will mean all contiguous land owned by the applicant. The ability of the applicant to transfer density credits attributable to the dedicated right-of-way to contiguous land owned by the applicant is deemed to be a measure which mitigates the impact of the dedication or reservation.

D. Grading for Streets.

All other streets shall be graded to their full pavement width to back of curb, and for an additional five feet on each side of the pavement width. Finished grade, cross section and profile shall be approved by the public utilities director or town consulting engineer. All earthwork in relation to roads shall conform to NCDOT Standard Specification, latest edition.

E. Pavement.

- 1. Pavement composition must be in accordance with the standards as specified in the NCDOT Subdivision Roads Minimum Construction Standards, latest edition. Pavement width shall be measured from edge of pavement to edge of pavement.

2. Pavement composition must be in accordance with the standards as specified in the NCDOT Subdivision Roads Minimum Construction Standards, latest edition.

F. Street Markers and Barricades.

1. Standard street markers must be installed by the developer at one corner of all street intersections, including private streets, before any zoning or building permits may be issued for buildings or residences along those streets.
2. The design, material, location and installation of the signs must be in accordance with standards specified by the Town of North Wilkesboro or NCDOT unless an alternative design is approved.
3. Alternatives to the standard design for street markers may be submitted by the developer for consideration by the planning board.
4. If an alternative design is approved by the planning board, responsibility for the installation, maintenance, and replacement of nonstandard street markers remains with the developer and subsequently with the homeowners.
5. All standard street markers will be maintained and replaced by the town once initial installation has been completed by the developer.
6. Barricades must be installed at the end of all dead-end streets except cul-de-sac streets, which have been improved with a permanent turnaround, as required by this chapter.
7. Design, material and installation of the barricades must be in accordance with the Town of North Wilkesboro standards or NCDOT.

G. Curb and Gutter.

Combination curb and gutter, shall be required and be installed in accordance with the standards set forth in the North Carolina Department of Transportation, Division of Highways, Subdivision Roads Minimum Construction Standards, latest edition. The planning board at its discretion may permit valley-type curbs on local, cul-de-sac, and hillside streets within subdivisions.

H. Installation of Utilities.

After grading is completed and approved and before any base is applied, all of the underground work (water mains, gas mains, etc.) and all service connections shall be installed completely and approved throughout the length of the road and across the flat section.

1. Water Supply System.

- a. Water mains properly connected with the community water supply system or with an alternate supply approved by the department of environmental health shall be constructed in such a manner as to serve adequately, for both domestic use and fire protection, all lots shown on the subdivision plat.
- b. The size of water mains, the location and types of valves and hydrants, the amount of soil cover over the pipes and other features of the installation shall meet the standards of the Town of North Wilkesboro and shall be approved by the Town of North Wilkesboro's Public Utilities Director, with consultation of the appropriate town, county,

and state agencies, and shall conform to accepted standards of good practice for municipal water systems.

2. Sanitary Sewers.

- a. Connection to town sewer systems shall be mandatory for all subdivisions within town limits. The cost of installation shall be the responsibility of the developer.
- b. In addition, when a subdivision is located within two hundred feet of a public sewerage system or an approved private system, sanitary sewers shall be installed in such a manner as to adequately serve all lots with connection to the public system; regardless if the development is in town limits or the ETJ and at the expense of the developer.
- c. When, at the discretion of the Public Utilities Director, lots cannot be connected with a sewerage system or meet the requirements listed in Town Code 18, Water, Sewers and Sewage, they must contain adequate area for the installation of approved septic tank and disposal fields.

I. Stormwater Drainage System.

The developer shall provide a stormwater water drainage system constructed to the standards of the North Carolina Department of Transportation, as reflected in "Guidelines for Drainage Studies and Hydraulic Design" subject to review by the public utilities director. Additionally the North Carolina Department of Environment Control's "Stormwater Design Manual" may be utilized as a best practice guidance document.

1. The minimum peak flow reducing stormwater control requirements shall provide control measures necessary to control velocities of flow from stormwater management facilities to a level which will not cause erosion or other velocity related problems at the exit of all stormwater management facilities and downstream. In addition, stormwater control measures shall be provided to limit the two-year and ten-year developed peak discharge rates to pre-developed peak discharge rates. The design of these facilities shall be based on standard engineering practice.
2. The above requirements, or portions thereof, may be waived by the town if it can be shown by engineering calculations which are acceptable to the town that one of the following exists:
 - a. The installation of peak flow reducing stormwater control facilities would have insignificant effects on reducing downstream flood peaks;
 - b. Peak flow reducing stormwater control facilities are not needed to protect downstream developments; or
 - c. The town determines that peak flow reducing stormwater management facilities are not needed to control developed peak discharge rates and installing such facilities would not be in the best interest of local citizens or the town.
3. The above requirements, or portions thereof, may not be waived if the town determines that not controlling downstream flood peaks would increase known flooding problems, or exceed the capacity of the downstream drainage system.
4. For all stormwater control facilities, a hydrologic-hydraulic study shall be performed showing how the drainage system will function with and without the proposed facilities.

5. Stormwater design plans that are incidental to the design of developments shall be prepared by a qualified licensed North Carolina professional engineer, surveyor or landscape architect.
 6. Stormwater control facilities shall be prepared by a qualified licensed North Carolina professional engineer, using engineering industry standards and practices.
 7. During the preparation of the subdivision or any other development project 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 accordance with the North Carolina Department of Environment Quality's "Erosion and Sediment Control Planning and Design Manual" and as updated. Additionally an erosion control permit shall be applied for and secured through the North Carolina Department of Environmental Quality.
 8. No stormwater shall be channeled or directed into a sanitary sewer.
 9. Where feasible, the developer shall connect to an existing storm drainage system.
 10. Where an existing storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to protect the proposed development from water damage.
 11. Stormwater drainage courses shall comply with the standards and specifications for erosion control of the North Carolina Sedimentation Pollution Control Act of 1973, G.S. Ch. 113A, and the NC Administrative Code Title 15, Chapter 4.
 12. The minimum grade along the bottom of a surface drainage course shall be a vertical fall of at least one foot in each one hundred feet of horizontal distance.
 13. All dams or impoundments within the subdivision must comply with the NC Dam Safety Law of 1967 and the NC Administrative Code Title 15, Subchapter 2K.
 14. In all areas of special flood hazards, all subdivisions shall have adequate drainage provided to reduce exposure to flood damage.
- J. Sidewalks.** For all major subdivisions, sidewalks are required along both sides of all residential streets. Sidewalks shall be constructed within the street right-of-way and installed as follows:
- 1. Material and Construction.**
 - a. Sidewalks shall be constructed to NCDOT standards, except where the sidewalk crosses a driveway it shall be six inches thick.
 - b. Other materials may be approved by the Public Utilities Director but if other materials are used then such sidewalk must be installed in a satisfactory manner and meet the town's approval.
 - c. The surface of the sidewalk shall be steel trowel and light broom finished and cured with an acceptable curing compound.
 - d. Tooled joints shall be provided at intervals of five feet and expansion joints at intervals of not less than one hundred feet.
 - e. The sidewalk shall have a lateral slope of one-fourth inch per foot.

- f. All sidewalks shall comply with federal, state, and ADA requirements.

2. Location

- a. Approval of sidewalk construction plans must be obtained from the Town of North Wilkesboro as part of the subdivision review process.
- b. The town will review and comment on the location of the required facilities at the time of plan review.
- c. Except in unusual circumstances, sidewalks shall be located six feet from the back of the curb.
- d. If existing public street right-of-way is not available, the developer will be required to construct the sidewalk outside the street right-of-way on a permanent easement.

K. Plant Cover on Slopes.

All cut and fill banks exposed by grading shall be planted with grass, legume, vine, or other suitable plant material to prevent erosion. These plantings must be of a native species indigenous to the area and shall not be of an invasive species.

4.10 Exemptions for required street improvements.

Single-family residential subdivisions with a minimum lot size of five acres and where each lot has a minimum of two hundred feet of public street frontage shall be exempt from the curb and gutter and sidewalk requirements of this chapter. Such subdivisions shall provide a street graded to the full width of the right-of-way and the ten-foot utility easements with pavement and side ditch sections as specified for its classification. When determining street frontage, lots with full frontage on cul-de-sacs may be excluded.

4.11 Guarantee of improvements.

- A. In lieu of requiring the completion, installation and inspection of all or any part of the required improvements as described in in this article prior to final plat approval, the town may enter into a contract with the developer whereby the developer shall agree to complete all required improvements, this does not include repairs or maintenance after completion.
- B. Once the agreement is signed by both parties and the security required herein is provided, the final plat may be approved if all other requirements of this chapter are met. The following performance guarantees shall be acceptable (Performance guarantees associated with erosion control and stormwater control measures require review by the applicable NCDEQ regional office and are not subject to the provisions of this section):
 - 1. Surety bond issued by any company authorized to do business in this State.
 - 2. Letter of credit issued by any financial institution licensed to do business in this State.
 - 3. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.
 - 4. The amount of the performance guarantee shall be equal to an amount one hundred twenty-five (125) percent of the estimated cost of installing all required improvements. The initial

cost estimate shall be the responsibility of the developer but the approval of the final cost estimate shall be made by the Administrator. The developer shall have the option to post one type of a performance guarantee as provided for in section B, in lieu of multiple bonds, letters of credit, or other equivalent security, for all development matters related to the same project requiring performance guarantees.

- C. Governmental Guarantee.** In any case where a required improvement is to be provided by this state or any local government other than the town, the developer may provide, in lieu of the types of financial guarantee as provided for above, a letter from the appropriate state or local government official guaranteeing the installation of the improvement in the required manner and within the time allotted. However, in any case where the cost of such improvement exceeds ten thousand dollars as determined by the town, such governmental guarantee shall be in the form of an approved project budget ordinance where local government is to be the provider and an equivalent document where the state is to be the provider.

D. Duration of performance guarantees.

1. The duration of a performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration.
2. For an extension of the performance guarantees a developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the Town, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the General Statutes of North Carolina 160D-804.1 (3) shall include the total cost of all incomplete improvements.

E. Default.

1. Upon default, meaning failure on the part of the developer to complete the required improvements in a timely manner as specified in the guarantee agreement, the town may take all or any portion of the guarantee fund up to the amount needed to complete the improvements based on an estimate by the town. The town at its discretion may expend such portion of the funds as deemed necessary to complete all or any portion of the required improvements. The town shall return to the developer any funds not spent in completing the improvements.
2. Default on a project does not release the developer from liability/responsibility for the completion of the improvements.

F. Release of guarantee security.

The town shall release the performance guarantee including letters of credit or escrowed funds after the improvements are completed and approved by the town. When required improvements that are secured by a bond are completed to the specifications required by the town or are accepted by the town, the town will provide written acknowledgement that the required improvements have been completed and accepted within thirty days.

G. Certification of completion and warranty.

For subdivisions with public improvements, a certificate of completion and warranty shall be submitted to the Administrator (on a form provided by the planning department) stipulating the following:

1. All improvements required by the Town of North Wilkesboro's ordinance have been completed;
2. Such improvements are in compliance with the minimum standards specified by town ordinance for construction;
3. The developer knows of no defects from any cause and that he will warrant all improvements against defects in materials and workmanship for a period of three years after the certificate of completion and warranty is executed.
4. In the event any defects are discovered in materials or workmanship in any required improvements during the warranty period, the developer will, at his expense, replace and/or repair such defects to the satisfaction of the town.

4.12 Underground Utility Services

A. Defined.

For the purposes of this article, the term "utilities services" shall include electricity, telephone, telegraph, community antenna, CATV, water and gas transmission and distribution systems.

B. When required—Penalty for violations.

1. The extension of existing utility services into new areas shall be placed underground. However burying power shall not be required if the development meets all of the following criteria:
 - a. The power lines existed above ground at the time of first approval of a plat or development plan by the local government, whether or not the power lines are subsequently relocated during construction of the subdivision or development plan.
 - b. The power lines are located outside the boundaries of the parcel of land that contains the subdivision or the property covered by the development plan.
2. Utility services in all public and private housing developments shall henceforth be installed underground. "Housing developments" shall be defined as any land development whereby a land subdivision map is placed on public record or land is subdivided into four or more lots.
3. Utility services in urban renewal areas shall be placed underground.
4. Any person who violates any of these regulations shall be subject to civil penalty in accordance with Section 9.26 of this ordinance.

C. Undergrounding in connection with civic improvements.

1. In support of projects of civic improvement, including, but not restricted to, street widening, street paving, street realignment, provisions for open space, etc., utility services shall be relocated underground.

2. When utility services are placed underground, they shall be of sufficient depth to eliminate exposure and to adequately protect the same from shallow excavations.

D. Above ground poles.

1. No poles for electric, telegraph, telephone or other purposes shall be placed on any street or public easement or right-of-way without a permit being obtained from the town.
2. No permit shall be issued for the erection of poles on any street in contravention of the provisions of this article, or where there exists a line of poles on such street for the purpose of supporting electric, telephone or telegraph wires.
3. Whenever any electric, telephone or telegraph company shall desire to place lines or wires along any particular street upon which it does not have a line of poles, but upon which street there exists a line of poles owned by another company, then such companies may maintain their wires upon the same poles; provided, that such placement or maintenance shall not violate the provisions of this article.

4.13 Minimum Standards of Design

A. Exceptions

The following planning and design standards shall be complied with and no higher standard may be required by the planning board, except where because of exceptional and unique conditions of topography, location, shape, size, drainage or other physical features of the site, or because of the special nature and character of surrounding development, the minimum standards specified herein would not reasonably protect or provide for public health, safety or welfare. Any higher standard required shall be reasonable and shall be limited to the minimum additional improvements necessary to protect the public health, safety or welfare.

B. General requirements.

1. Streets to Conform to Major Thoroughfare Plans.

The plat of a subdivision shall conform to the UDO of the town and meet the requirements of the adopted plans and policies of the Town, including but not limited to the thoroughfare plan for North Wilkesboro.

2. Continuation of Adjoining Street System.

- a. The proposed street layout shall be coordinated with the existing street system of the surrounding area.
- b. Where possible, proposed streets shall be the extension of existing streets.
- c. Whenever connections to existing or proposed streets on adjoining property are required, the street right-of-way shall be extended and the street developed to the property line of the subdivided property (or to the edge of the remaining undeveloped portion of a single tract) at the point where the connection to the existing or proposed street is expected. A sign shall be placed stating that this road is intended for future extension.
- d. In addition, the planning board may require temporary turnarounds to be constructed at the end of such streets pending their extension.

- e. The planning board may require extension or connection where necessary to permit the convenient movement of traffic between residential neighborhoods or to facilitate access to neighborhoods by emergency service vehicles or for other sufficient reasons.
- 3. Street Access to Adjoining Properties.**
Proposed streets shall be extended by dedication to the boundary of adjacent properties at the intervals specified by zoning district, minimum block lengths, and/or any other required dimensions of this Ordinance, and a temporary turnaround shall be provided.
- 4. Number of Access Points Required.**
In order to accommodate emergency and service vehicles, the following standards shall apply:
- a. Any residential subdivision of greater than thirty (30) lots but less than seventy-five (75) lots shall include at least two (2) access points. The second access may consist of a stub street to future development. Where a stub street is provided, emergency turn-around must be constructed.
 - (1) No more than thirty (30) certificates of occupancy may be issued within the subdivision until the required secondary access has been constructed or bonded for construction.
 - b. Any residential subdivision of greater than seventy-five (75) lots but less than 250 lots shall include at least two (2) access points. Stub streets shall not be considered part of the two (2) access points.
 - (1) No more than seventy-five (75) certificates of occupancy may be issued within the subdivision until the required secondary access has been constructed or bonded for construction.
 - c. Residential subdivisions of 250 or more lots shall provide at least three (3) separate access points. Where three (3) or more access points are required, the Town Board of Aldermen may waive the requirement for immediate construction of more than two (2) access points, provided that subdivision phasing and design illustrates the additional required connections. For those subdivisions large enough to require a third access, a stub-out street may be credited as a required access if the two (2) functioning access roads are both connected to a collector road.
- 5. Reserve Strips Prohibited.**
There shall be no private streets or reserve strips platted in any subdivision. Private streets shall be approved for gated residential developments; in which case, all provisions of Section 16 must be met.
- 6. Restriction of Access.**
When a subdivision fronts on an arterial street or highway, the planning board may require a frontage road to provide frontage for lots fronting on the arterial street or highway.
- 7. Street Names.**
See the Town's Addressing Policy.
- 8. Lots.**
All lots shall meet or exceed the minimum requirements for the zoning district in which it is located and all applicable standards of this Ordinance.

9. Recreation and Open Space.

a. Recreation and Open Space Suitability Criteria.

The planning board shall be authorized to reject or accept offers of land dedication considering the following criteria:

- (1) It shall not be encumbered with any substantial structure;
- (2) It shall not be devoted to use as a roadway, parking area or sidewalk;
- (3) It shall be left in its natural or undisturbed state if wooded, or, if disturbed, shall be properly vegetated and landscaped to create an area that is capable of being used and enjoyed for informal and unstructured recreation;
- (4) It shall be legally and practicably accessible to the residents of the development or to the general public;
- (5) It shall be topographically and physically suitable for the purposes intended as determined by the parks and recreation director and Administrator.

b. Dedication Requirement.

Every person or corporation who submits a major subdivision proposal shall be required to designate an adequate amount, and safe location of recreational areas according to the concentration of residential occupancy. Only usable land areas will be considered as recreational areas. Unless otherwise expressly stated herein, one thousand five hundred square feet of land area shall be reserved for acceptance of dedication by the Town of North Wilkesboro, homeowner's association or other approved entity for each dwelling unit permitted within a subdivision, based on the zoning designation of the property or other limitations on density that are enforceable by the town. Bylaws and restrictive covenants of the homeowner's association must be submitted prior to final plat approval.

c. Fees-in-Lieu

Where lands suitable in scale, character or location are not available within the subdivision as determined by the town, or at the election of the developer, an amount equal to the current valuation for property tax purposes of one thousand five hundred square feet buildable land per dwelling unit within the subdivision may be paid in lieu of dedication.

d. Alternative Compliance

As an alternative to land dedication, fees in-lieu or a combination thereof, developers of planned residential developments may provide equivalent recreation or open space facilities for common use and enjoyment under neighborhood or community association ownership or management, subject to the following findings and conditions:

- (1) The Administrator and the parks and recreation director shall analyze the character, location and scale of the proposed facilities to determine whether they are in accord with all regulations and standards officially adopted and in effect;
- (2) The town attorney shall provide an opinion as to the legal sufficiency of devices for assuring that the lands shall be held, improved and maintained for the purposes set forth in perpetuity.

10. Contour Map

A contour map shall be provided if requested by the Administrator and/or the technical review committee. The contour interval required will depend upon topographic and drainage characteristics.

11. Flood Damage Control.

All subdivision proposals shall be consistent with the need to minimize flood damage.

12. Protection of Utilities from Flooding

All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

13. Use of Land in Flood Hazard Areas

- a. Land within the floodway, as defined by the National Flood Insurance Rate Maps and adopted for the Town of North Wilkesboro, shall not be platted for residential occupancy or building sites.
- b. Land outside the floodway, but subject to flooding, may be platted for residential occupancy provided each lot contains a building site that may reasonably lend itself to construction of a floor level above the elevation of the one hundred year flood, as defined by the North Wilkesboro Flood Damage Prevention Ordinance.
- c. Fill shall not be used to raise land in the floodway.

C. Public streets

1. For town maintained streets, the North Carolina Department of Transportation, Division of Highways, Subdivision Roads Minimum Construction Standards, latest edition, shall serve as a minimum guideline for design.
2. In addition, standards as set forth in the Town of North Wilkesboro Zoning Ordinance and this article of the subdivision regulations shall control.
3. The town may impose additional standards or waive one or more required standards whenever, from the Technical Review Committee's opinion, such standards are necessary to ensure public safety and the integrity of the public street system or, conversely, the waiver of such standards will not result in a degradation of public safety or the integrity of the public street system.

D. Alleys

For alleys, whether public or private, the North Carolina Department of Transportation, Division of Highways, Traditional Neighborhood Development (TND) Street Design Guidelines, latest edition, shall serve as a minimum guideline for design. In addition, standards as set forth in the Town of North Wilkesboro Zoning Ordinance and this article of the subdivision regulations shall control. The town may impose additional standards or waive one or more required standards whenever, from the Technical Review Committee's opinion, such standards are necessary to ensure public safety and the integrity of the public street system or, conversely, the waiver of such standards will not result in a degradation of public safety or the integrity of the public street system.

E. Suitability of land

Land which is found to be unsuitable for subdivision due to flooding, bad drainage, steep slopes, rock formations and other features likely to be harmful to the safety, health and general welfare of the future occupants or to the community shall not be subdivided unless adequate methods

approved by the Administrator are formulated by the developer for meeting the problems created by the subdivision of such land.

F. Intersections

Angles at intersections of street center lines shall meet the design standards of the North Carolina Department of Transportation.

1. Intersections with a major thoroughfare shall be at least eight hundred feet apart measured from center line to center line, wherever possible.
2. Property lines at street intersections shall be rounded with a minimum radius of twenty feet. Where a street intersects a state highway, the design standards of the state department of transportation shall apply.

G. Cul-de-sac.

Cul-de-sac (streets designed to be permanently closed at one end) must be terminated by a vehicular turnaround design as determined by the North Carolina Department of Transportation, Division of Highways, Subdivision Roads Minimum Construction Standards, latest edition. However, this requirement may be waived where topographical or other unusual conditions exist.

H. Half-streets.

The dedication of half streets at the perimeter of a new subdivision is prohibited. If circumstances render this impractical, adequate provision for the concurrent dedication of the remaining half of the street must be furnished by the developer. Where there exists a half street in an adjoining subdivision, the remaining half shall be provided by the proposed development.

I. Blocks.

The length, width, and shape of blocks shall be reasonably designed to provide for the following: Adequate building sites for the proposed use, vehicular and pedestrian circulation including control of traffic. Block lengths shall not exceed one thousand five hundred feet nor be less than five hundred feet. Where deemed necessary by the Administrator, a pedestrian crosswalk of at least ten feet in width may be required. Minimum block lengths shall not apply to cul-de-sacs.

J. Lots.

The size, shape, and orientation of nonresidential lots shall be such as the Administrator deems appropriate for the type of development and use contemplated. Residential lots shall comply with the following requirements:

1. Each lot shall have frontage on a street as required by Section 2.6 of the North Wilkesboro UDO.
2. The lot size, width, depth, front, side and rear yard setbacks depend upon the requirements of the zoning district. For further details refer to the North Wilkesboro Zoning Ordinance. Additional lot area may be required when public water and sewer is not provided.
3. Each building lot shall contain a building site not subject to flooding as defined in the town's flood damage prevention ordinance and outside the limits of any existing easement or building setback lines.
4. Prior to the construction of any driveway or other connection within the right-of-way of a public street, a permit must be secured from the North Carolina Department of Transportation or the Town of North Wilkesboro, for a state or a local road respectively. However, in a residential major subdivision, access to individual lots from streets

constructed as part of the subdivision shall be reviewed and approved at the time each building permit is issued and individual driveway permits will not be required on a lot-by-lot basis.

5. Side lot lines shall, as nearly as practicable, be at right angles or radial to street lines. Where side lot lines intersect at the rear of the lot, the angle of intersection shall not be less than sixty degrees.

K. Building setback lines.

The minimum setback from property lines shall be not less than the specified provisions of the town zoning ordinance; except when the division of land is contained in an officially recognized community development area with residential structures to be rehabilitated, developed or redeveloped by the town or by a private developer. In such case, the building setback line may be in keeping with the building setback lines preexisting at the time of designation of the community development area.

L. Easements.

Utility and other easements shall be provided as follows:

1. Utility easements centered on rear or side lot lines shall be provided where deemed necessary by the town public utilities director and shall be not less than twenty feet in width, ten feet on each side.
2. Where applicable, a crosswalk easement of at least ten feet in width shall be provided if required by the Administrator.
3. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction, or both, as will be adequate for the purpose.
4. Lakes, ponds, creeks and similar areas within the town will be accepted for maintenance only if such acceptance is recommended by the planning board and approved by the board of commissioners.

M. Buffers.

Whenever a residential subdivision is located adjacent to an office, institutional, commercial or industrial use which does not have a buffer, or property zoned for these uses, and a buffer is not required between these and the subdivision, the developer shall provide a buffer as specified in the Town of North Wilkesboro's UDO Article 6. The width of the buffer shall be in addition to the lot area required by the Town of North Wilkesboro Zoning Ordinance. The buffer shall become part of the lot on which it is located, or in the case of commonly owned property, shall be deeded to the homeowner's association.

N. Street lights.

Street lighting shall be required for all subdivisions and must conform to the standards of the Town and shall be installed by the developer.

O. Fire hydrants.

Fire hydrants shall be required for all major subdivisions and shall be placed no more than one thousand feet apart. All hydrants shall be approved by the Town of North Wilkesboro Fire Department, Public Utilities Director and installed by the developer.

A. Purposes of article.

The purpose of providing for the clustering of development and the resultant open space are to offer recreation at or near each home, to improve the appearance of the area through preservation of green space, to counter the undesirable effects of urban congestion and monotony, and to encourage group participation in community activities by all ages on a local "block" or neighborhood area basis in order to build community and personal stability and security. Local parks, recreation areas, and other open spaces in a planned neighborhood pattern are intended to conserve areas of natural beauty, to encourage cooperative relationships between neighbors, and to help promote the public health, safety, morals and general welfare.

B. The purpose of this article is to provide permissive voluntary ultimate subdivision procedure for all zoning districts having a minimum residential lot size of six (6) thousand square feet or more required for single-family use. This is to be accomplished by permitting the density of dwelling units contemplated by the minimum lot size requirements to be maintained on an overall basis when applied to specific tracts of land, and thereby provide for desirable and proper open space.**C. Development procedure.**

1. The developer of a subdivision may, subject to requirements of this article, vary the lot size within a subdivision from those sizes required in an applicable zoning district or in this chapter by complying with the procedures set forth in this article.
2. The maximum number of lots that may be approved shall be computed by subtracting from the total gross area of the site, the area in easements, access areas, flood plains and any other area that is not developable, and then subtracting from the remainder a fixed percentage of twenty-five percent of the remainder for street right-of-way purposes.
3. Under this development procedure, no lot shall be reduced in area by more than twenty-five percent of the required minimum lot area of an applicable zoning district or of this chapter, and in no case shall the individual lot size be less than six (6) thousand square feet; provided further, that such lots shall not contain a frontage less than the frontage required in an applicable zoning district or in this article.
4. Common land for open space or recreational use created by this procedure shall be set aside for the following land uses only:
 - a. Private recreational facilities, such as golf courses or swimming pools;
 - b. Historic building sites or historical sites, parks and parkway areas, playgrounds, extensive areas with tree cover, areas having natural features worthy of scenic preservation;
 - c. Access, sanitary and utility service uses.

D. Preliminary community unit plan.

The owner or owners of any parcel of land may submit to the town planning board a preliminary plan for the use and development of all the tract of land. If the planning board approves the preliminary plan, their recommendation shall be accompanied by a report, to be submitted with the final plat, to the board of adjustment to grant the special use permit. The board of adjustment

shall state the reasons for approval of the application and specific evidence and facts showing that the preliminary community unit plan meets the following conditions:

1. The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to the plan submitted.
2. The use complies with all regulations and standards of this chapter and the zoning ordinance, or an application for rezoning shall be submitted to the planning board at the time of the preliminary plan is reviewed.
3. The use will not substantially injure the value of adjoining property, or the use is a public necessity.
4. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located.
5. Public water and sewer service are available in adequate capacity, if needed.
6. That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area in which it is located.

7.

E. Final plat.

Final plat approval procedure shall be as prescribed for all subdivisions in this chapter, with the exception that the following open land utilization documents shall be approved and executed prior to final approval:

1. All open space whose acreage shall be utilized as common land, as hereinabove provided, shall be conveyed in fee simple title by warranty deed from the developer to trustees, who shall be provided for by trust indenture for each subdivision authorized under this development procedure, for the benefit, use and enjoyment of the lot owners, present and future, of such subdivisions for a term of years certain, which term shall be for at least a period of twenty-five years, after which period of time fee simple title shall be vested in such owners as tenants in common. The warranty deeds and subsection shall have attached thereto a written legal opinion prepared and signed by an attorney licensed to practice law by the State of North Carolina. Such opinion shall set forth the attorney's legal opinion as to the legal form and effect of such deeds and indentures. Such deeds and indentures shall be approved by the Administrator and shall be filed with the register of deeds simultaneously with the recording of the final plat of the subdivision. The final plat shall be submitted and approved as provided for in this chapter.
2. The intent and purpose of subsection A of this section is to provide, as a condition for final approval of a voluntary alternate subdivision development, that the common land shall be set aside for the benefit, use and enjoyment of the subdivision lot owners, present and future, for a period of at least twenty-five years, and to further provide that thereafter such lands shall be held in common by such lot owners as tenants in common.

4.15 Gated Residential Developments

A. Purpose.

A gated residential development, where a gate is placed at the outer periphery of the development in order to restrict access, may be allowed to have private streets that are not owned and maintained by the town or NCDOT.

- B. All gated residential developments must be developed in accordance with the regulations of this section, other applicable regulations of the Town of North Wilkesboro Subdivision Ordinance, and the North Wilkesboro Zoning Ordinance.

4.16 Homeowners' associations required.

New major subdivisions in which private streets are proposed or necessary shall establish a homeowners' association for the maintenance of improvements and common areas not dedicated to and accepted by a public authority for the purposes of maintenance. The homeowners' association shall be subject to the following:

- A. Improvements and common areas, that may be required by this chapter and that shall be maintained by the homeowners' association, include but are not limited to: streets not yet accepted into the public street system for maintenance by the town or NCDOT, sidewalks, curbs and gutters, open spaces, street lighting, and landscaped thoroughfare buffers.
- B. The homeowners' association also shall be responsible for maintenance of common improvements and common areas that are proposed by the developer for the benefit of all residents of the subdivision although not required by this chapter, including but not limited to entry signs, monuments, perimeter walls, entry gates and gatehouses, clubhouses, ponds and lakes including dams and other associated structures, and parking areas and driveways serving common areas.
- C. The homeowners' association shall be organized and established as a legal entity prior to or as a part of the final plat approval and recording process.
- D. Membership in the homeowners' association shall be mandatory for each original purchaser of a residential lot within the subdivision and each successive purchaser of such lot.
- E. The homeowners' association shall be organized so that it has clear legal authority to maintain and exercise control over the required improvements, common areas and facilities not dedicated to and accepted by a public authority for the purposes of maintenance.
- F. The homeowners' association shall be responsible for the payment of premiums for liability insurance, local taxes, maintenance of recreational and other facilities located on the common areas, and payment of assessments for public and private capital improvements made to or for the benefit of the common areas. It shall be further provided that:
 - 1. Upon default by the homeowners' association in the payment to the governmental authority of an ad valorem tax levied against the common areas or assessments for public improvements to the common areas; and
 - 2. Should such default continue for a period of six months; then, each owner of a residential lot in the development shall become obligated to pay to the taxing or assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due to the governmental authority by the total number of residential lots in the development. If the sum is not paid by the owner within thirty days following receipt of notice of the amount due, then the sum shall become a continuing lien on the real property of the then owner, his heirs, devisees, personal representatives and assigns of such lot, and the taxing or assessing governmental authority may either bring an action at law against the owner obligated to pay the same or may elect to foreclose the lien against the real property of the owner.

- G. The homeowners' association shall be empowered to levy assessments against the owners of residential lots within the development for the payment of expenditures made by the homeowners' association for the items set forth in the preceding subparagraph and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the residential lot of the owner.
- H. As a part of the final plat approval process, the developer shall submit to the town the following documents for review:
1. Proposed articles of incorporation for the association. Such articles of incorporation shall provide for homeowners control when over fifty percent of the lots are sold.
 2. Proposed bylaws of the association. Such bylaws shall provide for annual meetings of the association, election of officers and distribution of an annual financial accounting to members.
 3. Proposed annual budget of the association showing monthly assessments. The monthly assessments must be set at a sufficient level to insure success of the association and necessary capital expenses.
 4. Proposed restrictions and covenants for the common areas.
All proposed common areas shall be designated on the subdivision plat as common areas to be held in separate ownership for the use and benefit of residents occupying residential lots in the subdivision. Approval of these common areas by the Administrator as part of the final plat approval process requires submission by the developer of restrictions and covenants that will govern the ownership, management, and maintenance of the common areas. The Administrator reserves the right to deny approval of final subdivision plats temporarily if it finds that the restrictions and covenants do not properly address issues of ownership, management and maintenance of common areas.

4.17 Maintenance agreement.

- A. Prior to the approval of a final plat, the developer shall submit to the town evidence that the developer has created a homeowners' association whose responsibility it will be to maintain common areas, private streets, curb and gutter and sidewalks within the subdivision. Such evidence shall include filed copies of the articles of incorporation, declarations, and homeowners' association bylaws.
- B. The maintenance and upkeep of any guardhouses or entry structures, and subdivision walls, fences, or berms located at the external periphery of the subdivision as well as internal streets, curb, gutter and sidewalks shall be the sole responsibility of the developer and/or any duly incorporated and active homeowners' association. Accordingly, any maintenance bond accepted by the town per Section 4.15 of this Article for a gated residential development subdivision shall be calculated using the construction costs of all facilities listed above (in addition to the cost of roads as provided in Section 4.15. The maintenance bond shall remain in place for two years following final plat approval of the subdivision plat or until the town board is satisfied (in its own exclusive discretion) that the homeowners' association is controlled by individual lot owners other than the developer (one year, at a minimum, after a homeowners' association is incorporated and active), has made necessary assessments for payment of maintenance of the roads and facilities, and has otherwise taken over the full responsibility of maintenance of such facilities and the private roads within the subdivision. The decision to release the bond shall rest entirely with the

town board and shall be made based upon the homeowners' association financial ability to properly maintain these roads and common facilities. After the maintenance bond is released by the town board, the homeowners' association shall be required to submit to the town, by the fifteenth of January of each calendar year, the names, addresses, and telephone numbers of all duly elected members of their board of directors as well as a copy of their annual financial statement showing, at a minimum, the amount of funds budgeted to maintain such facilities. In the event the town board, in its discretion, believes the homeowners' association is not making necessary repairs to the roadways or facilities (amenities) or is not making assessments necessary to cover the cost of such repairs, it may after notice of hearing published as provided in this chapter, and notice provided to each lot owner within the subdivision, as shown on the tax scrolls of Wilkes County as of January 1 of the prior year, require the homeowners' association to provide a maintenance bond as required in this ordinance. This maintenance bond may be eliminated or reinstated at the discretion of the North Wilkesboro town board upon notice as set out in this section.

- C. The developer and homeowners' association shall guarantee access to all private streets by emergency and law enforcement vehicles. Access procedures must ensure immediate access through the entry gates for emergency and law enforcement vehicles responding to emergencies. Approach and departure areas on both sides of a gated entrance must provide adequate setbacks and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area. The developer shall provide documentation from Wilkes County Emergency Management, North Wilkesboro's Police and Fire Department and the Wilkes County Sheriff's Office that proposed entry gates and access procedures meet all county standards for access by emergency and law enforcement vehicles.
- D. The developer and homeowners' association shall guarantee access to all private streets by Town of North Wilkesboro, Wilkes County agencies, State of North Carolina agencies, and all public utility companies. Town of North Wilkesboro, Wilkes County, and State of North Carolina officials and staff shall be permitted entry to the gated residential development to perform zoning, inspections and other governmental regulatory activities. Public utility company vehicles and personnel shall be permitted entry to the gated residential development to perform installation and maintenance activities of public utility infrastructure. A statement to this effect shall appear on or accompany the final plat.
- E. If the homeowners' association fails to maintain reliable access for the provision of emergency or other public services, the town may enter the gated residential development and open, disable or remove any gate or device, which is a barrier to access, at the sole expense of the homeowners' association. The declaration of covenants, conditions and restrictions and any other relevant documents of the homeowners' association shall include this provision.

ARTICLE V. ENVIRONMENTAL STANDARDS

5.1 Overlay Districts

1) Flood Overlay District (FPO).

a) Statutory Authorization, Findings of Facts, Purpose and Objectives

i) Statutory Authorization.

The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare

ii) Findings of Fact.

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

iii) Statement of Purpose.

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

- (1) Restrict or prohibit uses that are dangerous to health, safety, and property due to water or erosion hazards or that result in damaging increases in erosion, flood heights or velocity
- (2) Require that uses vulnerable to floods, including facilities that serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging, and all other development that may increase erosion or flood damage; and
- (5) Prevent or regulate the construction of flood barriers that will unnaturally divert flood waters or which may increase flood hazards to other lands.

iv) Objectives.

The objectives of this ordinance are to:

- (1) Protect human life, safety, and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business losses and interruptions;
- (5) Minimize damage to public facilities and utilities (i.e. water and gas mains, electric, telephone, cable and sewer lines, streets, and bridges) that are located in flood prone areas;
- (6) Minimize damage to private and public property due to flooding;
- (7) Make flood insurance available to the community through the National Flood Insurance Program;
- (8) Maintain the natural and beneficial functions of floodplains;
- (9) Help maintain a stable tax base by providing for the sound use and development of flood prone areas; and
- (10) Ensure that potential buyers are aware that property is in a Special Flood Hazard Area.

b) General Provisions.

i) Lands to which this Ordinance Applies.

This ordinance shall apply to all Special Flood Hazard Areas within the jurisdiction, including the Extra-Territorial Jurisdictions (ETJs), as allowed by law of Town of North Wilkesboro.

ii) Basis for Establishing the Special Flood Hazard Areas.

The Special Flood Hazard Areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its FIS dated March 2nd, 2009 for Wilkes County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this Zoning Ordinance, and all revisions thereto. Additionally, the most recent updated Flood Insurance Rate Maps adopted by FEMA are declared to be part of this ordinance.

iii) Establishment of Floodplain Development Permit.

A Floodplain Development Permit shall be required in conformance with the provisions of this ordinance prior to the commencement of any development activities within Special Flood Hazard Areas determined in accordance with the provisions of Section 6.5 (C) Article 3, B of this overlay district ordinance.

iv) Compliance.

No structure or land shall hereafter be located, extended, converted, altered, or developed in any way without full compliance with the terms of this ordinance and other applicable regulations.

v) Abrogation and Greater Restrictions.

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

vi) Interpretation.

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

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the Board of Commissioners; and
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes.

vii) Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of Town of North Wilkesboro or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made hereunder.

viii) Penalties for Violation.

Violation of the provisions of this ordinance or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this ordinance or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town of North Wilkesboro from taking such other lawful action as is necessary to prevent or remedy any violation.

c) Administration.

i) Designation of Floodplain Administrator.

The Planning Director, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this ordinance. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this

ordinance.

ii) Floodplain development application, permit and certification requirements.

(1) Application Requirements.

Application for a Floodplain Development Permit shall be made to the Floodplain Administrator prior to any development activities located within Special Flood Hazard Areas. The following items shall be presented to the Floodplain Administrator to apply for a floodplain development permit:

- (a)** A plot plan drawn to scale which shall include, but shall not be limited to, the following specific details of the proposed floodplain development
 - (i)** The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
 - (ii)** The boundary of the Special Flood Hazard Area as delineated on the FIRM or other flood map as determined in Section 6.5 (C) Article 3, B, or a statement that the entire lot is within the Special Flood Hazard Area;
 - (iii)** Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 6.5 (C) Article 3, B;
 - (iv)** The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 6.5 (C) Article 3, B;
 - (v)** The Base Flood Elevation (BFE) where provided as set forth in Section 6.5 (C): Article 3, B; Article 4, C; or Article 5, D;
 - (vi)** The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and
 - (vii)** The certification of the plot plan by a registered land surveyor or professional engineer.
- (b)** Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
 - (i)** Elevation in relation to NAVD 1988 of the proposed reference level (including basement) of all structures;
 - (ii)** Elevation in relation to NAVD 1988 to which any non-residential structure in Zones A, AE, AH, AO, A99 will be floodproofed; and
 - (iii)** Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.
- (c)** If floodproofing, a Floodproofing Certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance plan that include, but are not limited to, installation, exercise, and maintenance of floodproofing measures.

- (d) A Foundation Plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this ordinance are met. These details include but are not limited to.
 - (i) The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls); and
 - (ii) Openings to facilitate automatic equalization of hydrostatic flood forces on walls in accordance with Article 5, Section B(4)(d) when solid foundation perimeter walls are used in Zones A, AE, AH, AO, A99.
 - (e) Usage details of any enclosed areas below the lowest floor.
 - (f) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.
 - (g) Certification that all other Local, State and Federal permits required prior to floodplain development permit issuance have been received.
 - (h) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure that the provisions of Section 6.5 (C) Article 5, B, subsections (6) and (7) of this ordinance are met.
 - (i) A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse alteration or relocation.
- (2) **Permit Requirements.** The Floodplain Development Permit shall include, but not be limited to:
- (a) A complete description of all the development to be permitted under the floodplain development permit (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
 - (b) The Special Flood Hazard Area determination for the proposed development in accordance with available data specified in Section 6.5 (C) Article 3, B.
 - (c) The Regulatory Flood Protection Elevation required for the reference level and all attendant utilities.
 - (d) The Regulatory Flood Protection Elevation required for the protection of all public utilities.
 - (e) All certification submittal requirements with timelines.
 - (f) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse unless the requirements of Section 6.5 (C) Article 5, F have been met.

- (g) The flood openings requirements.
- (h) Limitations of below BFE enclosure uses (if applicable). (i.e., parking, building access and limited storage only).
- (i) A statement, that all materials below BFE/RFPE must be flood resistant materials.

(3) Certification Requirements.

(a) Elevation Certificates

The use of the FEMA Elevation Certificate is required for the purchase of flood insurance and mandatory for CRS participation.

- (i) *Elevation Certificate (FEMA Form 086-0-33)* is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.
- (ii) *Elevation Certificate (FEMA Form 086-0-33)* is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The Floodplain Administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop-work order for the project.
- (iii) A final *Finished Construction Elevation Certificate (FEMA Form 086-0-33)* is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of 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. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be

taken with views confirming the building description and diagram number provided in Section A. To the extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" x 3". Digital photographs are acceptable.

(b) Floodproofing Certificate

- (i) If non-residential floodproofing is used to meet the Regulatory Flood Protection Elevation requirements, a *Floodproofing Certificate (FEMA Form 086-0-34)*, with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy. The FEMA Floodproofing Certificate is optional at the time of permitting the structure but recommended to ensure compliance with this ordinance and properly permit the structure.
- (ii) A final *Finished Construction Floodproofing Certificate (FEMA Form 086-0-34)*, with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.
- (c) If a manufactured home is placed within Zones A, AE, AH, AO, A99 and the elevation of the chassis is more than 36 inches in height above grade, an engineered foundation certification is required in accordance with the provisions of Section 6.5 (C) Article 5, B(3)(b).
- (d) If a watercourse is to be altered or relocated, a description of the extent of watercourse alteration or relocation; a professional engineer's certified report

on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall all be submitted by the permit applicant prior to issuance of a floodplain development permit.

- (e) Certification Exemptions. The following structures, if located within Zones A, AE, AH, AO, A99, are exempt from the elevation/floodproofing certification requirements specified in items (a) and (b) of this subsection:
 - (i) Recreational Vehicles meeting requirements of Section 6.5 (C) Article 5, B (6) (a);
 - (ii) Temporary Structures meeting requirements of Section 6.5 (C) Article 5, B (7); and
 - (iii) Accessory Structures that are 150 square feet or less or less and meeting requirements of Section 6.5 (C) Article 5, B (8).

(4) Determinations for Existing Buildings and Structures.

For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Inspector, shall:

- (a) Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;
- (b) Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;
- (c) Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and
- (d) Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

iii) Duties and Responsibilities of the Floodplain Administrator

iv) The Floodplain Administrator shall perform, but not be limited to, the following duties:

- (1) Review all floodplain development applications and issue permits for all proposed development within Special Flood Hazard Areas to assure that the requirements of this ordinance have been satisfied.

- (2) Review all proposed development within Special Flood Hazard Areas to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- (3) Notify adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA).
- (4) Assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is maintained.
- (5) Prevent encroachments into floodways and non-encroachment areas unless the certification and flood hazard reduction provisions of Article 5, Section F are met.
- (6) Obtain actual elevation (in relation to NAVD 1988) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures, in accordance with the provisions of Article 4, Section B(3).
- (7) Obtain actual elevation (in relation to NAVD 1988) to which all new and substantially improved structures and utilities have been floodproofed, in accordance with the provisions of Article 4, Section B(3).
- (8) Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with the provisions of Article 4, Section B (3).
- (9) When floodproofing is utilized for a particular structure, obtain certifications from a registered professional engineer or architect in accordance with the provisions of Section 6.5 (C): Article 4, B (3) and Article 5, B (2).
- (10) Where interpretation is needed as to the exact location of boundaries of the Special Flood Hazard Areas, floodways, or non-encroachment areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Article.
- (11) When BFE data has not been provided in accordance with the provisions of Section 6.5 (C) Article 3, B, obtain, review, and reasonably utilize any BFE data, along with floodway data or non-encroachment area data available from a federal, state, or other source, including data developed pursuant to Section 6.5 (C) Article 5, D (2) (c), in order to administer the provisions of this ordinance.
- (12) When BFE data is provided but no floodway or non-encroachment area data has been provided in accordance with the provisions of Section 6.5 (C) Article 3, B, obtain, review, and reasonably utilize any floodway data or non-encroachment area data available from a federal, state, or other source in order to administer the provisions of this ordinance.
- (13) Permanently maintain all records that pertain to the administration of this ordinance and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

- (14) Make on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the Floodplain Administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of the local ordinance and the terms of the permit. In exercising this power, the Floodplain Administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the community at any reasonable hour for the purposes of inspection or other enforcement action.
- (15) Issue stop-work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this ordinance, the Floodplain Administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing or in charge of the work. The stop-work order shall state the specific work to be stopped, the specific reason(s) for the stoppage, and the condition(s) under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.
- (16) Revoke floodplain development permits as required. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, and specifications; for refusal or failure to comply with the requirements of State or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of an applicable State or local law may also be revoked.
- (17) Make periodic inspections throughout the Special Flood Hazard Areas within the jurisdiction of the community. The Floodplain Administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.
- (18) Follow through with corrective procedures of Section 6.5 (C) Article 4, D.
- (19) Review, provide input, and make recommendations for variance requests.
- (20) Maintain a current map repository to include, but not limited to, historical and effective FIS Report, historical and effective FIRM and other official flood maps and studies adopted in accordance with the provisions of Section 6.5 (C) Article 3, B of this ordinance, including any revisions thereto including Letters of Map Change, issued by FEMA. Notify State and FEMA of mapping needs.
- (21) Coordinate revisions to FIS reports and FIRMs, including Letters of Map Revision Based on Fill (LOMR-Fs) and Letters of Map Revision (LOMRs).
- (22) 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 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.

v) Corrective Procedures.

- (1) Violations to be corrected: When the Floodplain Administrator finds violations of applicable state and local laws; it shall be his or her duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.
- (2) Actions in Event of Failure to Take Corrective Action: If the owner of a building or property shall fail to take prompt corrective action, the Floodplain Administrator shall give the owner written notice, by certified or registered mail to the owner's last known address or by personal service, stating:
 - (a) That the building or property is in violation of the floodplain management regulations;
 - (b) That a hearing will be held before the Floodplain Administrator at a designated place and time, not later than ten (10) days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and
 - (i) That following the hearing, the Floodplain Administrator may issue an order to alter, vacate, or demolish the building; or to remove fill as applicable.
- (3) Order to Take Corrective Action: If, upon a hearing held pursuant to the notice prescribed above, the Floodplain Administrator shall find that the building or development is in violation of the Flood Damage Prevention Ordinance, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within a specified time period, not less than sixty (60) calendar days, nor more than least one-hundred and eighty (180) calendar days. Where the Floodplain Administrator finds that there is imminent danger to life or other property, he or she may order that corrective action be taken in such lesser period as may be feasible.
- (4) Appeal: Any owner who has received an order to take corrective action may appeal the order to the Board of Commissioners by giving notice of appeal in writing to the Floodplain Administrator and the clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the Floodplain Administrator shall be final. The local Board of Commissioners shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.
- (5) Failure to Comply with Order: If the owner of a building or property fails to comply with an order to take corrective action for which no appeal has been made or fails to comply with an order of the Board of Commissioners following an appeal, the owner shall be guilty of a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58 and shall be punished at the discretion of the court.

vi) Variance Procedures.

- (1) The Board of Adjustment as established by the Town of North Wilkesboro, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court, as provided in Chapter 7A of the North Carolina General Statutes.

- (3) Variances may be issued for:
- (a) The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
 - (b) Functionally dependent facilities if determined to meet the definition as stated in Section 6.5 (C) Article 2 of this ordinance, provided provisions of Section 6.5 (C) Article 4, E (9) (b), (c), and (e) have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
 - (c) Any other type of development provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:
- (a) The danger that materials may be swept onto other lands to the injury of others;
 - (b) The danger to life and property due to flooding or erosion damage;
 - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) The importance of the services provided by the proposed facility to the community;
 - (e) The necessity to the facility of a waterfront location as defined under Section 6.5 (C) Article 2 of this ordinance as a functionally dependent facility, where applicable;
 - (f) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (g) The compatibility of the proposed use with existing and anticipated development;
 - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (k) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer,

gas, electrical and water systems, and streets and bridges.

- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the BFE and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE may result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.
- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the FEMA and the State of North Carolina upon request.
- (9) Conditions for Variances:
 - (a) Variances shall not be issued when the variance will make the structure in violation of other federal, state, or local laws, regulations, or ordinances.
 - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
 - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (d) Variances shall only be issued prior to development permit approval.
 - (e) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10) A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in Special Flood Hazard Areas provided that all of the following conditions are met.
 - (a) The use serves a critical need in the community.
 - (b) No feasible location exists for the use outside the Special Flood Hazard Area.

- (c) The reference level of any structure is elevated or floodproofed to at least the Regulatory Flood Protection Elevation.
- (d) The use complies with all other applicable federal, state and local laws.
- (e) The Town of North Wilkesboro has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

d) Provisions for Flood Hazard Reduction.

i) General Standards.

In all Special Flood Hazard Areas the following provisions are required:

- (1) All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure.
- (2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements*.
- (3) All new construction and substantial improvements shall be constructed by methods and practices that minimize flood damages.
- (4) All new electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall be located at or above the RFPE or designed and installed to prevent water from entering or accumulating within the components during the occurrence of the base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
 - (a) Replacements part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.
 - (b) Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the standards for new construction consistent with the code and requirements for the original structure.
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into 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) Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.
- (9) New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in Section 6.5 (C) Article 4, E (10). A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a Special Flood Hazard Area only if the structure or tank is either elevated or floodproofed to at least the Regulatory Flood Protection Elevation and certified in accordance with the provisions of Section 6.5 (C) Article 4, B (3).
- (10) All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.
- (11) 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.
- (12) All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.
- (13) 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.
- (14) 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.
- (15) When a structure is located in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest BFE shall apply.
- (16) Buildings and structures that are located in more than one flood hazard area shall comply with the provisions associated with the most restrictive flood hazard area.

ii) Specific Standards.

In all Special Flood Hazard Areas where BFE data has been provided, as set forth in Section 6.5 Article 3, B, or Section 6.5 (C) Article 5, D, the following provisions, in addition to the provisions of Article 5, Section A, are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure (including manufactured homes) shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article X.

- (2) Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the Regulatory Flood Protection Elevation, as defined in Article X. Structures located in Zones A, AE, AH, AO, A99 may be floodproofed to the Regulatory Flood Protection Elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the Regulatory Flood Protection Elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance with Section 6.5 (C) Article 5, G (2). A registered professional engineer or architect shall certify that the floodproofing standards of this subsection are satisfied. Such certification shall be provided to the Floodplain Administrator as set forth in Section 6.5 (C) Article 4, B (3), along with the operational plan and the inspection and maintenance plan.
- (3) Manufactured Homes.
- (a) New and replacement manufactured homes shall be elevated so that the reference level of the manufactured home is no lower than the Regulatory Flood Protection Elevation, as defined in Article X.
 - (b) Manufactured homes shall be securely anchored to an adequately anchored foundation to resist flotation, collapse, and lateral movement, either by certified engineered foundation system, or in accordance with the most current edition of the State of North Carolina Regulations for Manufactured Homes adopted by the Commissioner of Insurance pursuant to NCGS 143-143.15. Additionally, when the elevation would be met by an elevation of the chassis thirty-six (36) inches or less above the grade at the site, the chassis shall be supported by reinforced piers or engineered foundation. When the elevation of the chassis is above thirty-six (36) inches in height, an engineering certification is required.
 - (c) All enclosures or skirting below the lowest floor shall meet the requirements of Section 6.5 (C) Article 5, B (4).
 - (d) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivisions located within flood prone areas. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.
- (4) Elevated Buildings. Fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor:
- (a) Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

- (b) Shall not be temperature-controlled or conditioned;
- (c) Shall be constructed entirely of flood resistant materials at least to the Regulatory Flood Protection Elevation; and
- (d) Shall include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:
 - (i) A minimum of two flood openings on different sides of each enclosed area subject to flooding;
 - (ii) The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
 - (iii) If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
 - (iv) The bottom of all required flood openings shall be no higher than one (1) foot above the higher of the interior or exterior adjacent grade;
 - (v) Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
 - (vi) Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

(e) Additions/Improvements.

- (i) 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:
 1. 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.
 2. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition must comply with the standards for new construction.
 3. Additions to pre-FIRM or post-FIRM structures that are a substantial improvement with no modifications/rehabilitations/improvements to the existing structure other than a standard door in the common wall, shall require only the addition to comply with the standards for new construction.
 4. Additions and/or improvements to post-FIRM structures when the

addition and/or improvements in combination with any interior modifications to the existing structure are:

- a. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.
 - b. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.
5. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a one (1) year period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the one (1) year period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:
- a. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.
 - b. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

(f) Recreational Vehicles. Recreational vehicles shall either:

(i) Temporary Placement

- 1. Be on site for fewer than 180 consecutive days; or
- 2. 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.)

(ii) Permanent Placement. Recreational vehicles that do not meet the limitations of Temporary Placement shall meet all the requirements for new construction.

(g) Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit for a temporary structure, the applicant must submit to the Floodplain Administrator a plan for the removal of such structure(s) in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the Floodplain Administrator for review and written approval:

- (i) A specified time period for which the temporary use will be permitted. Time specified may not exceed three (3) months, renewable up to one (1) year;
 - (ii) The name, address, email address and phone number of the individual responsible for the removal of the temporary structure;
 - (iii) 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);
 - (iv) A copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure; and
 - (v) Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure will be moved.
- (h) Accessory Structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
- (i) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
 - (ii) Accessory structures shall not be temperature-controlled;
 - (iii) Accessory structures shall be designed to have low flood damage potential;
 - (iv) Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters;
 - (v) Accessory structures shall be firmly anchored in accordance with the provisions of Section 6.5 (C) Article 5, A (1);
 - (vi) All service facilities such as electrical shall be installed in accordance with the provisions of Section 6.5 (C) Article 5, A(4); and
 - (vii) Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below Regulatory Flood Protection Elevation in conformance with the provisions of Section 6.5 (C) Article 5, B (4) (d).

An accessory structure with a footprint less than 150 square feet or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards of Section 6.5 (C) Article 5, B (2). Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 6.5 (C) Article 4, B (3).

- (i) Tanks. When gas and liquid storage tanks are to be placed within a Special Flood Hazard Area, the following criteria shall be met:
 - (i) Underground tanks. Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from

hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

- (ii) Above-ground tanks, elevated. Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank- supporting structures shall meet the foundation requirements of the applicable flood hazard area;
 - (iii) Above-ground tanks, not elevated. Above-ground tanks that do not meet the elevation requirements of Section 6.5 (C) B (2) of this ordinance shall be permitted in flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.
- (j) Tank inlets and vents. Tank inlets, fill openings, outlets and vents shall be:
- (i) At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and
 - (ii) Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the design flood.
- (k) Other Development.
- (i) Fences in regulated floodways and Non- Encroachment Areas that have the potential to block the passage of floodwaters, such as stockade fences and wire mesh fences, shall meet the limitations of Section 6.5 (C) Article 5, F of this ordinance.
 - (ii) Retaining walls, sidewalks and driveways in regulated floodways and Non- Encroachment Areas. Retaining walls and sidewalks and driveways that involve the placement of fill in regulated floodways shall meet the limitations of Section 6.5 (C) Article 5, F of this ordinance.
 - (iii) Roads and watercourse crossings in regulated floodways and Non Encroachment Areas. Roads and watercourse crossings, including roads, bridges, culverts, low-water crossings and similar means for vehicles or pedestrians to travel from one side of a watercourse to the other side, that encroach into regulated floodways shall meet the limitations of Section 6.5 (C) Article 5, F of this ordinance.
 - (iv) Commercial storage facilities are not considered “limited storage” as noted in this ordinance, and shall be protected to the Regulatory Flood Protection Elevation as required for commercial structures.

iii) Reserved.

iv) Standards for Floodplains without Established Base Flood Elevations.

- (1) Within the Special Flood Hazard Areas designated as Approximate Zone A and established in Section 6.5 (C) Article 3 B, where no BFE data has been provided by FEMA, the following provisions, in addition to the provisions of Section 6.5 (C) Article 5, A, shall apply:
 - (a) No encroachments, including fill, new construction, substantial improvements or new development shall be permitted within a distance of twenty (20) feet each side from top of bank or five times the width of the stream, whichever is greater, unless certification with supporting technical data by a registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.
 - (b) The Base Flood Elevation (BFE) used in determining the Regulatory Flood Protection Elevation shall be determined based on the following criteria:
- (2) When Base Flood Elevation (BFE) data is available from other sources, all new construction and substantial improvements within such areas shall also comply with all applicable provisions of this ordinance and shall be elevated or floodproofed in accordance with standards in Section 6.5 (C) Article 5, A and B.
- (3) When floodway or non-encroachment data is available from a Federal, State, or other source, all new construction and substantial improvements within floodway and non- encroachment areas shall also comply with the requirements of Section 6.5 (C) Article 5, B and F.
- (4) All subdivision, manufactured home park and other development proposals shall provide Base Flood Elevation (BFE) data if development is greater than five (5) acres or has more than fifty (50) lots/manufactured home sites. Such Base Flood Elevation (BFE) data shall be adopted by reference in accordance with Section 6.5 (C) Article 3, B and utilized in implementing this ordinance.
- (5) 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 Article X. All other applicable provisions of Section 6.5 (C) Article 5, B shall also apply.

v) Standards for Riverine Floodplains with Base Flood Elevations (BFE) 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 Section 6.5 (C) Article 5, A and 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 (1) foot at any point

vi) Floodways and Non-Encroachment Areas.

Areas designated as floodways or non-encroachment areas are located within the Special Flood Hazard Areas established in Section 6.5 (C) Article 3, B. The floodways and non-encroachment areas are extremely hazardous areas due to the velocity of floodwaters that have erosion potential and carry debris and potential projectiles. The following provisions, in addition to standards outlined in Article 5, Sections A and B, shall apply to all development within such areas:

- (1) No encroachments, including fill, new construction, substantial improvements and other developments shall be permitted unless:
 - (a) It is demonstrated that the proposed encroachment would not result in any increase in the flood levels during the occurrence of the base flood discharge, based on hydrologic and hydraulic analyses performed in accordance with standard engineering practice and presented to the Floodplain Administrator prior to issuance of floodplain development permit; or
 - (b) A Conditional Letter of Map Revision (CLOMR) has been approved by FEMA. A Letter of Map Revision (LOMR) must also be obtained within six months of completion of the proposed encroachment.
- (2) If Section 6.5 (C) Article 5, F (1) is satisfied, all development shall comply with all applicable flood hazard reduction provisions of this ordinance.
- (3) Manufactured homes may be permitted provided the following provisions are met in addition to all other applicable zoning requirements:
 - (a) The anchoring and the elevation standards of Section 6.5 (C) Article 5, B(3); and
 - (b) The encroachment standards of Section 6.5 (C) Article 5, F (1).

vii) Standards for Areas of Shallow Flooding (Zone AO).

Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Section 6.5 (C) Article 5, A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) The reference level shall be elevated at least as high as the depth number specified on the Flood Insurance Rate Map (FIRM), in feet, plus a freeboard of one (1) foot, above the highest adjacent grade; or at least (2) feet where a depth is not provided above the highest adjacent grade if no depth number is specified.
- (2) Non-residential structures may, in lieu of elevation, be floodproofed to the same level as required in Section 6.5 (C) Article 5, I (1) so that the structure, together with

attendant utility and sanitary facilities, below that level shall be watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Certification is required in accordance with Section 6.5 (C) Article 4, B (3) and Article 5, B (2).

- (3) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

viii) Standards for Areas of Shallow Flooding (Zone AH).

Located within the Special Flood Hazard Areas established in Section 6.5 (C) Article 3, B, are areas designated as shallow flooding areas. These areas are subject to inundation by 1-percent- annual-chance shallow flooding (usually areas of ponding) where average depths are one (1) to three (3) feet. Base Flood Elevations (BFE) are derived from detailed hydraulic analyses are shown in this zone. In addition to Section 6.5 (C) Article 5, A and B, all new construction and substantial improvements shall meet the following requirements:

- (1) Adequate drainage paths shall be provided around structures on slopes, to guide floodwaters around and away from proposed structures.

e) Legal Status Provisions.

i) Effect on Rights and Liabilities under the Existing Flood Damage Prevention Ordinance.

This ordinance in part comes forward by re-enactment of some of the provisions of the Flood Damage Prevention Ordinance enacted April 5th, 1994 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this ordinance shall not affect any action, suit or proceeding instituted or pending. All provisions of the Flood Damage Prevention Ordinance of Town of North Wilkesboro enacted on April 5th 1994, as amended, which are not reenacted herein are repealed. The date of the initial Flood Damage Prevention Ordinance for Wilkes County is 2002.

ii) Effect upon outstanding floodplain development permits.

- iii)** Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the Floodplain Administrator or his or her authorized agents before the time of passage of this ordinance; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this ordinance.

iv) Severability.

If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

v) Effective date.

This section of the ordinance shall become effective June 24th, 2021.

2) Watershed Overlay District (WSO).

Definitions can be found in Article X

a) Authority and enactment.

The Legislature of the State of North Carolina has, in Chapter 160A, Article 8, Section 174, General Ordinance Making Power; and in Chapter 143, Article 21, Water and Air Resources, authorized local governments to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. In addition, GS 160D-926 and G.S. 143-214.5 specifically authorize local governments to enact and enforce water supply watershed management regulations. The Governing Board of North Wilkesboro does hereby ordain and enact into law the following articles as the Watershed Protection Ordinance of North Wilkesboro.

b) Intent.

It is the purpose of this section to protect the quality of drinking water for the Town of North Wilkesboro by setting standards for the development that occurs within designated public water supply watershed areas. It is further intended that the establishment of watershed regulations reflect the protection of critical environmental areas in accordance with the State of North Carolina's Water Supply Watershed Protection Rules.

c) Jurisdiction.

The provisions of this article of the ordinance shall apply within the areas designated as a water supply watershed by the N.C. Environmental Management Commission and shall be defined and established on the Town's online GIS map with the layer labeled "Water Supply Watershed" which is adopted simultaneously herewith. The watershed map and all explanatory matter contained thereon accompanies and is hereby made a part of this article of this ordinance. This ordinance shall be permanently kept on file in the Town.

d) Exceptions to applicability.

- 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; nor shall any provision of this article amend, modify, or restrict any provisions of the Code of Ordinances of the Town of North Wilkesboro; however, the adoption of this article in the ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the town of North Wilkesboro at the time of the adoption of this article that may be construed to impair or reduce the effectiveness of this article or to conflict with any of its provisions.
- ii)** 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.
- iii)** Existing development, as defined in this article, is not subject to the requirements of this article.
- iv)** Expansions to structures classified as existing development must meet the requirements of this article, except single family residential development or unless

expansion is part of the common plan of development. In an expansion, the built-upon area of the existing development is not required to be included in the density calculations. Where there is a net increase of built upon area, only the area of net increase is subject to this ordinance. Where existing development is being replaced with new built upon area, and there is net increase of built upon area, only areas of net increase shall be subject to this ordinance.

- v) If a Non-Conforming Existing Lot is not contiguous to any other lot owned by the same party, then that lot shall not be subject to the development restrictions of this ordinance if it is developed for single-family residential purposes. Local governments may require the combination of contiguous nonconforming lots of record owned by same party to establish a lot or lots that meet requirements in this ordinance.
- vi) Any lot or parcel created as part of any other type of subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.
- vii) An applicant may exceed the density limits in **Section 5.1 2)** if all of the following circumstances apply:
 - (1) The property was developed prior to the effective date of the local water supply watershed program.
 - (2) The property has not been combined with additional lots after January 1, 2021.
 - (3) The property has not been a participant in a density averaging transaction under G.S. 143-214.5(d2).
 - (4) The current use of the property is nonresidential.
 - (5) In the sole discretion, and at the voluntary election, of the property owner, the stormwater from all of the existing and new built-upon area on the property is treated in accordance with all applicable local government, state, and federal laws and regulations.
 - (6) The remaining vegetated buffers on the property are preserved in accordance with the requirements of this Ordinance
- e) **Repeal of Existing Watershed Ordinance (2025).**

This ordinance in part carries forward by re-enactment, some of the Watershed Ordinance of the Town of North Wilkesboro, North Carolina. These provisions were originally adopted on September 9th, 1993 and were effective on September 30, 1993. **This replacement** is not intended to repeal but rather to continue to in force such existing provisions so that all rights and liabilities that have accrued thereunder are preserved and may be enforced. All provisions of the Watershed Ordinance which are not re-enacted herein are hereby repealed. All suits at law or in equity and/or all prosecutions resulting from the violation of any ordinance provisions heretofore in effect, which are now pending in any court of this state or of the United States, shall not be abated or abandoned by reason of the adoption of this ordinance, but shall be prosecuted to their finality the same as if this ordinance had not been adopted; and any and all violations of the existing Watershed Protection Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted; and nothing in this ordinance shall be so construed as to abandon, abate or dismiss any litigation or prosecution now pending and/or which may

heretofore have been instituted or prosecuted

f) Criminal Penalties

Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished in accordance with NCGS 14-4. The maximum fine for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense. **REFERENCE IN ART 4)**

g) Remedies.

- i) If any subdivision, development and/or land use is found to be in violation of this Ordinance, see Section 9.22 of this ordinance for zoning enforcement measures. In addition, the N.C. Environmental Management Commission may assess civil penalties in accordance with G.S. 143-215.6A. Each day that the violation continues shall constitute a separate offense.
- ii) If the Watershed Administrator finds that any of the provisions of this ordinance are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The Administrator shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or structures, or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions. If a ruling of the Administrator is questioned, the aggrieved party or parties may appeal such ruling to the Watershed Review Board, the Board of Adjustment.

h) Severability.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the declaration shall not affect the validity of this Ordinance as a whole or any part thereof that is not specifically declared to be invalid or unconstitutional.

i) Effective Date.

This Ordinance shall take effect and be in force at the date of adoption of this ordinance.

Subdivision section within Article IV.

j) Establishment of watershed areas.

The purpose of this section is to list and describe the watershed areas herein adopted. For the purposes of this article the Town of North Wilkesboro and its extraterritorial jurisdiction (ETJ) are hereby divided into the following areas, as appropriate:

WS-II-CA (Critical Area);
WS-II-BW (Balance of Watershed);
WS-IV-CA (Critical Area);
WS-IV-P (Protected Area).

k) Watershed Areas- Allowed and Not Allowed Uses

Activity/Use	Water Supply Watershed Classification ¹				
	WS- II CA	WS-II BW	WS- IV CA	WS- IV PA	WS- V
New landfills	No	Yes	No	Yes	Yes
New permitted residual land application	No	Yes	No	Yes	Yes
New permitted petroleum contaminated soils sites	No	Yes	No	Yes	Yes
NPDES General or Individual Stormwater discharges	Yes	Yes	Yes	Yes	Yes
NPDES General Permit Wastewater Discharges pursuant to 15A NCAC 02H .0127	Yes	Yes	Yes	Yes	Yes
NPDES Individual Permit trout farm discharges	Yes	Yes	Yes	Yes	Yes
New NPDES Individual Permit domestic treated wastewater discharge	No	No	Yes	Yes	Yes
New NPDES Individual Permit industrial treated wastewater discharge	No	No	Yes	Yes	Yes
Non-process industrial waste	No	No	Yes	Yes	Yes
New industrial connections and expansions to existing municipal discharge with pretreatment program pursuant to 15A NCAC 02H .0904	No	No	Yes	Yes	Yes
Sewage	No ^c	No ^c	No ^c	No ^c	Yes ^d
Industrial Waste	No ^c	No ^c	No ^c	No ^c	Yes ^d
Other wastes	No ^c	No ^c	No ^c	No ^c	Yes ^d
Groundwater remediation project discharges ^e	Yes	Yes	Yes	Yes	Yes
Agriculture ^f	Yes	Yes	Yes	Yes	Yes
Silviculture ^g	Yes	Yes	Yes	Yes	Yes
Residential Development ^h	Yes	Yes	Yes	Yes	Yes
Non-residential Development ^{hi}	Yes	Yes	Yes	Yes	Yes
Nonpoint Source Pollution ^k	Yes	Yes	Yes	Yes	Yes
Animal Operations ^l	Yes	Yes	Yes	Yes	Yes

Notes:

^a Permitted pursuant to 15A NCAC 02B .0104

^b Except non-process industrial discharges are allowed

^c Only allowed if specified in 15A NCAC 02B .0104

^d Not allowed if activity(ies) has/have adverse impact on human health

^e Where no other practical alternative exists

^f In WS-I watersheds and Critical Areas of WS-II, WS-III, and WS-IV watersheds, agricultural activities conducted after 1/1/1993 shall maintain a minimum 10- foot vegetated setback or equivalent control as determined by Soil and Water Conservation Commission along all perennial waters indicated on most recent version of USGS 1:24000 scale (7.5 minute) topographic maps or as determined by local government studies

^g Subject to Forest Practice Guidelines Related to Water Quality (02 NCAC 60C .0100 to .0209) Effective 4/1/2018

^h See density requirements in 15A NCAC 02B .0624

ⁱ See different allowed and not allowed in this table

^j Watershed shall remain undeveloped except for following uses when they cannot be avoided: power transmission lines, restricted access roads, and structures associated with water withdrawal, treatment, and distribution of WS-I waters. Built upon area shall be designed and located to minimize stormwater runoff impact to receiving waters.

^k Non Point Source pollution shall not have adverse impact, as defined in 15A NCAC 02H .1002, on use as water supply or any other designated use

^l Deemed permitted, as defined in 15A NCAC 02T .0103 and permitted under 15A NCAC 2H .0217

1) Watershed Areas – Density and Built-Upon Limits.

(A) Project Density

The following maximum allowable project densities and minimum lot sizes shall apply to a project according to the classification of the water supply watershed where it is located, its relative location in the watershed, its project density, and the type of development:

Water Supply Classification	Location in the Watershed	Maximum Allowable Project Density or Minimum Lot Size		
		Low Density Development		High Density Development
		Single-family detached residential	Non- residential and all other residential	All types
WS-II	Critical Area	1 dwelling unit (du) per 2 acres or 1 du per 80,000 square foot lot excluding roadway right-of- way or 6% built-upon area	6% built-upon area	6 to 24% built-upon area
	Balance of Watershed	1 du per 1 acre or 1 du per 40,000 square foot lot excluding roadway right-of-way or 12% built-upon area	12% built- upon area	12 to 30% built-upon area
WS-IV	Critical Area	1 du per one-half acre or 1 du per 20,000 square foot lot excluding roadway right-of way or 24% built upon area	24% built-upon area	24 to 50% built-upon area
	Protected Area	1 du per one-half acre or 1 du per 20,000 square foot lot excluding roadway right-of- way or 24% built- upon; or 3 du per acre or 36% built-upon area without curb and gutter street system	24% built- upon area; or 36% built-upon area without curb and gutter street system	24 to 70% built-upon area

(B) Calculation of Project Density.

The following requirements shall apply to the calculation of project density:

- (1) Project density shall be calculated as the total built-upon area divided by the total project area;
- (2) A project with "Existing Development," as defined in this ordinance, may use the calculation method in Sub-Item (1) of this Item or may calculate project density as the difference of total built-upon area minus existing built-upon area divided by the difference of total project area minus existing built-upon area.
- (3) Expansions to Existing Development shall be subject to 15A NCAC 02B .0624 except as excluded in Rule 15A NCAC 02B .0622 (1)(d).
- (4) Where there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
- (5) Where Existing Development is being replaced with new built-upon area, and there is a net increase of built-upon area, only the area of net increase shall be subject to density and built upon area limits.
- (6) Total project area shall exclude the following:
 - (i) areas below the Normal High Water Line (NHWL); and
 - (ii) areas defined as "coastal wetlands" pursuant to 15A NCAC 07H .0205, herein incorporated by reference, including subsequent amendments and editions, and available at no cost at <http://reports.oah.state.nc.us/ncac.asp>, as measured landward from the NHWL; and
- (7) Projects under a common plan of development shall be considered as a single project for purposes of density calculation except that on a case-by-case basis, local governments may allow projects to be considered to have both high and low density areas based on one or more of the following criteria:
 - (i) natural drainage area boundaries;
 - (ii) variations in land use throughout the project; or
 - (iii) construction phasing

(C) Low Density Projects.

In addition to complying with the project density requirements of:
Item (A) of this Rule, low density projects shall comply with the following:

- (1) Vegetated Conveyances. Stormwater runoff from the project shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether this criteria has been met, the local government shall take into account site-specific factors such as topography and site layout as well as protection of water quality. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances that meet the following criteria shall be deemed to satisfy the requirements of this Sub-Item:

(i) Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is demonstrated to the local government that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and

(ii) The conveyance shall be designed so that it does not erode during the peak flow from the 10-year storm event as demonstrated by engineering calculations

(2) Curb Outlet Systems.

In lieu of vegetated conveyances, low density projects shall have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. Requirements for these curb outlet systems shall be as follows:

(i) The curb outlets shall be located such that the swale or vegetated area can carry the peak flow from the 10-year storm and at a non-erosive velocity;

(ii) The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall be provided;

(iii) The swale's cross section shall be trapezoidal with a minimum bottom width of two feet;

(iv) The side slopes of the swale or vegetated area shall be no steeper than 3:1 (horizontal to vertical);

(v) The minimum length of the swale or vegetated area shall be 100 feet; and

(vi) Low density projects may use treatment swales designed in accordance with 15A NCAC 02H .1061 in lieu of the requirements specified in Sub -Items (i) through (v) of this Sub-Item.

(D) *High Density Projects.* In addition to complying with the project density requirements of Item (A) *Project density*, high density projects shall comply with the following:

(1) Stormwater Control Measures (SCMs) shall be designed, constructed, and maintained so that the project achieves either "runoff treatment" or "runoff volume match" as those terms are defined in 15A NCAC 02B .0621;

(2) For high density projects designed to achieve runoff treatment, the required storm depth shall be one inch. Applicants shall have the option to design projects to achieve runoff volume match in lieu of runoff treatment;

(3) Stormwater runoff from off-site areas and Existing Development, shall not be required to be treated in the SCM. Runoff from off-site areas or existing development that is not bypassed shall be included in sizing of on-site SCMs;

(4) SCMs shall meet the relevant Minimum Design Criteria set forth in 15A NCAC 02H.1050 through .1062; and

(5) Stormwater outlets shall be designed so that they do not cause erosion downslope of the discharge point during the peak flow from the 10-year storm event as shown by engineering calculations.

(E) Additional options in place of or in addition to the requirements of Item (A) *Project Density* above, as appropriate:

(1) The Town of North Wilkesboro allows only low density development in their water supply watershed areas in accordance with this Section.

(2) Local governments may regulate low density single-family detached residential development using the minimum lot size requirements, dwelling unit per acre requirements, built-upon area percentages, or some combination of these.

(3) 10/70 OPTION. Outside of WS-I watersheds and the critical areas of WS-II, WS-III, and WS-IV watersheds, new development may seek the "10/70 option" in accordance with the following requirements:

(a) A maximum of 10 percent of the land area of a water supply watershed outside of the critical area and within the town's planning jurisdiction may be developed with new development projects and expansions of existing development of up to 70 percent built-upon area.

(b) In water supply watersheds classified on or before August 3, 1992, the beginning amount of acreage available under this option shall be based on the Town's jurisdiction as delineated on July 1, 1993. In water supply watersheds classified after August 3, 1992, the beginning amount of acreage available under this option shall be based on the town's jurisdiction as delineated on the date the water supply watershed classification became effective. The acreage within the critical area shall not be counted towards the allowable 10/70 option acreage;

(c) Projects that are covered under the 10/70 option shall comply with the low density requirements set forth in Item (C) above unless the town allows high density development, in which case the town may require these projects to comply with the high density requirements set forth in Item (D);

(d) The maximum built-upon area allowed on any given new development project shall be 70 percent;

(e) The Town may transfer, in whole or in part, its right to the 10/70 land area to another local government within the same water supply watershed upon submittal of a joint resolution and approval by the Commission; and

(f) When the water supply watershed is composed of public lands, such as National Forest land, the town may count the public land acreage within the watershed outside of the critical area in calculating the acreage allowed under this provision.

(4) New development shall meet the development requirements on a project-by-project basis except the town may submit ordinances that use density or built-upon area criteria averaged throughout the town's watershed jurisdiction instead of on a project-by-project basis within the watershed. Prior to approval of the ordinance, the town shall demonstrate to the Commission that the provisions as averaged meet or exceed the statewide minimum requirements and that a mechanism exists to ensure the planned distribution of development potential throughout the town's jurisdiction within the watershed.

(5) The town may administer oversight of future development activities in

single-family detached residential developments that exceed the applicable low density requirements by tracking dwelling units rather than percentage built-upon area, as long as the SCM is sized to capture and treat runoff from

- 1) all pervious and built-upon surfaces shown on the development plan and
- 2) any off-site drainage from pervious and built-upon surfaces, and when an additional safety factor of 15 percent of built-upon area of the project site is figured in.

(m) Density Averaging

(A) An applicant may average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:

- (1) The properties are within the same water supply watershed. However, if one of the properties is located in the critical area of the watershed, the critical area property shall not be developed beyond the applicable density requirements for its classification.
- (2) Overall project density meets applicable density or stormwater control requirements under 15A NCAC 2B .0200.
- (3) Vegetated setbacks on both properties meet the minimum statewide water supply watershed protection requirements.
- (4) Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
- (5) Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainageways.
- (6) The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to a local government as a park or greenway, or placed under a permanent conservation or farmland preservation easement unless it can be demonstrated that the local government can ensure long-term compliance through deed restrictions and an electronic permitting mechanism. A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deeds. Any such limitations or restrictions on use shall be irrevocable.
- (7) Development permitted under density averaging and meeting applicable low density requirements shall transport stormwater runoff by vegetated conveyances to the maximum extent practicable.
- (8) A Special Use Permit (SUP) shall be obtained from the local Board of Adjustment to ensure that both properties considered together meet the standards of the watershed ordinance and that potential owners have record of how the watershed regulations were applied to the properties.

(n) Cluster Development, see Article IV., Subdivision

(o) Vegetated Setbacks Required

(A) A minimum one hundred (100) foot vegetative setback is required for all new development activities that exceed the low density option; otherwise, a minimum thirty (30) foot vegetative setback for development activities is required along all perennial waters indicated on the most

recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as determined by local government studies. Desirable artificial streambank or shoreline stabilization is permitted.

(B) Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations.

(C) No new development is allowed in the buffer except for water dependent structures, other structures such as flag poles, signs and security lights which result in only diminutive increases in impervious area and public projects such as road crossings and greenways where no practical alternative exists. These activities should minimize built-upon surface area, direct runoff away from the surface waters and maximize the utilization of stormwater Best Management Practices. Any such development must obtain a Special Use Permit (SUP).

(p) Application of Regulations

(A) 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.

(B) No area required for the purpose of complying with the provisions of this ordinance shall be included in the area required for another building.

(C) 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 Section 406.

(D) 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.

(q) Rules Governing the Interpretation of Watershed Area Boundaries

Where uncertainty exists as to the boundaries of the watershed areas, as shown on the Watershed Map, the following rules shall apply:

(A) 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.

(B) 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 town as evidence that one or more properties along these boundaries do not lie within the watershed area.

(C) Where the watershed area boundaries lie at a scaled distance more than twenty-five (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. Any ambiguities should be resolved in favor of locating built-upon surface area in the least environmentally sensitive area of the project.

(D) Where the watershed area boundaries lie at a scaled distance of twenty-five (25) feet or less from any parallel lot line, the location of watershed area boundaries shall be construed to be the lot line.

(E) Where other uncertainty exists, the Watershed Administrator shall interpret the Watershed Map as to the location of such boundaries. This decision may be appealed to the Watershed Review Board (Board of Adjustment).

(r) Existing Development.

Any existing development, as defined in this article, may be continued and maintained subject to the provisions provided herein. Expansions to structures classified as existing development must meet the requirements of this article, however, the built-upon area of the existing development is not required to be included in the density calculations. This section deals with all existing development as defined in the EMC rules. All existing development, whether or not it meets the statewide minimum standards, is exempt from the provisions of this ordinance.

(A) Uses of Land. This category consists of Existing Development where such use of the land

would not be permitted if it were new development. Such uses may be continued except as follows:

- (1) Such use of land shall be changed only to an allowed use.
 - (2) When such use of land has been changed to an allowed use, it shall not thereafter revert to any prohibited use.
 - (3) When such use ceases for a period of at least one year, it shall not be reestablished.
- (B) Reconstruction of Buildings or Built-upon Areas. Any existing building or built-upon area not in conformance with the restrictions of this ordinance that has been damaged or removed may be repaired and/or reconstructed, except that there are no restrictions on single family residential development, provided:
- (1) Repair or reconstruction is initiated within twelve (12) months and completed within two (2) years of such damage.
 - (2) The total amount of space devoted to built-upon area may not be increased unless stormwater control that equals or exceeds the previous development is provided.

(s) Watershed Protection Permit.

For the purposes of this section, Watershed Protection Permit shall mean a Zoning Permit on which the Zoning Administrator has indicated that property is in a watershed.

- (A) Except for single family residential development, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any building permit be issued nor shall any change in the use of any building or land be made until a Watershed Protection Permit has been issued by the Watershed Administrator. No Watershed Protection Permit shall be issued except in conformity with the provisions of this article.
- (B) Watershed Protection Permit applications shall be filed with the Watershed Administrator. The application shall include a completed application form and supporting documentation deemed necessary by the Watershed Administrator.
- (C) Prior to issuance of a Watershed Protection Permit, the Watershed Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.
- (D) A Watershed Protection Permit shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within twelve (12) months from the date of issuance.

(t) Building Permit Required

No permit required under the North Carolina State Building Code shall be issued for any activity for which a Watershed Protection Permit is required until that permit has been issued.

(u) Watershed Occupancy Permit

- (A) The Watershed Administrator shall issue a Watershed Occupancy Permit (WSOP) certifying that all requirements of this ordinance have been met prior to the occupancy or use of a building hereafter erected, altered, or moved and/or prior to the change of use of any building or land.
- (B) A Watershed Occupancy Permit, either for the whole or part of a building, shall be applied for coincident with the application for a Watershed Protection Permit and shall be issued or denied within ten (10) business days after the erection or structural alterations of the building. The applicant should notify the Watershed Administrator and request the issued WSOP when building is complete.
- (C) When only a change in use of land or existing building occurs, the Watershed Administrator shall issue a Watershed Occupancy Permit certifying that all requirements of this ordinance have been met coincident with the Watershed Protection Permit.

(D) If the Watershed Occupancy Permit is denied, the Watershed Administrator shall notify the applicant in writing stating the reasons for denial.

(E) No building or structure which has been erected, moved, or structurally altered may be occupied until the Watershed Administrator has approved and issued a Watershed Occupancy Permit.

(v) Public Health, in general.

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.

(w) Abatement.

(A) The Watershed Administrator shall monitor land use activities within the watershed areas to identify situations that may pose a threat to water quality.

(B) The Watershed Administrator shall report all findings to the Watershed Review Board. The Watershed Administrator may consult with any public agency or official and request recommendations. The Watershed Administrator may also coordinate with the local inspections department, since local governments can abate most threatening nuisances.

(C) 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.

Administration & Establishment of the Watershed Review Board can be found in **Article 8 Administration**

(x) Appeal from the Watershed Administrator

Any order, decision, or determination made by the Watershed Administrator may be appealed to and decided by the Watershed Review Board.

An appeal from a decision of the Watershed Administrator must be submitted to the Watershed Review Board within thirty 30 calendar days from the date the order, interpretation, decision, or determination is issued. All appeals must be made in writing stating the reasons for appeal. Following submission of an appeal, the Watershed Administrator shall transmit to the Board all papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed, unless the officer from whom the appeal is taken certifies to the Board after the notice of appeal has been filed with him, that by reason of facts stated in the certificate of approval for recording, a stay would in his opinion cause imminent peril to life or property. In such a case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application of notice of the officer from whom the appeal is taken and upon due cause shown. All appeals of Watershed Administrator decisions shall follow the procedures for appeals of administrative decisions in GS 160D-405.

(y) Changes and Amendments to the Watershed Protection Ordinance.

(A) The Town Board of Commissioners may, on its own motion or on petition, after public notice and hearing, amend, supplement, change or modify the watershed regulations and restrictions as described herein.

(B) No action shall be taken until the proposal has been submitted to the Watershed Review Board for review and recommendations. If no recommendation has been received from the Watershed Review Board within forty-five (45) days after submission of the proposal to the Chairman of the Watershed Review Board, the Town Board of Commissioners may proceed as though a favorable report had been received.

(C) Under no circumstances shall the Town Board adopt such amendments,

supplements or changes that would cause this ordinance to violate the watershed protection rules as adopted by the N.C. Environmental Management Commission. All amendments must be filed with the N.C. Division of Energy, Mineral, and Land Resources.

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ARTICLE VI. DESIGN STANDARDS

6.1 Purpose and Applicability

In order to ensure that new development, renovations, and reconstructions are designed, sized, and sited to complement the area in which they are located and the character of the town in general; to minimize traffic hazards and situations which endanger public safety; and to protect existing development and property values through the promotion of high standards of design and compatibility; to provide for a high quality of life for our citizens by promoting a variety of housing styles, transportation choices, and well planned parks and open spaces; the following standards shall apply to all development in all zoning districts unless otherwise noted.

6.2 Design Standards for Buildings

The following standards apply to all building with the exception of structures subject to regulation under the North Carolina Residential Code or otherwise exempted by the State of North Carolina from design and/or architectural regulation.

The Town supports the recommendations of The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Rehabilitating Historic Buildings. The Town utilizes these recommendations as part of our downtown is within the National Historic District.

A. Arcades, awnings, and canopies.

In order to promote the appropriate use of arcades, awnings, and canopies, the following standards shall apply to all arcades, awnings, and canopies on all buildings within all non-residential zoning districts, unless otherwise noted.

1. Awnings and canopies shall be self-supporting from the wall; no supports shall rest on or interfere with the use of pedestrian walkways or streets.
2. In no case shall any awning, canopy, or arcade extend beyond the street curb or interfere with street trees or public utilities.
3. No awning on any commercial, office, or institutional building, which encroaches on a sidewalk, shall extend out from the building more than two-thirds the width of the sidewalk or nine feet, whichever is less.
4. No awning, including attachments, shall be at any point be less than eight (8) feet above the sidewalk.
5. Awning materials shall be of weather resistant material and encourage the use of fire-retardant materials.
6. Awnings must remain in good condition and not be tattered or torn. If the awning is in bad condition, it shall be repaired or replaced.

B. Building height and width.

In order to define urban street space, foster compatibility between development sites, and to emphasize the downtown as the core of the community;, the following standards shall apply to all buildings in the CBD District:

Additions and new construction should maintain the existing building wall pattern by extending the building front from side lot line to side lot line, except that an appropriate architectural wall or similar design feature may be used instead of a building extension.

C. Building presentation.

In order to have buildings that successfully address public streets and public places, the following standards shall apply to all buildings, unless otherwise noted.

1. Building façades shall be substantially parallel to the front property line except that corner buildings may be oriented to address the corner
2. Each dwelling in a duplex located on a corner or through lot may front a separate street whenever practicable .
3. Any side of a building that faces an arterial or collector street shall be treated as a building façade .

D. Facades, Windows, and Roofs in the CBD.

In order to have well designed façades that add to the town's architectural inventory and that provide visual interest to the pedestrian, the following standards apply to all façades, windows, and roofs in the CBD:

1. With the exception of metal sheeting for roofs with its associated gutters and downspouts, no exterior metal building shall be visible to the public. Metal buildings shall be permitted provided they are covered with a masonry, stucco, or synthetic stone façade. .
2. Other covering materials subject to Administrator review and approval
3. When feasible, repair existing windows or take measures to preserve the windows. New ones should imitate the original in size, scale, detail, pane and/or panel configuration.
4. Restore or repair unique architectural features including maintaining original storefronts, recessed entrances and windows when feasible.
5. It is not recommended to apply paint or other coatings (such as stucco) to masonry that has been historically unpainted or uncoated to create a new appearance. This is recommended to prevent further deterioration of the masonry.

E. Location

In order to use location as a means of encouraging compatibility of design and use on individual development sites and between zoning districts, the following standards shall apply to all lots:

1. Multi-family, mixed use, nursing care, and progressive care community buildings containing dwellings and located in the MF-CD and CBD districts shall include the following:
 - a. Walkways shall connect all buildings with parking areas, play areas, clubhouses, and existing public sidewalks adjacent to the development site.

F. Residential Design (In all Districts)

1. Porches shall be permitted to extend up to 5 feet into a required front yard.

G. Size, Scale, Materials, and Compatibility of Design of nonresidential, mixed use, and multi-family residential buildings.

In order to promote compatibility of design within the built environment while encouraging creativity and variety, the following standards shall apply to all buildings within the CBD and MF-CD districts, unless otherwise noted.

1. Large commercial/ non-residential buildings shall be broken down in scale by exterior architectural features (e.g., by designing the façade to mimic the appearance of multiple contiguous buildings or creating human scale elements.)

6.3 Design Standards for Lots

A. Lot Size and Configurations

The following standards shall apply to all lots, unless otherwise noted.

1. Flag lots and zero frontage lots shall only be permitted to serve above-ground utility sites provided they are subdivided from other uses and appropriate access is provided.

B. Access

1. Vehicular access to a development containing multiple destinations (e.g., malls, strip centers, multiple building developments, etc.) shall be provided, when practical, by means of a shared driveway, side street, or frontage road.
2. The approaches to loading and unloading areas in mixed use, nonresidential (not including industrial) and commercial districts shall be designed to minimize conflict with on-site vehicular, pedestrian, and bicycle traffic and with adjacent residential uses. Whenever feasible, at least one driveway or other vehicular link shall be provided between adjacent mixed use and commercial properties, such as shops and offices that require public access. Shared driveways are encouraged.

6.4 Parking and Loading/Unloading Areas

In order to have safe, well-designed parking areas that successfully accommodate the pedestrian and are subordinate in design and appearance to adjacent buildings, the following standards apply to all accessory and principal use parking lots in all districts unless otherwise noted.

- A. In the CBD, available, on-street parking directly in front of the zoning lot shall count toward fulfilling the parking requirement of that lot.

B. Pavement

1. All driveway and parking areas shall be paved with asphalt, concrete, brick pavers, crushed rock, stone, or similar material except for areas used for overflow, special events, and peak parking. (This standard does not apply to single family detached residential lots and shall only apply to that portion of an industrial lot that is used for and serves employee and/or visitor parking.)
2. Any surface used for overflow, special events, and peak parking shall be maintained with healthy, living turf grass or similar ground cover. If a living ground cover cannot be maintained, the surface shall be paved with asphalt, concrete, pervious pavement, crushed rock, stone, or similar material.

3. Any non-paved surface used for parking or driveways on industrial sites shall be maintained with crushed rock, stone, gravel, or similar material.

C. Aisles

1. Aisles shall be a minimum of twenty-four feet in width if serving two-way traffic and a minimum of twelve feet in width if serving one-way traffic.
2. No parking aisle serving the general public that contains more than ten parking spaces shall dead-end. Any parking aisle that dead ends shall be provided a suitable turnaround.
3. No more than 10 parking spaces (90-degree or angled orientation to the drive aisle) shall be contiguous before a landscaping island or area, large enough to accommodate a canopy tree, is provided. For parallel parking, this is reduced to 5 contiguous spaces (which is approximately the same linear distance).

D. Spaces and Loading / Unloading Areas

1. Parking shall be provided on-site or adjacent to the development site requiring the parking. Shared parking areas are encouraged and shall be permitted upon approval of the Administrator.
2. Parking spaces shall be clearly marked on the ground for all uses except single family detached residential.
3. Wheel stops, curbs, or other devices shall be provided in such locations as to prevent any vehicle from encroaching either on a public right-of-way, required planting yard, or an adjacent property.
4. All parking lots with more than 10 parking spaces shall include ingress/egress and the parking areas to be curbed with concrete curbing. Asphalt, railroad ties or other materials are not allowed.
5. No parking space shall measure less than 9 feet in width and 20 feet in length, except for handicap, parallel, or diagonal parking. Parallel parking shall be at least 8 feet in width and 23 feet in length.
- 6.
7. When parking is located in the rear yard of a property, the Administrator may reduce the front setback requirement by up to 20%, upon written request by the owner.
8. In addition to required parking spaces, drive-thru facilities shall provide a minimum of five stacking spaces per drive-thru facility, window, or bay, except for the following:
 - a. Fast-food restaurants shall have an additional five stacking spaces. A minimum of five of the total stacking spaces shall be located at or prior to the ordering station.
 - b. Non-automated car washes shall only be required to have a minimum of two stacking spaces per bay, one of which is located for use as a dry down area.

- c. Automated car washes shall be required to have an additional two stacking spaces per bay.
- 9. Stacking spaces shall be located entirely outside of a required driveway or parking aisle needed to access required parking spaces.
- 10. Adequate on-site turnaround area shall be provided for all parking spaces.
- 11. Adequate on-site turnaround area shall be provided for all loading and unloading areas.
- 12. Bicycle parking: exempt from single family and duplex residential units
 - a. Required Spaces: As part of new development, two (2) bicycle parking spaces shall be provided plus an additional bicycle parking space for every 50 vehicular parking spaces thereafter not to exceed 16 bicycle parking spaces.

6.5 Services and Utilities

In order to subordinate the appearance of services and utilities on individual sites and throughout the town's jurisdiction, the following standards shall apply to all services and utilities in all districts unless otherwise noted.

- A. Mechanical equipment at ground level shall be placed on the parking lot side of buildings away from public streets and buildings on adjacent sites, except for non-multi-family residential uses and industrial buildings in the LI and GI districts. All such equipment shall be substantially screened from public view with opaque fencing or evergreen landscaping. Minimum clearances from certain mechanical equipment shall be maintained, such as distance from electrical equipment.
- B. Rooftop mechanical equipment shall be screened from view from adjacent first floor buildings and viewing height.
- C. **Utility Lines and Equipment**
 - 1. All utility equipment (includes meters, boxes, valves, etc. but does not include overhead power lines, light poles, and similar equipment) shall be designed and located to be as inconspicuous as possible and shall not be located on the street-side of a principal structure. If an engineer certifies in writing that the equipment must be located in a front or street yard and that no other practicable alternative is achievable, then it shall be screened with opaque fencing or evergreen landscaping.
 - 2. Utilities shall run along alleys whenever practical.
- D. All newly constructed dumpsters and dumpster storage areas including compactors, recycling collection and other trash collection sites shall be located on the side or rear of the building. If they are, visible from public rights-of-way or public view they must be screened by the following measures:
 - 1. Screening enclosures shall be fully enclosed by opaque walls or fences at least eight (8) feet high with self-closing access doors.

Other recommended screening measures can be through landscaping but must be approved by the administrator.
- E. **Drive-thrus**

1. Drive-thru windows, freestanding ATM's, fuel pumps and similar devices shall be placed only in areas that will not interfere with the safe movement of pedestrians and vehicles in parking and driveway areas.
 2. Drive-thru services are discouraged in the CBD district. If provided, they shall be located to the rear or side of buildings away from public streets.
- F. All stormwater detention and/or retention ponds and basins shall be designed as an integral part of the development site include but are not limited to:
1. neatly landscaped with grass less than 6 inches high (excluding decorative bunch grasses) and regularly maintained
 2. well-maintained vegetated slopes that are devoid of barren areas unless utilizing landscaping stones or other similar or decorative ground cover
 3. sloped areas shall be able to be maintained by landscaping equipment – typically no more than a 3:1 slope
 4. decorative fencing if fencing is used, such as aluminum or wrought steel, masonry, etc. Black vinyl coated chain-link is also permitted provided that the bottom half is screened by a hedge of dwarf evergreen shrubs.
 5. No barren areas are permitted

6.6 Lighting

- A. In order to reduce light pollution and light trespass, the following standards shall apply to all lighting in all districts except on single-family detached residential lots, unless otherwise noted.
1. All proposed outdoor lighting shall be maintained in a proper working condition and oriented to be downward casting while utilizing shielding to prevent light from projecting onto adjoining properties.
 2. The maximum fixture height shall be thirty (30) feet for full cutoff fixtures and twenty (20) feet for non-cutoff fixtures (including residential).
 3. Emergency lighting, used by police, firefighting, or medical personnel, or at their direction, is exempt from all lighting requirements herein for as long as the emergency exists.
- B. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:
1. The light source shall be completely concealed within an opaque housing, downward facing, and shall not be visible from any street right of way.
 2. Light/lamp source/bulbs shall meet the approved specifications of the Town.
 3. Fixtures must be mounted in such a manner that its cone of light does not cross any property line of the site.
 4. All site lighting shall be demonstrated on a required site plan and proven to be designed so that the level of illumination as measured in foot candles (fc) at any one point meets the standards in the table below. Minimum and maximum levels are as measured at any one point. Facilities not listed in the table shall not be illuminated.

Type of Lighting	Minimum Level (foot candles)		Maximum Level (foot candles)

Accent lighting	0		5.0
Canopy Area Lighting	2.0		30.0
Nonresidential, Commercial, and Industrial Parking Lots	0.2		12.0
Shared Residential Parking Lots (typically in mixed use, multi-family residential, or townhome uses)	0.2		8.0
Nonresidential and Multi-family residential entrances	1.0		15.0
Active Sports Facilities	20		50
Walkways and Streets	0.2		8.0
Landscape and Decorative	0.2		5.0
Vehicle Sales	0.5		24.0

C. Prohibited Lighting

1. Neon lights on the exterior of a building.
2. Neon lights on the exterior of a sign.

6.7 Landscaping

A. Applicability.

1. The provisions of section 6.7 shall apply to all new development outside of the CBD district.

B. General Provisions; Landscaping.

1. Landscaping, trees, and plant material shall be planted in a growing condition according to accepted horticultural practices and they shall be maintained in a healthy growing condition. Any landscaping, trees, and plant material in a condition that does not fulfill the intent of these regulations shall be replaced by the property owner during the next planting season.
2. When required, a screening fence or wall area shall be maintained by the property owner, in good condition, throughout the period of the use of the lot.
3. To the extent possible, existing trees, vegetation, and unique features, shall be retained and protected. Existing healthy, mature trees, if properly located, shall be doubly credited against the requirements of these regulations.
4. The following plan material standards apply.
 - a. Except as otherwise specified in this article, plant materials must meet either the minimum height or caliper requirement at installation:

Plant material	Minimum height	Minimum caliper	Notes
Understory Tree	6 feet	1 inch	Expected to reach greater than 15' in height at

			maturity. Planted 15' to 30' on-center, depending on expected canopy spread. Trees planted near signage should be chosen such that, at full size, they can be limbed up to allow clear visibility of the signage. Trees used for screening purposes shall be evergreens.
Canopy Tree	6 feet	1 inch	Expected to reach greater than 30' in height at maturity. Planted 35' to 50' on-center, depending on the expected canopy spread. Trees planted near signage should be chosen such that, at full size, they can be limbed up to allow clear visibility of the signage.
Shrub (not used for screening)	12 inches	n/a	Shrubs used for screening purposes shall be evergreens.

- k. It is strongly recommended that dwarf shrubs be used around ground-mounted signage, for parking area screening, or for screening where the overall screening height need not be greater than three feet in height.

5. Ground cover may include any plant material that reaches an average height of not more than 9 inches. Alternative materials may be used in lieu of grass provided they present a finished appearance and provide complete coverage at the time of planting. Barren ground is prohibited.

No plantings shall interfere with the sight distance triangles required for safe traffic movements at driveway, parking drive aisle or street intersections (public or private).

6. When in conflict with overhead utilities, an understory or smaller tree at mature height may be substituted for a required canopy tree.
7. Where lot size, shape, topography or existing structures make it not feasible to comply with the provisions of this ordinance, the Administrator may modify these provisions provided the alternate proposal will afford a degree of landscaping screening and buffering equivalent to or exceeding the requirements of these regulations.

C. Front Landscaped Area.

1. A front landscaped area shall be required for all multi-family and nonresidential uses. The required landscaped area shall be contiguous to the front lot line of the property and have a minimum width of six feet. The area shall be covered with grass or other ground cover and shall include appropriate trees and shrubs. At a minimum, one canopy tree and five shrubs

shall be planted within the front landscaped area for each 50 linear feet or fraction thereof of lot frontage. Two understory trees may be substituted for one canopy tree only if site constraints occur, subject to Administrator approval.

2. The purpose of the landscaping is to enhance the appearance of the use of the lot but not to negate access or screen the use from view. Plantings may be grouped as needed to avoid impacts to signage and driver visibility, provided that they are grouped in natural-looking arrangements evenly spaced throughout.

D. Buffer Area.

1. A buffer area shall be required to separate and screen incompatible land uses from each other. Such buffer shall comply with the following minimum standards.
2. In the event that preexisting conditions on a development project within the Town limits result in site constraints (i.e. environmental challenges, drainage swale, easement location, etc.) that prevent meeting the standard options for buffer yards as required in this section, the Administrator may alter the buffer area requirements provided the spirit and intent of this section is met. Such an allowance will only be made at the request of the applicant, who shall submit a plan showing how the proposed buffer would screen the intended use. The allowance will not be granted without documenting to the satisfaction of the Administrator that constraints on the site prohibit otherwise meeting the requirements of this section.
3. A buffer area shall be located within the boundaries of the subject property. The buffer may be located on abutting property, provided the owners of all abutting properties agree in writing to the proposal. Said agreement must be recorded and run with the land and provide stipulations for maintenance and upkeep, as deemed necessary.
4. The minimum width of the buffer area shall be following the buffer matrix below:

Proposed Use (provides a buffer)							
Single-Family (SF)	-	-	-	-	-	-	
Two-Family (TF)	-	-	-	-	-	-	
Office & Institution (OF)	10'	5	-	-		-	
Commercial (CM)	-	-	-		-	-	
Multi-Family (MF)	15'	10'	-	-	-	-	
Industrial (IND)	25'	20	15'	10'	10	-	
	SF	TF	OF	CM	MF	IND	Adjacent Use

5. Required Buffer Plantings Table
6. Landscaping provided as part of the required buffer area shall include at least half of all trees be evergreen.
7. An earthen berm, fence, or wall of a location, height, design, and material approved by the Department of Planning and Inspections may be substituted for any portion of the required planting and/or buffer area. Fences and walls, if substituted, shall be constructed of materials complementary to the materials of the main building. Trees and shrubs shall supplement earthen berms, fences, or wall areas.

8. The Administrator is permitted to reduce or modify the plantings for reasons such as topography or utility or other public easements provided the same level of screening is provided. The Administrator is authorized to require additional elevational or other perspective drawings to assess the efficacy of proposed solutions. In no instance shall the width of the required buffer be reduced and it may not be utilized for other uses.

9. Existing Vegetation

The Administrator may allow existing vegetation to be counted towards the buffer requirements as long as the vegetation is:

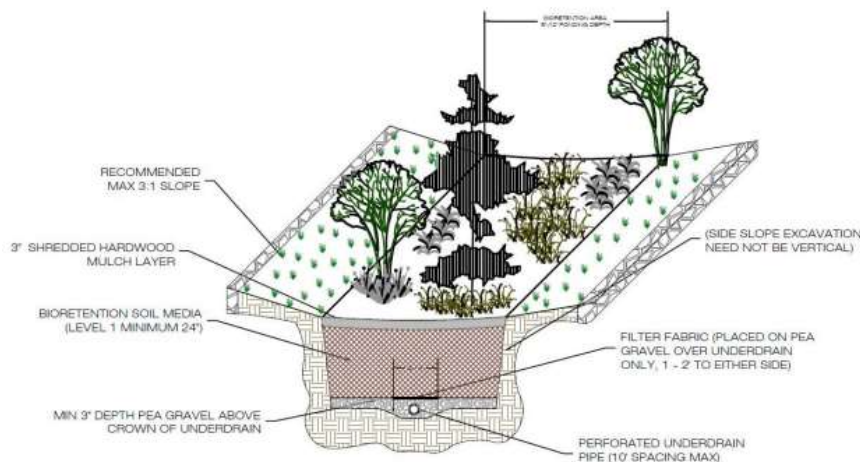
- a. preserved during construction with proper barricades 1' of radius for every inch of the tree measured at Diameter Breast Height (DBH) or to the dripline of the tree. (ADD IMAGE)
- b. Is a non-invasive species
- c. Shown on the site plan as part of the landscaping plan
- d.

E. Landscaped Parking Area.

1. Parking areas shall comply with the following minimum standards.

All uses required to have 20 or more off-street parking spaces shall have at least 10 square feet of interior landscaping, within the paved portion of the parking area, for each parking space and at least one tree for every 10 parking spaces or fraction thereof. Each interior landscaped area shall contain a minimum of 200 square feet and shall be planted with shrubs and trees.

- a. A curbed landscaped area shall be provided along the perimeter of any parking area. The required landscaped area shall have a minimum width of eight (8) feet and shall be planted with two (2) trees (one (1) canopy and one understory) and ten (10) shrubs of an evergreen species per 100 linear feet of perimeter area.
- b. Curbed landscaped areas shall be provided at the ends of parking aisles and shall be planted with shrubs of an evergreen species and/or canopy tree.
- c.
- d. The use of landscaping swales or bioretention areas are encouraged as an alternative to parking islands as well as the use of permeable paving systems.



Example Bioretention: Stormwater, Virginia. VA DEQ STORMWATER DESIGN SPECIFICATION NO. 9 BIORETENTION. 2011.

F. Unoccupied Lot Areas.

All areas of a developed lot not occupied by buildings, structures, pedestrian and vehicle circulation ways, off-street parking and outside storage shall be appropriately improved with ground cover, trees, shrubbery or mulch. No exposed soils shall be permitted after issuance of the Certificate of Occupancy, except for agricultural activities or extraction of earth products.

G. Planting List.

A recommended planted list is available from the Planning & Inspections Department.

H. Substitute Plantings

Under circumstances that would affect the seeding and planting of required landscaping, including improper planting season or supply issues, the Administrator may issue temporary compliance or accept a bond in the amount equal to the cost of plantings plus labor. The temporary compliance may not exceed 120 days from the date of issuance.

I. Installation and Maintenance:

1. Planting seasons shall be considered when installing landscaping on a site. It is in the best interest of the developer to plant at optimum time to avoid having to replant if the landscaping perishes. If the landscaping does not survive, it shall be replaced within 90 days.
2. All new plants and trees shall be of good quality and meet the standards set forth in the American Standard for Nursery Stock by the American Association of Nurserymen.
3. All trees shall be staked and properly guyed to acceptable landscaping standards and shall be removed once the tree is established to prevent girdling of the tree.
4. No landscaping materials shall be planted in the Right of Ways or any easements without written permission from the entity that controls the area.
5. Site triangles shall be in consideration when planning the site in regards to intersections and driveways.
6. Overhead utility lines shall be taken into consideration with all proposed canopy trees and may be substituted to understory trees of two per one canopy tree ratio.
7. No canopy trees shall be planted directly under any street lights or parking lot lights.

6.8 Fences and Walls

A. General

1. Fences and walls shall be maintained in good order.
2. Fences shall not contain permanent advertising, signs, logos, or other lettering on the fence exterior unless expressly permitted by the Administrator.
3. Fences and walls shall be installed and maintained so as to not interfere with the sight distance requirements of this ordinance or the sight distance needs of drivers in parking areas and at entrance and exit locations.

B. Material and Design

Fences topped with razor, concertina, or barbed wire are limited to properties designated for industrial or utility use. The material may be used for security at commercial uses subject to the Administrators approval. In no case should the material be used below a point of less than six feet from ground level, or visible from public streets or adjacent residential areas.

1. Barbed wire shall be permitted in the R20 district where it is accessory to a permitted agricultural use and in the LI and GI districts.
2. Electric fencing shall only be permitted in the R20 district where it is accessory to a permitted agricultural use.

C. Height

1. In Residential districts:
 - a. In required rear or side yards, the maximum height of a fence or wall shall be 6 feet.
 - b. In required front yard, the maximum height of a fence or wall shall be 5 feet.
2. In Commercial and Industrial districts:
 - a. In required rear or side yards, the maximum height of a fence or wall shall be 8 feet and may be subject to Building Code.
 - b. In required front yard, the maximum height of a fence or wall shall be 6 feet.

ARTICLE VII. SIGNS

7.1 Purpose and Scope

This section is intended to regulate and control signs and their placement throughout the Town of North Wilkesboro for the following purposes:

- A. To provide a pleasing overall environmental setting and good community appearance, which is deemed vital to the continued economic attractiveness of the town;
- B. To create a more productive, enterprising, professional business atmosphere;
- C. To allow signs appropriate to the planned character and development of each zoning district;
- D. To ensure that permitted signs do not become a hazard or nuisance;
- E. To promote traffic safety;
- F. To prevent business and advertising signs from conflicting with public safety signs; and
- G. To protect and enhance the value of properties.

7.2 Applicability

- A. It shall be unlawful to construct, enlarge, modify, move or replace any sign or cause the same to be done, without first obtaining a sign permit for such sign from the Town or its designee.
- B. Notwithstanding the above, changing or replacing the permanent copy on an existing lawful sign shall not require a permit, provided the copy change does not change the nature of the sign so as to render it in violation of this ordinance.

7.3 General Provisions.

A. Construction Standards.

- 1. All signs shall be constructed and installed in accordance with the applicable provisions of the North Carolina State Building Code.
- 2. All temporary signs, excluding sandwich boards and banners, shall be constructed of materials and printed on by inks capable of withstanding normal weather conditions.
- 3. All signs, except for banners, flags, temporary signs, and window signs conforming in all respects with the requirements of this ordinance shall be constructed of permanent materials and shall be permanently attached to the ground, a building, or another structure by direct attachment to a rigid wall, frame, or structure.
- 4. No portion of a sign, including projections, may extend into or over an existing public right-of-way, unless expressly permitted by this article.
- 5. Nonconforming signs are regulated as described in Article 9,.

B. Electrical Standards.

All illuminated signs shall be installed in accordance with the applicable provisions of the North Carolina State Electrical Code and all detached signs shall be illuminated by an underground electrical source.

C. Maintenance of Signs.

All signs shall be maintained in good structural and aesthetic condition. Deficiencies such as chipped paint, broken plastic, missing letters and exposed light bulbs shall be evidence of a lack of maintenance.

D. Obstructions Prohibited.

No sign shall be placed so as to obstruct the clear sight triangle at a street intersection nor shall any sign obstruct the view of motorists entering or leaving an off-street parking area.

E. Relation to Other Building Elements.

1. Signs shall relate in their placement and size to other building elements without obscuring building elements such as windows, cornices, or decorative details, except that signs may be placed on the inside of windows.
2. Sign material, style and color shall complement the building facade in terms of design, scale, color, and materials.
3. Individual shop signs in a single storefront shall relate to each other in terms of design, size, color, placement on the building, and lettering style.
4. Signs placed on the inside of the window areas shall conceal no more than forty percent of the area of the window on which the signs are located.

F. Sign Lighting.

1. Neon, argon and similar lighting fixtures shall not be used anywhere on the exterior of a building; however, such signs if non-flashing and non-moving may be mounted on the inside of store windows.
2. Signs shall be lighted with indirect light sources (e.g. backlighting); knockout signs are encouraged. Ground-mounted and/or wall-mounted floodlights may also be used if the light is directed only on the sign and not onto adjacent properties, roadways, and the night sky and the light fixtures are fully shielded from view through the use of landscaping.

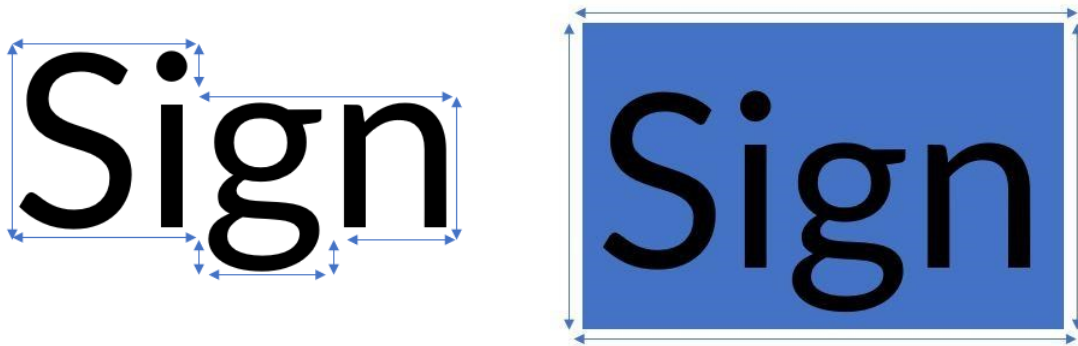
G. Sign Height Computation.

Signs shall be computed as the lower of existing grade prior to construction, or the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the sign. The calculation of the height of any sign placed upon a berm or mound shall include the height of the berm or mound.

H. Sign Area Computation.

The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof 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 or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative fence or wall when such

fence or wall otherwise meets zoning ordinance regulations and is clearly incidental to the display itself.



I. Sign Area Computation for Multi-faced Signs.

The sign area for a sign with multiple faces shall be computed by adding together the area of all sign faces visible from any one point. When a sign is composed of two or more sign faces, only one of which can be viewed from any one point, and when such sign faces are part of the same structure, the sign area shall be computed by the measurement of one of the faces.

J. Forfeiture of Illegal Signs Placed on or over Public Property.

Any sign installed or placed on or over public property, except in conformance with the requirements of this section, shall be forfeited to the public and be subject to confiscation and disposal. In addition to other remedies provided by this section and the Town Code of Ordinances, the Town shall have the right to recover from the sign owner and/or installer the full costs of removal and disposal of such sign(s). The Town shall reserve the right at confiscation to hold the illegal signs for a period of five (5) business days at the Town garage, or other facility designated by the Town Manager, whereby the owner may receive them. After five (5) business days, the signs may be disposed of.

K. Digital/Electronic Reader or Message Boards.

These signs shall not be allowed in any residential zone or in the CBD, NB and OI districts. They shall be allowed in all other commercial and industrial districts at a rate of one sign per establishment.

1. Area computation for these signs shall be included in the total sign area permitted in the underlying zoning district.
2. Message frequency shall be limited to one message every twenty (20) seconds and shall be solid state and shall not flash, blink, scroll, or be animated in any way.
3. No light emitted or reflected off of a sign shall be of an intensity or brilliance as to cause glare or to impair the vision of a driver, or which otherwise interfere with the operation of a motor vehicle. (19ANCAC 02E.0203 3(b)).
- 4.
5. Signs only displaying time and temperature shall not be considered as part of the overall face calculation of a digital/electronic reader or message board.
6. As part of securing a sign permit allowing a digital/electronic reader or message board, the applicant must sign an affidavit stating that the sign is programmed in accordance with this ordinance. If the sign is changed or altered in any way that violates this ordinance, staff will

issue a notice of violation (NOV) and reserves the right to revoke the sign permit if the sign is not brought into compliance in accordance with the (NOV).

L. Sign Placement.

The following provisions shall apply to the placement of all signs in all districts.

1. In General.

- a. Signs must be located entirely on private property, unless otherwise permitted by this section.
- b. No sign may be located so that it blocks the sight triangle at any driveway or public street intersection.

2. Wall Signs.

- a. Wall mounted signs shall not extend above the eave or parapet of any building.
- b. One wall sign shall be permitted per building wall for single tenant buildings.
- c. Buildings containing multiple tenants with individual exterior entrances may display one (1) wall sign per tenant space.
- d. Signs shall not cover architectural features on buildings or windows; unless it is a window sign

3. Freestanding Signs.

- a. All parts of freestanding signs must be set back behind the property line.
- b. No freestanding sign shall be located closer than fifteen (15) feet from another structure on the same lot.

1. Billboards Signs

- a. Billboard signs are permitted only in the General Industrial, Light Industrial, and Highway Business Districts. In the Highway Business District, billboard signs are permitted only on property directly adjacent or adjoining Highway 421 Bypass, and such signs shall be directed toward traffic on Highway 421 Bypass.
- b. No billboard sign shall be permitted closer than one hundred feet to a lot zoned for residential purposes or to a residential use.
- c. No billboard sign shall be placed or constructed within one thousand linear feet of another billboard sign on the same side of the road.
- d. Only one billboard sign shall be allowed for each two hundred (200) feet of lot frontage in single ownership.
- e. Billboard signs attached to a building structure shall not be higher than the wall to which they are attached. Outdoor advertising signs shall not be mounted on the rooftop of any building.

- f. Billboard signs may be illuminated, provided such illumination is placed and shielded so as to prevent the direct rays of illumination from being cast upon neighboring lots and/or vehicles approaching on a public street from any direction.
- g. Billboard signs shall not be permitted within a five-hundred-foot radius of the intersecting centerline within an interchange on a limited access highway.
- h. Angled projections shall not exceed 30 degrees.
- i. Where digital billboard faces are to be used, the message shall change no more than once per hour and shall not be animated, flash, blink, or scroll in any way or manner.

2. Multi-Tenant Signage.

- a. Multi-tenant developments include two or more of any separate and distinct non-residential permitted establishments, which are located on the same premises (e.g. shopping centers, business parks, etc.). Multi-tenant signs with changeable modular sections are permitted only in the General Business, Highway Business, General Industrial, and Light Industrial Districts. Multi-tenant signs may be substituted for, but not in addition to other freestanding signs. Multi-tenant signs shall not be allowed on the same premises as billboard signs.

(1) Type: Freestanding on premise.

- (a) Number: One freestanding except two shall be permitted if the development has direct vehicular access from two or more public streets. If two are allowed the said signs shall be freestanding signs and they shall be located at least one hundred feet apart and front along the two separate streets and not along the same street.
- (b) Maximum Area: The maximum total allowable sign area shall be determined by multiplying the total number of tenant spaces located on the premises times 25 square feet. In no case shall any multi-tenant sign exceed 125 square feet.
- (c) Maximum Height: Multi-tenant signs shall not exceed 15 feet in height for signs with five tenant spaces or less. Multi-tenant signs with more than five tenant spaces shall not exceed 20 feet in height.
- (d) Multi-tenant signage must be coordinated in terms of colors and fonts, with the exception of trademark colors, fonts and logos.
- (e) A multi-tenant sign plan shall be submitted at the time of application of a multi-tenant sign permit. The sign plan shall depict sign material, height, individual panel sizes, dimensions, and total sign area. Each tenant space used in computation of the maximum sign area shall be represented on the sign plan. No individual sign panel shall be larger than the maximum sign area allowed by the underlying zoning district.
- (f) All signage on the premises, including building signage and billboard signs, must be in conformance with all current sign regulations upon installation of a multi-tenant sign.

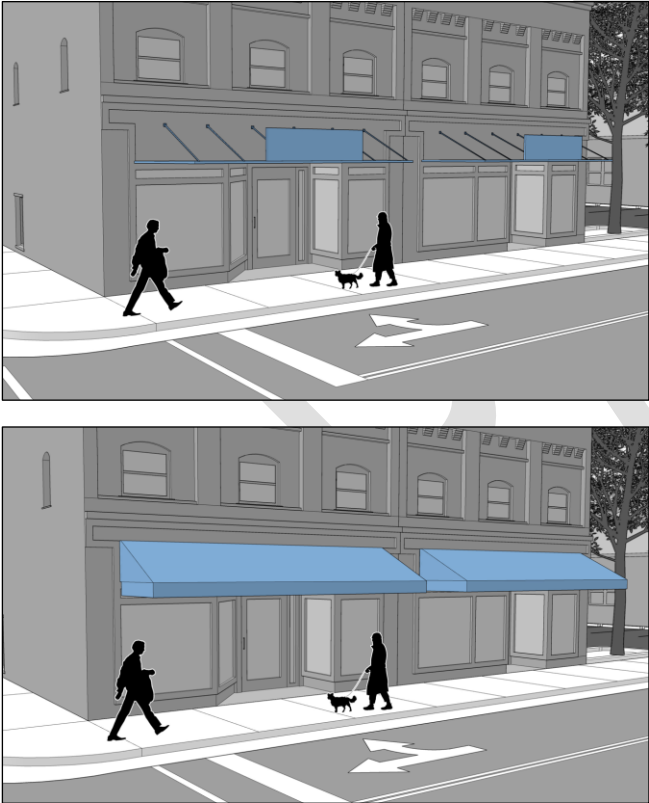
(2) Type: Wall signs on premise in Central Business District (CBD)

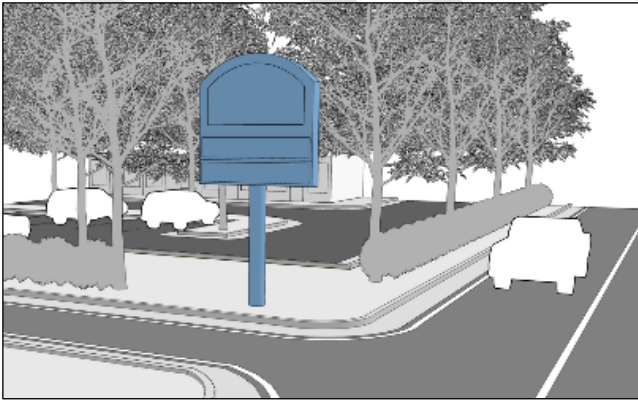
- (a) One (1) per building wall is permitted.

- (b) Wall signs shall be permitted for all individual buildings and tenant spaces on building facades that face a right of way, pedestrian passageways and or parking areas associated with the establishment.
- (c) Each tenant is permitted to have a one (1) sign in the multi-tenant sign
- (d) Up to 25% coverage will be permitted of the facade

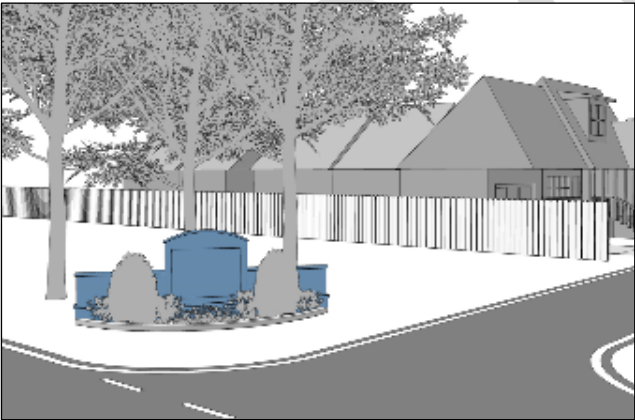
7.4 Signs Allowed

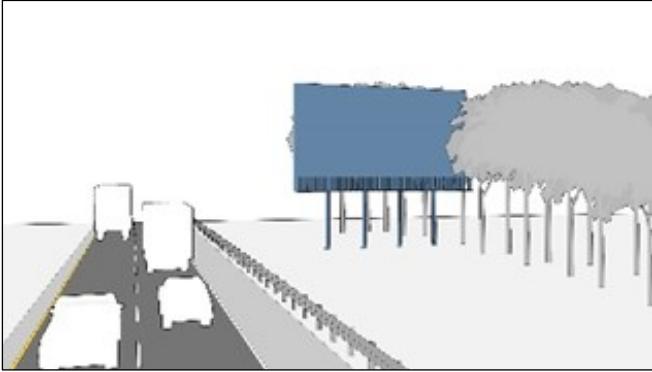
The tables below outline the regulations for specific sign types in specific zoning districts. In the event of a conflict between the regulations contained within this matrix and those outlined elsewhere in this chapter, the more stringent shall apply.

Canopy/ Awning Signs			
	Zoning Districts:	OI, NB, CBD, GB, HB, LI, GI	
	Number of Signs Allowed:	1 per storefront	
	Height:	NA	
	Size:	Copy shall not exceed 50% of the canopy or awning	

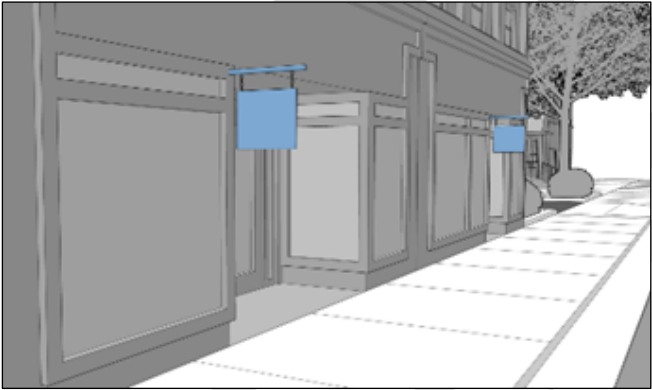
Directional / Incidental¹	Zoning Districts:	All zoning districts
	Number of Signs Allowed:	2 per street front
	Height:	4'
	Size:	2-sf
Directory¹	Zoning Districts:	OI, NB, CBD, GB, HB, LI, GI,
	Number of Signs Allowed:	2
	Height:	8'
	Size:	18-sf
Flag¹	Zoning Districts:	All zoning districts
	Number of Signs Allowed:	4
	Height:	Shall not exceed twice the maximum building height of the applicable zoning district or 40', whichever is less.
	Size:	NA
Freestanding² 	Zoning Districts:	R-20, R-10, R-6, MF-CD, GB, HB, LI, GI,
	Number of Signs Allowed:	1
	Height:	15' in the GB, HB, LI, GI districts. 5' in the R-20, R-10, R-6, MF-CD, OI districts.
	Size:	50-sf in the HB, LI, GI districts. 40-sf in the GB district. 36-sf in the R-20, R-10, R-6, MF-CD, OI districts.

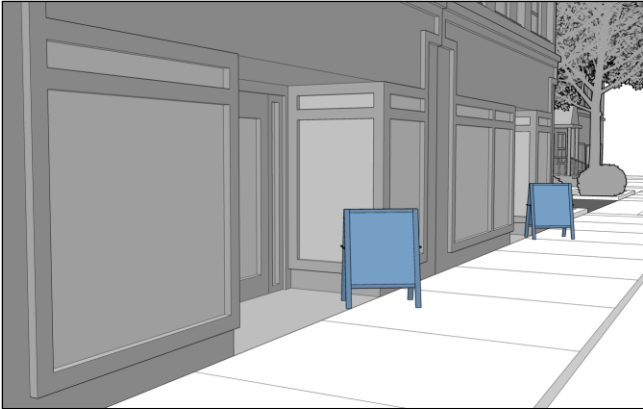
Marquee 	Zoning Districts:	CBD
	Number of Signs Allowed:	1
	Height:	May not exceed the max. building height
	Size:	≥ 75% of the marquee

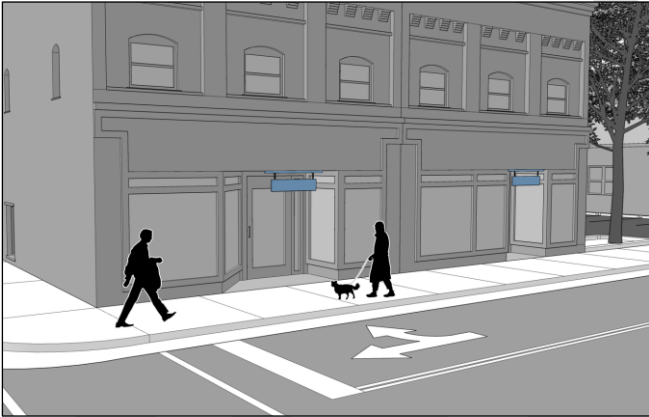
Monument 	Zoning Districts:	All zoning districts
	Number of Signs Allowed:	1 per street front
	Height:	6' in the R-20, R-10, R-6, MF-CD, OI districts. 5' in the NB, CBD districts. 8' in the GB, HB, LI, GI districts.
	Size:	36-sf in the R-20, R-10, R-6, MF-CD, OI, NB, CBD districts. 60-sf in the GB, LI, GI districts. 75-sf in the HB district.

Outdoor Advertising / Billboard 	Zoning Districts:	HB, LI, GI
	Number of Signs Allowed:	1 per street front
	Height:	30'
	Size:	300-sf

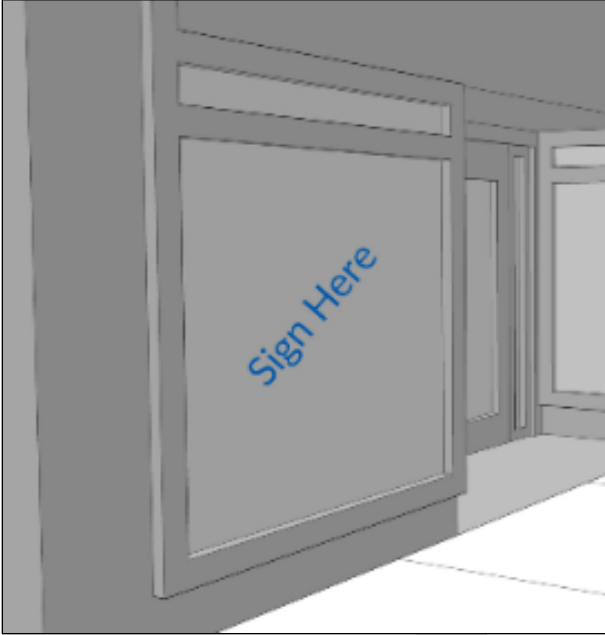
Portable¹	Zoning Districts:	OI, NB, GB, HB, LI, GI districts
	Number of Signs Allowed:	1
	Height:	5'
	Size:	32-sf

Projecting 	Zoning Districts:	CBD
	Number of Signs Allowed:	1 per storefront
	Height:	Min 8' clearance and not located above the structure on which it is attached.
	Size:	12-sf

Sandwich Board³ 	Zoning Districts:	CBD, NB, GB
	Number of Signs Allowed:	1 per storefront
	Height:	3'
	Size:	6-sf

Hanging 	Zoning Districts:	CBD, NB, GB
	Number of Signs Allowed:	1 per store frontage
	Height:	Min 8' clearance and not located above the structure on which it is attached.
	Size:	16-sf

Wall⁴ 	Zoning Districts:	All zoning districts
	Number of Signs Allowed:	1 per building wall for single tenants. ⁵ 1 per tenant space for buildings containing multiple tenants.
	Height:	NA
	Size:	≤25% of the wall are of the façade on which it is located.

Window¹ 	Zoning Districts:	MF-CD, OI, NB, CBD, GB, HB, LI, GI
	Number of Signs Allowed:	One per window.
	Height:	NA
	Size:	≤ 40% of the window area.

Notes accompanying "Signs Allowed".

¹ Some signs may be permitted without a permit.

² Freestanding signs are only permitted in residential zoning districts for non-conforming businesses.

³ See section 7.6.G for additional Sandwich Board signage requirements.

⁴ Wall signs shall be permitted for all individual buildings and tenant spaces on building facades that face a right of way, pedestrian passageways and or parking areas associated with the establishment.

⁵ Up to three wall signs may be permitted so long as the total permitted size/area requirements are not exceeded.

7.5 Permanent Signs, no permit required.

A. The following permanent signs shall be permitted without a sign permit.

1. Historical markers, regulatory signs, governmental signs, public interest signs, and warning signs erected and maintained by the Town or state or an agent of such.
2. On-premises directional signs not exceeding four feet in height nor two square feet in area.
3. Identification signs not exceeding two square feet in area nor two feet in height.

4. Incidental signs.
5. Flags on permanent poles.
6. Traffic control signs on private property, the face of which meets Department of Transportation standards and which contain no commercial message of any kind.
7. Portable manual changeable copy signs, which are subject to all dimensional requirements in 7.4. Such signs shall be outside the road right-of-way and be maintained in good order including being free of mold, cracks, and/or any material defects. They shall be actively used at all times for advertising the business on-site.

7.6 Temporary Signs: no permit required.

Nothing in this provision shall be construed to authorize the posting of such signs or banners upon trees, utility poles, traffic control signs, lights or devices in any place or manner prohibited by the provisions herein, nor on private property without written consent of the owner. All temporary signs shall be anchored, attached, or otherwise affixed to a structure or support so that the sign cannot be easily dislodged by strong winds or heavy rains. The following temporary signs are permitted without a sign permit in all zoning districts, unless noted, and shall be in conformance with all other requirements of this ordinance.

- A. Political Signs are permitted provided that:
Political signs shall be permitted provided that they meet the regulations of N.C.G.S. 136-32 and the following:
 1. No signs shall be permitted in the right-of-way of municipally maintained or owned streets or on public property; excluding on election or primary days.
 2. Political signs may be placed no earlier than thirty (30) days before the beginning date of one stop early voting.
 3. Political signs must be removed ten (10) days after the day of election.
 4. No sign shall be closer than three feet from the edge of the pavement of the road.
 5. No sign shall obscure motorist visibility at an intersection.
 6. No sign shall be taller than three and a half feet (3 ½) from the established grade.
- B. Real estate signs are permitted provided that:
 1. Signs shall not be illuminated.
 2. Signs shall be removed within seven (7) days after the sale is closed or rent or lease transaction finalized.
 3. On-Premise
 - a. Signs advertising all residential lots buildings, units, or spaces or for lease shall not exceed six (6) square feet in area nor five (5) feet in height.

- b. Signs advertising all non-residential lots, buildings, units, or spaces, for sale or for lease shall not exceed a sign face area of thirty-two (32) square feet or exceed a height of six (6) feet.
 - c. Only one sign per street front of the advertised property shall be erected. An additional sign per street front will be allowed for open houses/special events.
 - 4. Off-premise directional real estate signs
 - a. Two (2) generic real estate directional signs may be installed within the public right-of-way at the subdivision entrance and/or nearest intersection(s).
 - b. Signs cannot exceed two (2) square feet in area and three feet in height from the ground.
 - c. A maximum of four (4) directional signs are allowed per intersection and no signs may point in the same direction.
 - d. Open house/special event lead-in signs shall be limited to five (5) off premise signs placed at relevant intersections and shall be removed within five (5) days of the open house/special event.
 - e. Open house/special event lead-in signs cannot exceed four (4) square feet in area and four (4) feet in height.
- C. Construction signs are permitted provided that:
 - 1. Signs located on residential lots, excluding multi-family sites, shall not exceed six square feet in area. The maximum height of such signs shall be six feet.
 - 2. Signs for all multi-family development sites and nonresidential uses shall not exceed a sign face area of thirty-two square feet or a height of six feet.
 - 3. Signs are confined to the site of construction.
 - 4. Only one sign per street front of the property under construction shall be erected.
 - 5. Signs shall not be illuminated.
 - 6. Signs shall be removed within seven days after the completion of the project.
- D. Temporary farm products signs are permitted provided that:
 - 1. Signs are located on the premises where the products are sold.
 - 2. Signs advertising products produced on-site only.
 - 3. Signs shall not exceed twenty-four square feet in area nor five feet in height.
 - 4. Only one sign shall be erected.
 - 5. Signs shall be removed within seven (7) days of the termination of sale activities.

- E.** Temporary special event signs or banners for religious, charitable, civic, fraternal, or similar organizations, are permitted provided that:
1. Signs shall not exceed thirty-two (32) square feet in area nor five (5) feet in height unless approved by the Town Manager for signs located on public property.
 2. Signs shall be erected no sooner than fourteen (14) days before and removed seven (7) days after the event.
 3. Signs shall be located outside of the public right- of-way or at least eleven (11) feet from the edge of any public street if the right-of-way cannot be determined
- F.** Temporary banners in commercial districts, provided that:
1. Only one banner per establishment shall be allowed at a time.
 2. All banners shall be attached in total to a building wall or permanent canopy extending from a building.
 3. Banners shall be constructed of a material capable of withstanding normal weather conditions. No paper banners shall be allowed.
 4. Banners shall be allowed a maximum square footage of thirty-two (32) square feet.
 5. No banner shall extend above the second occupiable floor level of a building.
 6. Frayed, ripped, tattered or distressed banners must be taken down or replaced.
- G.** Sandwich Board Signs in commercial districts provided that:
1. One sandwich board per tenant may be placed on the sidewalk
 2. Sandwich board signs shall not exceed three (3) feet in height nor two (2) feet in width (maximum area of six (6) square feet).
 3. Sandwich board signs shall only be located on sidewalks directly adjacent to the establishment for which they are associated.
 4. The sign must be constructed of materials that present a finished appearance. Rough-cut plywood and similar unfinished surfaces shall not be used for such signs.
 5. At all times the sign is displayed, a minimum of thirty-six (36) inches shall be provided along at least one side of the sign to allow for unobstructed pedestrian access in accordance with ADA regulations.
 6. Sandwich board signs may only be displayed during business hours and removed each day after the business is closed.
 7. Food trucks may have one sandwich board sign in accordance with Section 7.4, Matrix of Signs Allowed.
- H.** Additional Temporary Signs Permitted
1. Holiday lights and decorations.

2. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance.

7.7 Prohibited Signs.

The following signs, both permanent and temporary, are prohibited in all zoning districts:

Signs extending into the public right-of-way other than those expressly permitted by this article or otherwise approved by the Board of Commissioners, if placed along public streets.

Roof signs.

Flashing, fluttering, swinging, wind-activated, rotating, and animated signs including feather flags.

Any sign which obstructs the view of motorists, pedestrians, or cyclists using any street, sidewalk, bike path, or driveway, or which obstructs the approach to any street intersection or railroad crossing, or which interferes with the effectiveness of any traffic sign, device, or signal.

Illuminated or highly reflective signs which hamper the vision of motorists or cyclists.

Any sign that resembles traffic signals, traffic signs, or emergency vehicle lights and any other sign not erected by a public authority which may be erroneously construed as governmental signs or emergency warning signs.

Beacons, pennants, and strings of lights not permanently mounted to a rigid background, except those permitted as temporary signs.

Any sign that interferes with free passage from or obstructs any fire escape, downspout, window, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air except for permitted window signs.

Any sign placed on any curb, post, pole, hydrant, bridge, tree, or other structure or surface located on, over, or across any public street right-of-way or property.

Signs containing offensive content as defined by N.C. Gen. Stat. § 19-1.1

Off-premises signs on parcels of land that are zoned residential, used primarily for residential purposes, or which do not include an active permitted use as established by this article.

Inflatable devices; excluding balloons.

High intensity searchlights.

Any object displayed in a manner which is intended to attract attention to a site, product, or event.

Any sign listed as not permitted in Section 7.4.

Any sign not expressly permitted by this article.

Any sign, structure, or other form of advertising defined as a sign herein that is erected or placed anywhere in North Wilkesboro after adoption of this ordinance that is not in compliance with

the provisions of this section shall be subject to the enforcement provisions outlined in Article XX of the North Wilkesboro UDO.

7.8 Obsolete Signs & Enforcement of Regulations.

- A.** Signs or parts of signs which advertise or pertain to a business which no longer exists or that has not been in business for forty-five (45) days or more shall be deemed to be an obsolete sign.
- B.** Obsolete signs are prohibited and shall be removed by the owner or his agent within forty-five (45) days of termination of the business.
- C.** The sign structure for an obsolete sign shall be removed by the owner or his agent within forty-five (45) days of termination of the business.

ARTICLE VIII. ADMINISTRATION

8.1 Established Board and Staff

The following elected and appointed bodies shall have the various powers and responsibilities in administering this Ordinance and for reviewing and making decisions on applications for development approval, appeals, and amendments to this Ordinance as stated herein:

- A. The Board of Commissioners
- B. The Planning Board
- C. The Board of Adjustment
- D. The Town Manager
- E. The Planning Director
- F. The Technical Review Committee

8.2 Organization

The boards provided by this Ordinance may adopt rules and maintain records in conformance with the following:

- A. **Rules of Conduct**
A Board may adopt rules necessary to conduct its affairs and to establish Board organization, procedures, and the conduct of its meetings.
- B. **Conformance of Rules**
The rules adopted by a Board shall be in accordance with North Carolina State law and the provisions of this Ordinance.
- C. **Election and Terms of Officers**
Each Board shall elect a Chairman and Vice-Chairman from its membership. These officers shall serve for a term of one year, or until the expiration of the term of their appointment to the Board on which they serve.
- D. **Record of Meetings**
Each Board shall keep accurate minutes of its proceedings and the actions taken in its meetings. When holding quasi-judicial hearings, the Town Board of Commissioners and the Board of Adjustment shall keep a transcript of the meeting and maintain a record of the evidence presented in the course of the hearing.

8.3 Oath of Office

All members appointed to boards under this Article shall, before entering their duties, qualify by taking an oath of office as required by G.S. 153A-26 and G.S. 160A-61.

8.4 The Board of Commissioners

A. Establishment

The Board of Commissioners is established and composed pursuant to the Town Charter, Article II and the Town Code of Ordinances, Chapter 2, Article II.

B. The Town Board of Commissioners shall have the following duties related to this article:

1. Text Amendments;
2. Zoning Map Amendments/Rezoning;
3. Conditional Zoning;
4. Developer Agreements

C. Conflict of Interest

1. A Board member shall not vote on any legislative or quasi-judicial decision regarding a development regulation adopted pursuant to this UDO where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
2. **Quasi-Judicial Decisions.** A member of any board exercising quasi-judicial functions pursuant to this UDO shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex-parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

D. Board Statements Required

1. **Consistency Statement.**
In regard to a zoning text or map amendment, once the Board of Commissioners has made a final decision to either adopt or reject the proposal, the Board shall approve a statement describing whether its action is consistent or inconsistent with the Comprehensive Plan and any other relevant plans having applicability to the proposed amendment.
2. **Statement of Reasonableness.**
When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Board of Commissioners.

8.5 The Town Manager

The Town Manager shall appoint the Administrator and shall have the authority to exercise any and all duties and authorities assigned to them. The Administrator is subject to the power and duties as outlined in the Town Charter.

8.6 The Planning Board

A. Establishment

The Planning Board of the Town of North Wilkesboro, North Carolina, hereinafter referred to as the "board," shall be governed by Chapters 160D-301, 160D-307, and 160D-102; 103; 106; 502 of the General Statutes of North Carolina and other general and special acts pertaining to planning and related activities in North Wilkesboro as well as policies established by the planning board in concurrence with the board of commissioners. The planning board shall prepare or shall review and comment upon a proposed zoning regulation, including the full text of such regulation and maps showing proposed town and extraterritorial jurisdiction boundaries. The planning board may hold public meetings and legislative hearings in the course of preparing the regulation. Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the board of commissioners.

B. Membership

1. The Planning Board of the Town of North Wilkesboro shall consist of eight (8) members appointed by the Board of Commissioners. Four of the members shall be from the town's extraterritorial jurisdiction. Every decennial census the calculation of the board must be verified to ensure proper representation is established with the board members. Proportional representation shall be provided by appointing member representation of residences of the extraterritorial jurisdiction and of the town limits.
2. All in-town members and successors may be recommended by the planning board and appointed by the board of commissioners and all ETJ members and successors may be recommended by the planning board and appointed by the Wilkes County Board of Commissioners.
3. Vacancies of in-town members occurring for reasons other than expiration of terms may be recommended by the planning board and shall be filled by the board of commissioners; as such vacancies occur, for the period of the unexpired term. The board of commissioners may establish reasonable procedures to solicit, review, and make appointments. Vacancies of ETJ members occurring for reasons other than expiration of terms may be recommended by the planning board and shall be filled by the Wilkes County Board of Commissioners, as such vacancies occur, for the period of the unexpired term. The county shall make the appointments within 90 days following the receipt of a request from the Town that the appointments be made. A vacancy shall exist on the planning board if a member is absent (unexcused) from three consecutive regular meetings or thirty-three percent or more of the planning board's regular meetings within a one-year period.
4. Members shall be limited to two consecutive full five year terms. When a member is appointed to fill an unexpired seat, the member will serve the balance of that term and up to one additional five-year term.
5. Each board member take an oath of office before starting his or her duties.

C. Absence and Attendance

It shall be the duty of all planning board members to inform the executive secretary of any anticipated absence and notification shall be immediately after receipt of the agenda. A regular member who misses three consecutive regular meetings or thirty-three percent or more of the regular meetings in a calendar year loses his status as a voting member of the board until reinstated or replaced by the board of commissioners, or the Wilkes County Board of Commissioners if an extraterritorial member. Absences due to sickness, death or other emergencies of like nature shall be regarded as approved absences and shall not affect

the member's status on the board; except that in the event of a long illness or other such case for prolonged absence the member may be replaced.

D. Resignation

If a member of the board moves outside the town limits , or the extraterritorial jurisdiction member moves outside the extraterritorial jurisdiction area, it shall constitute a resignation from the board effective upon the date a replacement is appointed.

E. Powers & Duties

The Planning Board of the Town of North Wilkesboro, North Carolina, hereinafter referred to as the "board," shall be governed by Chapters §160D-301, 160D-307, and 160D-102; 103; 106; 502 of the General Statutes of North Carolina and other general and special acts pertaining to planning and related activities in North Wilkesboro as well as policies established by the planning board in concurrence with the board of commissioners. The planning board shall prepare or shall review and comment upon a proposed zoning regulation, including the full text of such regulation and maps showing proposed town and extraterritorial jurisdiction boundaries. The planning board may hold public meetings and legislative hearings in the course of preparing the regulation. Upon completion, the planning board shall make a written recommendation regarding adoption of the regulation to the board of commissioners.

The Planning Board shall have the duties prescribed by the Board of Commissioners is charged with protecting the public health, safety and welfare as it pertains to the orderly growth and development of North Wilkesboro. For this purpose, the planning board is designated to perform the following duties::

1. Prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis;
2. Facilitate and coordinate citizen engagement and participation in the planning process;
3. Develop and recommend policies, ordinances, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner;
4. Advise the council concerning implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S. 160D 6-4;
5. Exercise any functions in the administration and enforcement of various means for carrying out plans that the council may direct;
6. To update and recommend changes to the Town's Comprehensive Plan.
7. To review and make recommendations on any development application to be heard by the Town Board, including but not limited to:
 - a. Text Amendments;
 - b. Zoning Map Amendments/Rezoning;
 - c. Conditional Zoning;
 - d. Major Subdivision - Preliminary Plats;
 - e. Major Site Plans;
 - f. Establishment of Vested Rights; and
 - g. Developer Agreements.

F. Officers and Duties

1. Chair. The Chair shall be elected by the Planning Board from among its members for a one-year term of office and may not serve as chairman for more than two (2) consecutive one (1) year terms, beginning in the month of June. The chair shall decide all matters of order and procedure, subject to these rules, unless directed otherwise by a majority of the board in session at the time. The chair shall appoint any committees found necessary to investigate any matters before the planning board or to perform any of its duties.
2. Vice-chair. A vice-chair shall be elected by the planning board from among its members for a one-year term of office and may not serve as vice-chairman for more than two consecutive one-year terms, beginning in the month of June, and he/she shall be eligible for reelection. The vice-chair shall serve as acting chair in the absence of the chair and at such times the vice-chair shall have the same powers and duties as the chair.
3. Method of election. Annually, at the first regular meeting in the month of June, the board shall elect a chair and vice-chair. If such a regular meeting is canceled or a quorum lacking, then the election shall be held within thirty-six days thereafter at a regular or special meeting. The chair shall call for nominations for chair which shall be verbal and seconded by board members. Any number of members may be nominated. The chair shall close nominations and call for a show of hands on each nominated member. A quorum shall be present for election. The newly elected member shall immediately assume the chair. The same procedure shall be followed for the election of the vice-chair. Whenever the office of chair or vice-chair becomes vacant during the twelve-month term of office, the same procedure shall be used to fill the vacancy, provided at least two-thirds of the entire membership of the board is present.
4. Executive secretary. The Planning Director shall serve as executive secretary of the board. The secretary, subject to the direction of the chair and the board, shall keep all records as well as supervise the correspondence and other clerical work of the board. The secretary shall insure that minutes of each board meeting are recorded of all proceedings. These shall include all important facts pertaining to every meeting and hearing, every resolution acted upon by the board, and all votes of members of the board upon any resolution or other matter, indicating the names of members absent or abstaining from voting.
5. The board may have detailed rules of procedures and if adopted they must be maintained by the executive secretary and they must be posted on the Town's website and readily available.

G. Conflict of Interest

Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this UDO where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship pursuant to NCGS 160D-109(b). If any board member has a financial or close familial, business, or other associational relationship interest in a matter before the board, that member shall ask the chair to be recused from participating in the hearing, discussion, and voting on the matter. Recused members shall vacate their seats while the matter is being considered. No board member should accept any gift, meal, or any other thing of value from any party involved in a matter before the board. Board members should not indicate their positions regarding matters before the body prior to receiving all the evidence presented at the public hearing.

H. Contacts Outside Public Hearings

The public hearing is the primary place where petitioners, opponents, and others interested in matters considered by the board should present information concerning such matters. Contact between interested parties and board members outside of public hearings is discouraged. When such contact occurs, members should disclose the content of the contact at the next regular meeting.

I. Quorum

A majority of the board membership, excluding vacancies, shall constitute a quorum. A quorum shall be present for the board to take any official action.

J. Voting

The concurring affirmative vote of a majority of the members present and qualified to vote is required to make a recommendation or any other decision in favor of an applicant. Tie votes must be considered recommendations for disapproval.

1. Vote of the Chairman

The Chairman of the Planning Board, or Vice-Chair serving in that role in their absence or temporary disqualification, shall vote as any other member of the Board.

8.7 The Board of Adjustment

A. Establishment

Pursuant to General Statute 160D-302, there is hereby created the Board of Adjustment

B. Membership.

1. The Board of Adjustment of the Town of North Wilkesboro shall consist of eight (8) members; six (6) regular members and two (2) alternates.

a. Four members (three regular members and one alternate member) shall be residents of the Town of North Wilkesboro and be appointed by the Town Board of Commissioners.

b. Four members (three regular members and one alternate member) shall be residents of the town's extraterritorial jurisdiction and be appointed by the Board of Commissioners of Wilkes County.

2. **Members from within the town limits.** The Town Board shall appoint each member and alternate for a term of three years. In appointing the original members or in the filling of vacancies caused by the expiration of the terms of existing members, the Town Board may appoint certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time. The expiration date for each term shall be June 30th of the year in which said term is to expire and the term of office of the succeeding member shall begin on July 1st. If the original members are appointed such that their terms of office begin prior to July 1st, such terms of original members shall be extended by the period of time between their appointment and June 30th of the year of their appointment, it being the intent that original members shall serve terms of one to three years plus a period of time between their initial appointments and June 30th of the year of their initial appointment. A member shall be eligible for reappointment at the end of his/her expired term for any position on the board for which he/she is qualified. For purposes of this article, original appointments refer to members and alternates appointed upon first establishment of the Board of

Adjustment, and also to members and alternates appointed to newly created seats upon any expansion of the Board of Adjustment.

3. **Extraterritorial members.** Extraterritorial members shall have all of the obligations and duties of the other members of the Board of Adjustment, including rights to vote on all matters coming before the board. Each extraterritorial member shall be appointed for a period of three years. Expiration dates for each term, initially and thereafter, shall be the June 30th of the year in which said term is to expire and the term of office of the succeeding member shall begin on July 1st; provided further that if the original members are appointed such that their terms of office begin prior to July 1st, such terms of original members shall be extended by the period of time between their appointment and June 30th of the year of their appointment. Eligibility for reappointment shall be determined by the procedures and policies established by the Board of Commissioners of Wilkes County.

C. Conflict of Interest

A member of any board exercising quasi-judicial functions pursuant to this UDO shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

D. Powers and Duties.

1. The Board shall hear and decide appeals from an order, denial of a permit or other written decision, or determination made by the Administrator or other administrative official charged with enforcing an ordinance.
2. To hear and grant variances to certain provisions of the Zoning Ordinance in cases where special conditions would make strict and literal interpretation result in the loss of privileges shared by other properties within the same zoning district.
3. To hear and decide on Special Use Permits as assigned by the Unified Development Ordinance. All conditions placed on Special Use Permits shall have the consent of the applicant/land owner and cannot be conditions that the Town does not have statutory authority over.

- E. Meetings.** All meetings of the Board of Adjustment shall be held at a regular place and time and shall be open to the public in accordance to Open Meeting Law, North Carolina General Statute 143-318.12. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, an indication of such fact. The board may adopt rules of procedure. Final disposition of permits, appeals or variances shall be recorded in the minutes, indicating the reasons of the board, all of which shall become a part of the public record. In addition, all records of variance appeals and special use permits shall be filed at the Wilkes County Register of Deeds regarding the applicant's property.

F. Quorum.

No final action shall be taken on any matter unless a quorum is present. A quorum shall consist of at least five (5) sitting members, entitled to vote on matters brought before the Board, including any alternates seated. The Board shall not vote on any questions related to an appeal of a decision or determination of the Zoning Administrator or an application for a variance or special use permit when there is fewer than five (5) voting members of the Board are present.

G. Voting

The concurring vote of four-fifths of the board shall be necessary to grant a variance. A simple majority of the members shall be required to decide any other quasi-judicial matter or to determine an appeal made in the nature of certiorari. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the requisite majority if there are no qualified alternates available to take the place of such members.

8.8 Watershed Review Board

A. Administrative Review

The Watershed Review Board, comprised of the Board of Adjustment, shall hear and decide appeals from any decision or determination made by the Watershed Administrator in the enforcement of this ordinance.

B. Variances

The Watershed Review Board shall have the power to authorize, in specific cases, minor variances from the terms of this Ordinance, and may review major variance requests and make recommendations to the Environmental Management Commission regarding the same. In addition, the town shall notify and allow thirty (30) days for all other local governments having jurisdiction in the designated watershed where the variance is being considered.

1. Applications for a variance shall be made on the proper form obtainable from the Watershed Administrator and shall include the following information:
 - a. A site plan, drawn to a scale of at least one (1) inch to forty (40) feet, indicating the property lines of the parcel upon which the use is proposed; any existing or proposed structures; parking areas and other built-upon areas; and surface water drainage. The site plan shall be neatly drawn and indicate north point, name and address of the person who prepared the plan, date of the original drawing, and an accurate record of any later revisions.
 - b. A complete and detailed description of the proposed variance, together with any other pertinent information which the applicant feels would be helpful to the Watershed Review Board in considering the application.
 - c. Evidence or proposed witness testimony that tends to support a finding that each of the factors listed in subsection (B)(3), below, are met.
2. The Watershed Administrator shall notify in writing each local government having jurisdiction in the watershed and the entity using the water supply for consumption. Such notice shall include a description of the variance being requested. Local governments receiving notice of the variance request may submit comments to the Watershed Administrator prior to a decision by the Watershed Review Board. Such comments shall become a part of the record of proceedings of the Watershed Review Board.
3. Before the Watershed Review Board may grant a variance, it shall make the following three findings, which shall be recorded in the permanent record of the case, and shall include the factual reasons on which they are based:
 - a. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance. In order to determine that there are practical difficulties or unnecessary hardships, the Board must find that the five following conditions exist:
 - (i) If he complies with the provisions of the Ordinance, the applicant can secure no reasonable return from, nor make reasonable use of, his property. Merely proving that the variance would permit a greater profit to be made from the property will not be considered adequate to justify the Board in granting an variance. Moreover, the Board shall consider whether the variance is the minimum possible deviation from the terms of the Ordinance that will make possible the reasonable use of his property.

- (ii) The hardship results from the application of the Ordinance to the property rather than from other factors such as deed restrictions or other hardship.
- (iii) The hardship is due to the physical nature of the applicant's property, such as its size, shape, or topography, which is different from that of neighboring property.
- (iv) The hardship is not the result of the actions of an applicant who knowingly or unknowingly violates the Ordinance, or who purchases the property after the effective date of the Ordinance, and then comes to the Board for relief.
- (v) The hardship is peculiar to the applicant's property, rather than the result of conditions that are widespread. If other properties are equally subject to the hardship created in the restriction, then granting a variance would be a special privilege denied to others, and would not promote equal justice.
- b. The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.
- c. In the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. The Board shall not grant a variance if it finds that doing so would in any respect impair the public health, safety, or general welfare.
- 4. In granting the variance, the Board may attach thereto conditions regarding the location, character, and other features of the proposed building, structure, or use that relate to the purpose and standards of this ordinance. If a variance for the construction, alteration or use of property is granted, such construction, alteration or use shall be in accordance with the approved site plan.
- 5. The Watershed Review Board shall refuse to hear an appeal or an application for a variance previously denied if it finds that there have been no substantial changes in conditions or circumstances bearing on the appeal or application.
- 6. A variance issued in accordance with this Section shall be considered a Watershed Protection Permit and shall expire if a Building Permit or Watershed Occupancy Permit for such use is not obtained by the applicant within six (6) months from the date of the decision.
- 7. If the application calls for the granting of a major variance, and if the Watershed Review Board decides in favor of granting the variance, the Board shall prepare a preliminary record of the hearing with all deliberate speed. The preliminary record of the hearing shall include:
 - a. The variance application;
 - b. The hearing notices;
 - c. The evidence presented;
 - d. Motions, offers of proof, objections to evidence, and rulings on them;
 - e. Proposed findings and exceptions;
 - f. The proposed decision, including all conditions proposed to be added to the permit.
- 8. The preliminary record shall be sent to the Environmental Management Commission for its review
- C. Appeals from the Watershed Review Board.**
 Appeals from the Watershed Review Board must be filed with the Superior Court within 30 days from the date of the Board's written decision. Decisions by the Superior Court will be in the manner of certiorari.

8.9 Administrator

A. Designation

The Town Manager shall appoint an Administrator who shall be duly sworn in and charged with administering and enforcing the provisions of this Ordinance. The Administrator shall administer certain provisions of this chapter as may be required below.

B. Delegation of Authority

The Administrator may designate any staff member to represent the Administrator in any function assigned by this Ordinance but shall remain responsible for any final action.

C. Powers and Duties

In execution of the provisions of this Chapter, the Administrator shall have the following powers and duties:

1. The Administrator acts as staff to the Town Board and the Planning Board with regard to their functions under these regulations, and to inform such bodies of all facts and information at their disposal with respect to applications for amendments to the text of these regulations, amendments to the zoning maps and comprehensive plan, appeals, variances, permit requests, and any other matters brought before them under this article.
2. To maintain the text of these regulations and the zoning maps, including the current and past approved maps.
3. To maintain development review files and other public records related to the administration and enforcement of these regulations.
4. To review applications for zoning permits filed under these regulations.
5. To recommend and comment on proposed amendments to these regulations and to the zoning maps.
6. To establish such rules of procedure and permit application forms as are necessary and proper for the administration of their responsibilities under these regulations.
7. To determine street classifications not otherwise specified on the adopted Town of North Wilkesboro Thoroughfare Plan.
8. **Watershed Administration.**
To administer the water supply watershed protection regulations contained herein, including the following additional duties:
 - a. To serve as staff to the Board of Adjustment when it is serving in its capacity as the watershed review board.
 - b. To submit copies of all amendments upon adoption to the supervisor of the Classification and Standards Branch, Water quality Planning Section, Division of Water Resources.
 - c. To keep records of variances granted to the watershed regulations. This record shall be submitted to the Supervisor of the Classification and Standards Branch, Water Planning Section, Division of Water Resources on or before January 1st of the following year and shall provide a description of each project receiving a variance and the reasons for granting the variance.
 - d. To keep records of the Town's utilization of the 10/70 Provision, including any acreage allocated by Wilkes County to North Wilkesboro. Such records shall include the total acres of non-critical area eligible to be developed under the 10/70 Provision, and individual records for each project showing the following information: location, acres, site plan, use, and total allocation of the 10/70.

- e. To monitor land use activities in the watershed to identify situations that might threaten water quality. The Administrator shall report these situations to the agency with direct regulatory responsibility for these activities.
9. Order discontinuances of illegal uses of land, buildings, or structures; removal of illegal buildings or structures, or of illegal additions, alterations or structural changes; and discontinuance of any illegal work being done; and shall take any other action authorized by this article to ensure its compliance.

10. Final Authority

The Administrator shall be responsible for final action regarding the following:

- a. Exempt And Expedited Subdivisions – Final Plats;
- b. Minor Subdivision - Preliminary and Final Plats;
- c. Major Subdivision - Final Plat Review;
- d. Minor Site Plan Review;
- e. TIA - Traffic Impact Analyses;
- f. Zoning Permits;
- g. Zoning Vesting Rights;
- h. Sign Permits;
- i. Common Signage Plans;
- j. Construction Drawings; and
- k. Temporary Use Permits

11. Administrative Modifications

The Administrator is responsible for the review and approval (or denial) of administrative modifications in accordance with Section 9.15 of this Ordinance.

12. Determinations

The Administrator is responsible for decisions made in the implementation, administration, and enforcement of development regulations that involve the determination of facts and the application of objective standards set forth in this Ordinance. Within fourteen (14) days after a decision on an administrative determination is made, a copy of the decision shall be provided to the property owner and the party seeking determination. Written notice of the decision shall be made by personal delivery, electronic mail, or first-class mail. A copy of the decision may also be filed with the Administrator and available for public inspection during regular office hours.

D. Conflict of Interest

No staff member shall make a final decision on an administrative decision required by this UDO if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance. No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this UDO unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

8.10 Technical Review Committee

The Technical Review Committee shall be appointed by the Administrator and shall meet when needed to discuss land use issues and to review development proposals. The recommendations of the committee shall be forwarded to review boards by the Planning Director for their consideration in making decisions regarding re-zonings, special use permits and any other issue related to land use and development as governed by this article within the zoning jurisdiction of the town.

In execution of the provisions of the chapter, the Technical Review Committee shall have the following Review Authority and shall make recommendations regarding the following:

- A. Rezoning (Map) and Text Amendments (where warranted)
- B. Conditional Zonings;
- C. Planned Development Review;
- D. Major Subdivision - Preliminary Plat;
- E. All Final Plats;

All non-residential/commercial new construction or major renovations exceeding 50% of the tax value

8.11 Miscellaneous Administration Authorities

- A. Building Code Enforcement. Building Code Enforcement shall be in accordance with G.S. 160D, Article 11. As of the date of this UDO, Building Code enforcement is handled by The Town of North Wilkesboro and Wilkes County.
- B. Additional Authority. The Town has certain Additional Authority as provided in G.S. 160D.
- C. Judicial Review. N.C.G.S. 160D, Article 14 authorizes judicial review of certain Town decisions.

ARTICLE IX. PROCEDURES

9.1 General Procedures

The Town of North Wilkesboro establishes the procedures herein to create an orderly process to develop land that is consistent with standards development practices and terminology. The section provides a clear and comprehensible development process that is fair and equitable to all interests, including applicants, affected neighbors, the Administrator, staff and related agencies, and elected and appointed officials of the Town.

A. No Construction to Commence without Permit

No land shall be used or occupied, and no structures shall be erected, moved, extended, or enlarged, nor shall any timbering, clearing, and grubbing, or filling of any lot for the construction of any building be initiated until the Administrator has issued an appropriate development approval which will certify that the proposed work is in conformity with the provisions of this ordinance.

B. Development Approvals Run with the Land

Unless provided otherwise by law, all rights, privileges, benefits, burdens, and obligations created by development approvals made pursuant to this Section attach to and run with the land.

9.2 Submission Procedures

The following requirements shall apply to all applications prior to and for development approval as identified in this section.

A. Applicants

As outlined in NCGS 160D-403, applications for development approvals may only be made by the landowner, a lessee or person holding an option or contract to purchase or lease land with the written permission of the landowner, or an authorized agent of the landowner. The director of the appropriate department, or designee, may require an applicant to present evidence of the authority to submit an application.

B. Pre-Submittal Meeting

1. A pre-submittal conference with the Administrator or designee held prior to the applicant submitting an application for development approval to discuss the procedures, standards and regulations required for development approval in accordance with this chapter. The meeting is required with certain applications as outlined on the Development Process Table in Section 9.5. For all other applications, the Pre-Submittal meeting is optional.
2. At the time of the pre-submittal conference, applicants shall submit a sketch plan for review by the Administrator. This plan should, in simple sketch form, show the proposed layout of streets, lots and other features in relation to existing conditions.

C. Forms

Applications required under this Section shall be submitted with application forms approved by and available from the Planning Department.

D. Fees

Application filing fees shall be established and updated as needed to defray the actual cost of processing the application, as listed in the approved Fee Schedule maintained by the Town. Fees shall be submitted with applications.

E. Plans

The applicable engineered and/or surveyed plans shall be submitted with each application as outlined in Section 9.12.

F. Completeness Review

1. Submission

All completed applications for development approval shall be submitted to the Administrator, including the application fee, all appropriate forms and documentation, and the plan sets in accordance with the requirements of this Section and the Fee Schedule adopted by the Town.

- a. Applications sufficient for processing shall be submitted to the Administrator or designee, in accordance with the established submission schedule. Schedules indicating submittal dates shall be developed each year and made available to the public.

2. Completeness Determination

- a. An application shall be considered submitted only after it has been determined to be complete and sufficient for review as provided below, not upon submission to the Administrator.
- b. On receiving a development application, the Administrator shall determine whether the application is complete or incomplete in a timely manner. A complete application is one that:
 - (1) Contains all information and materials required by this Ordinance for submittal of the applicable type of application, and in sufficient detail, format, and readability for the Administrator to evaluate the application for compliance with applicable review standards; and
 - (2) Is accompanied by the fee established for the applicable type of application.

3. Complete Applications

- a. Once the application has been determined complete, the Administrator shall:
 - (1) Accept the application as submitted in accordance with the procedures and standards of this Code in effect at the time of the submittal; and
 - (2) Provide the applicant notice of application submittal acceptance.
 - (3) Copies of the application and/or plans shall be referred by the Administrator to the appropriate reviewing entities.

b. Incomplete Applications

On determining that the application is incomplete, the Administrator shall provide the applicant with written notice of the submittal deficiencies in a timely manner. The applicant may correct the deficiencies and resubmit the application for a completeness review.

G. Additional Information as Needed

The presumption shall be that all the information required in the application forms is necessary to satisfy the requirements of this section. However, it shall be recognized that each application is unique, and therefore more or less information may be required according to the needs of the

particular case. The applicant may rely on the recommendations of the Administrator as to whether more or less information should be submitted.

H. Withdrawal of Application

1. An applicant may withdraw an application at any time, by filing a statement of withdrawal with the Administrator or designee.
2. The statement of withdrawal shall be signed by all persons who signed the application, or in the event of death or incompetence, by the estate's lawful personal representative.
3. The Administrator shall withdraw applications due to the failure of the applicant to submit required information within ninety (90) days of the initial request. An applicant may receive an additional sixty (60) day extension by requesting it in writing before the 90 day period expires.
4. An applicant may postpone a scheduled public hearing once per application for up to ninety (90) days after the date the first public hearing was scheduled to occur, after which the Administrator shall withdraw the application.

I. Related Applications

1. Related applications necessary for development approvals may be filed and reviewed simultaneously, at the option of the applicant, and with approval from the Administrator. Any application that also requires a rezoning, variance or special use permit, shall not be eligible for final approval until the rezoning, variance, or special use permit has been granted.
2. Related applications submitted simultaneously are subject to approval of all other related applications; denial or disapproval of any concurrently submitted application shall stop consideration of any related applications until the denied or disapproved application is resolved.

J. Active Application Time Period

1. Requests for additional information, corrections, or other modifications for all applications, unless otherwise indicated in this Ordinance, shall be returned to the Administrator or designee within ninety (90) days from the date comments on the application are officially issued. Failure to meet this deadline may result in the application being considered withdrawn and voided, thus requiring a new application, including all requirements associated with a new application.

9.3 Public Notification

Public notice for certain applications will be required prior to consideration and/or approval in accordance with the table in Section 9.5 and with the specific requirements of this Article.

A. Published Notice

1. An advertisement shall be placed by the Town and published in a newspaper of general circulation once a week for two (2) successive weeks, The first publication shall appear no less than ten (10) days or more than twenty-five (25) days prior to the date of the public hearing. An annexation public hearing requires a single notice for Board of Commissioners hearings.
2. **All published notices shall contain the following:**
 - a. Parcel Identification Number;

- b. The address of the subject property (if available);
- c. The general location of the land that is the subject of the application, which may include, a location map;
- d. A description of the action requested;
- e. The current and proposed zoning districts;
- f. The time, date and location of the public hearing;
- g. A phone number to contact the Town; and
- h. A statement that interested parties may appear at the public hearing.

B. Posted Notice.

A sign shall be placed in a prominent location on the subject property(ies) or on an adjacent public street or highway right-of-way not less than ten (10) days prior to the hearing in which the application shall be reviewed, with a case number, notice of the pending action, and a phone number to contact for additional information. When multiple parcels are included, a posting on each individual parcel is not required but the Town shall post sufficient notices to provide reasonable notice to interested persons.

C. Mailed Notice.

1. The Town shall notify by first-class mail (at the last addresses listed for such owners in the county tax records) the affected property owner and all property owners within and immediately abutting the subject property. The notice must be mailed at least ten (10) but not more than twenty-five (25) days prior to the date of the public hearing. The Town shall certify to the Commissioners that fact that mailings occurred, and such certificate shall be deemed conclusive in the absence of fraud. Mailed notices shall contain the following:
 - a. Parcel Identification Number;
 - b. The address of the subject property (if available);
 - c. The general location of the land that is the subject of the application, which may include, a location map;
 - d. A description of the action requested;
 - e. The current and proposed zoning districts;
 - f. The time, date and location of the public hearing;
 - g. A phone number to contact the Town; and
 - h. A statement that interested parties may appear at the public hearing.

9.4 Permit Required

- A.** No building or land shall hereafter be used or occupied and no building or structure shall be erected, expanded or moved until a zoning permit as required by this Article shall have been issued.

- B. The form and content of such permit, when not expressly set out in this article, shall be determined by the Administrator and may include any information required for the applicant to demonstrate an intent to comply with the zoning regulations.
- C. All permits and other development approvals shall be provided in writing. Zoning permit forms shall be available at the Planning and Inspections office, and the Town website.
- D. Applications for permits must be made by a person with a property interest in the property or a contract to purchase the property on which the development is proposed.
- E. **Permit Type**
Permits shall be required for any use by right that is regulated by this ordinance, unless specifically exempted by this ordinance and/or special uses.
- F. **Permits for uses by right and uses with supplemental standards.**
 - 1. A permit for a use by right and a use with supplemental standards shall be obtained from the Administrator.
 - 2. Applications for a permit shall be made on a form provided by the Administrator.
- G. **Permits for special uses.**
Permits for special uses shall be obtained from the Board of Adjustment. Applications for a special use permit shall be made on a form provided by the Administrator.
- H. **Permits for Conditional District Zoning.**
 - 1. Permits for Conditional District Zoning shall be obtained from the Town Board of Commissioners.
 - 2. Applications for a conditional district zoning permit shall be made on a form provided by the Administrator.
- I. **Expiration of permit.**
 - 1. Any zoning permit issued by the Administrator shall become null and void after a period of one year from the date of issuance of the permit unless a valid building permit has been issued for the work authorized by the permit or, if a building permit is not required, substantial work has not begun.
 - 2. Once a zoning permit has expired, construction on the property in question cannot proceed until a new zoning permit has been issued.
- J. **Condition of approval.**
Zoning permits issued on the basis of site plans, architectural renderings, landscaping plans, and other information submitted as part of the zoning permit application process authorize only the use, arrangement, construction, and change set forth in such approved plans and applications. Use, arrangement, construction, or change that differs from that authorized by the permit shall be deemed a violation of this article.
- K. **Right of appeal.**
If a request for a zoning permit from the Administrator is disapproved or if a ruling of the Administrator is questioned, the aggrieved party may appeal such ruling to the Board of Adjustment in accordance with Section 9.15.

9.5 Development Review Process Table

Legend: ADMIN = Administrative LEGIS= Legislative QJ= Quasi-Judicial AD = Administrator PB= Planning Board			TRC = Technical Review Committee TC = Town Board of Commissioners BOA = Board of Adjustment NCSC = NC Supreme Court PS = Pre-Submission Meeting NB = Neighborhood Meeting			Public Notice: A=Published Notice B=Posted Notice C=Mailed Notice		
Develop ment Approv al	Section(s)	Process Type	Require d Meeting s	Reviewer	Public Notice	Approving Body	Appeal	Validity
Zoning Permit	9.4	ADMIN		AD		AD	BOA	1 year
Sign Permit	9.14	ADMIN		AD		AD	BOA	1 year
Determination s	9.9	ADMIN		AD		AD	BOA	1 year
Exempt Subdivi sion	9.10	ADMIN		AD		AD	BOA	1 year
Major Subdivi sion Prelimi nary Plat	9.12	ADMIN		AD, TRC, & PB		PB	BOA	2 years
Minor Subdivi sion	9.11	ADMIN		AD, TRC		AD		1 year
Final Plat	9.12.D	ADMIN		AD, TRC		AD		1 year
Site Plan	9.6	ADMIN		TRC		AD	BOA	1 year
Floodpl ain Develo pment Permit	9.13	ADMIN		AD		AD		1 year
Text Amend ment	9.19	LEGIS		AD & PB	A	TC	NCSC	
Rezoni ng/ Map Amend ment	9.20	LEGIS		AD & PB	A , B/C	TC	NCSC	
Condi tional Zoning	9.21	LEGIS	NB	AD & PB	A,B,C	TC	NCSC	
Special Use Permit	9.8	QJ		AD	B,C	BOA	NCSC	1 year
Varian ce	9.18	QJ		AD	B,C	BOA	NCSC	30 days to

Admin. Appeal	9.17	QJ		AD	B,C	BOA	NCSC	appeal
Interpretation of Zoning Boundaries	9.27	QJ		AD	B,C	AD	BOA	30 days to appeal

9.6 Site Plan

A. Requirement.

Prior to approval and issuance of a zoning permit for any new structure or expansion to an existing structure permitted under this chapter and any new impervious coverage on any lot (excluding single family detached residential) in a designated water supply watershed, all applicants shall be required to submit a site plan as outlined below. All site plans must be reviewed by staff and found to meet submission requirements before any application for a zoning permit is deemed to be complete.

B. Single Family Residential Structures.

The site plan shall show the approximate location of the proposed structure on the lot, including distances from side, rear, and/or front setback lines as required. This type of site plan may be drawn by the applicant and does not require an engineer, surveyor, or landscape architect's seal unless such development appears to lie wholly or in part within a federally designated floodplain or a required watershed buffer area.

C. All uses except single family residential structures, signs, flags, and similar structures.

1. The site plan shall show:

- a. The approximate location of the proposed structure on the lot, including distances from side, rear, and/or front setback lines and distances from other structures.
- b. Adjacent streets and street right-of ways.
- c. Adjacent property lines, owners, uses, and zoning districts.
- d. The location of any federally designated floodplain.
- e. The location of any required watershed buffer area.
- f. The location of all existing and proposed public easements.
- g. The location of any proposed parking and loading and screening which may be required by this section.

2. These site plans must be sealed by a registered engineer, surveyor, architect or landscape architect licensed to practice in the State of North Carolina.

3. All new development on vacant lots or change in land use on existing lots shall be required to submit the following in addition to the site plan required contents listed above.

D. Landscape Plan Requirements

1. Landscape plans shall clearly demonstrate conformance to the intent of all applicable sections of this ordinance. Landscape plans shall be submitted at a scale of 1" = 30' or other appropriate scale acceptable to the Administrator, and shall include:
 - a. Planting plan showing location, quantity, and type of proposed plantings including existing trees to remain and new trees.
 - b. Planting schedule listing all plant materials by botanical name, common name, quantity, and size at installation.
 - c. All horizontal landscape construction such as walls, drives, decks, terraces, and other features shall be labeled according to material and finish with spot elevations. All vertical landscape construction such as walls, fences, raised decks, shelters, light standards, signs, flagpoles, trellises, seats, mailboxes, etc. shall be labeled sufficiently to indicate size, materials, and general appearance.
 - d. For any proposed irrigation.
 - e. In an effort to conserve water, landscape plans which utilize existing vegetation, native plants, drought-tolerant ornamental plants, and limited lawn areas are encouraged.
 - f. Plants shall comply with sizing and grading standards of the latest edition of "American Standard for Nursery Stock".

E. Site Lighting Plan Requirements

1. Site lighting plans shall clearly demonstrate conformance to Article VI, Design Standards.
2. Site lighting plans shall be submitted at a scale of 1" = 30' or other appropriate scale acceptable to the Administrator, and shall include:
 - a. Location and mounting information for each light;
 - b. Illumination calculations showing light levels in foot candles at points located on a 10-foot on center grid;
 - c. A fixture schedule listing fixture design, type of lamp, and wattage of each fixture; and Manufacturer's photometric data for each type of light fixture.

F. Other requirements.

1. In addition to information required in this subsection, other information or documents deemed relevant by the Administrator or review board shall be required, such as evidence of approval of sedimentation and erosion control plans, prior to issuance of a zoning permit.

G. Amendments to and Modification of Permits

See Section 9.15, Administrative Modifications.

H. Permits run with the land.

All permits and other development approvals are attached to and run with the land.

I. Revocation of permit.

Any revocation of permit and other development approvals must follow the same procedures as used for the approval.

A. Notice.**1. Public notice of the meetings is required.**

Mailed and Posted Notice shall be provided in accordance with the requirements of Section 9.3.

2. Continuation of Hearing with Notice.

The Board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular Board meeting without further advertisement.

B. Evidentiary Hearing.**1. Evidentiary hearings are required to gather competent, material, and substantial evidence.** They are held by the body making the quasi-judicial decision, either Board of Adjustment.**2. Contact with Decision-Making Board Members**

Contact with any members of a decision-making board prior to the evidentiary public hearing by any individual regarding the matter is prohibited.

3. Materials

The Administrator or staff to the Board shall transmit to the board all applications, reports, and written materials relevant to the matter being considered. The administrative materials may be distributed to the members of the board prior to the hearing as long as a copy is also provided to the appellant or applicant and to the landowner if that person is not the appellant or applicant. The administrative materials shall become a part of the hearing record.

4. Oaths

The Board Chair or any member acting as chair and the clerk to the Board are authorized to administer oaths to witnesses in any matter coming before the board. Any person who, while under oath during a proceeding before the board determining a quasi-judicial matter, willfully swears falsely is guilty of a Class 1 misdemeanor.

5. Presentation of Evidence

The applicant, the local government, and any person who would have the standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. This includes presenting evidence, cross-examination of witnesses, objecting to evidence and making legal arguments. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board. Further, elected officials may subpoena witnesses and compel the production of evidence.

6. Administrator as Witness

The official who made the decision or the person currently occupying that position, if the decision-maker is no longer employed by the local government, shall be present at the evidentiary hearing as a witness.

7. Competent Evidence Required

- a. All decisions shall be based on competent evidence entered in as part of the record. The term "competent evidence," as used in this subsection, shall not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) the evidence was admitted without objection, or (ii) the evidence appears to be sufficiently trustworthy

and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall not be deemed to include the opinion testimony of lay witnesses as to any of the following:

- (1) The use of property in a particular way would affect the value of other property.
- (2) The increase in vehicular traffic resulting from a proposed development would pose a risk to public safety.
- (3) Matters about which only expert testimony would generally be admissible under the rules of evidence.

8. Objections

Objections regarding jurisdictional and evidentiary issues, including, but not limited to, the timeliness of an appeal or the standing of a party or the inclusion or exclusion of administrative materials, may be made to the Board. The Board chair shall rule on any objections, and the chair's rulings may be appealed to the full board. These rulings are also subject to judicial review pursuant to G.S. 160D-1402. Objections based on jurisdictional issues may be raised for the first time on judicial review.

9. Voting

A simple majority is needed for all quasi-judicial decisions with the exception of variances that require a concurring vote of four-fifths ($\frac{4}{5}$) of the Board. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter under G.S. 160D-109(d) shall not be considered members of the board for calculation of the majority if there are no qualified alternates available to take the place of such members.

10. Decisions

Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be in writing, reflect the Board's determination of contested facts and their application to the applicable standards. Each decision approved by the board shall be signed by the chair.

11. Effective Date

A quasi-judicial decision is effective upon filing the written decision with the clerk to the Board. The decision of the Board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy of the decision.

12. Judicial Review

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402.

C. Appeals from Quasi-Judicial Decisions

An appeal from the decision of the Board of Adjustment regarding a quasi-judicial decision may be made by an aggrieved party and shall be made to the Superior Court of Wilkes County in the nature of certiorari. Any such petition shall be filed with the clerk of the superior court by the later of thirty (30) days after the decision is effective or after a written copy thereof is given in accordance with G.S. 160D-406(j). When first-class mail is used to deliver notice, three (3) days shall be added to the time to file the petition. 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.

Special uses are land uses that are generally compatible with the land uses permitted by right in a zoning district, but require individual review of their location, design, and configuration so as to evaluate the potential for adverse impacts on adjacent property and uses. Special uses ensure the appropriateness of the use at a particular location within a given zoning district.

A. Applicability

A Special Use Permit shall be required for all uses as set forth in the Table of Uses.

B. Applications

1. Applications for all special use permits or amendments to any approved special use permit must be filed with the Administrator. Applications which are not complete shall be returned to the applicant, with a notation of the deficiencies in the application. The Administrator has the authority to waive any application requirements where the type of use or scale of proposal makes that information unnecessary or impractical. A complete application will include all of the following:
 - a. A completed application form signed by all of the property owners of the area proposed for the permit, or a completed application form signed by the developer along with an affidavit signed by all property owners giving the applicant the permission to pursue the permit and to bind the property to the proposal and to conditions which the board might impose.
 - b. A complete explanation of the proposed use(s) of the property.
 - c. A site plan as specified in Section 9.6.
 - d. A preliminary subdivision plat which meets all the requirements of Article 4 when subdivision of the land is proposed.
 - e. Documentation containing facts which will be used to support the petition, including but not limited to deed restrictions, letter of sufficiency regarding public water and sewer, proposed homeowners association documents, and appropriate county and state approvals.
 - f. All appropriate fees.
 - g. A synopsis or overview of the project, including information relevant to use, density, lot layout, housing type, planned amenities, and the like.
 - h. Any other information deemed by the Administrator to be necessary for sufficient review of the application.

C. Public notices.

See **Section 9.3** for public notice requirements.

D. Staff review.

1. Sketch plan.

- a. Prior to submission of the complete application, all subdivision developers are required to submit a sketch plan for staff review. Preparation and review of the sketch plan shall conform to the requirements of the Town of North Wilkesboro Subdivision Regulations outlined in **Article 4**.

E. Required Findings

1. No special use permit shall be approved by the Board of Adjustment unless the following general findings of fact are made concerning the proposed special use:
 - a. The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to the plan submitted.
 - b. The use complies with all regulations and standards of this article.
 - c. The use will not substantially injure the value of adjoining property, or the use is a public necessity.
 - d. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.
 - e. Public water and sewer service are available in adequate capacity, if needed.

That the proposed use will not be in conflict with the objectives of the most detailed plan adopted for the area in which it is located.

F. Conditions of Approval

1. In considering an application for a special use permit, the Board of Adjustment may attach reasonable and appropriate conditions and safeguards to the location, nature, and extent of the proposed use and its relationship to surrounding property, for the purpose of ensuring that the conditions of permit approval will be complied with and any potentially injurious effect of the special use on adjoining properties, the character of the neighborhood, or the health, safety, and general welfare of the community will be minimized.
2. Such conditions may relate to parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, intensity of site development, the timing of development, and other matters the Board of Adjustment may find appropriate or the applicant may propose.
3. The applicant will have a reasonable opportunity to consider and respond to any additional conditions or requirements prior to final action by the Board of Adjustment.

G. Effect of Decision

1. If the Board of Adjustment votes to deny an application, there may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until twelve (12) months have elapsed from the date of denial. If the Board of Adjustment votes to approve an application, the permit shall be recorded in the Wilkes County Register of Deeds office.
2. The special use permit and additional conditions, if applicable, shall run with the land and shall be binding on the original applicant as well as any successors, assigns, and heirs. Any decision by the Town may be appealed within thirty (30) days of the decision in accordance with G.S. § 160D-405.

H. Amendment Once Approved

1. Any major change to a development approved by special use permit shall require an amendment to the special use permit by the Board of Adjustment.

2. Any proposed change in use, increase in density or intensity, decrease in open space and common recreational facilities, substantial change in the location of uses or streets from what is shown on the approved plans, any change in a condition imposed on the use by the Board of Adjustment, or any other change the Administrator determines is significant shall be deemed a major change requiring an amendment to the special use permit.
3. Factors to be considered by the Administrator in determining if a change is substantial include, but are not limited to, the extent of the change, the expected impact on adjacent properties, and the impact on offsite streets and other public infrastructure. Otherwise, the Administrator may approve minor changes to a permit.
4. The owner of property which is subject to an approved special use permit may petition for an amendment of the special use permit and accompanying conditions by following the procedures applicable to initiation of new special use permits.
5. Evidence presented at the hearing on the proposed amendment will be limited to the effect of the proposal on the original special use permit, any plans or conditions which were a part of the original special use permit, and the present standards and requirements in this zoning ordinance.

I. Revocation

1. If at any time the Administrator determines that construction inconsistent with the approved special use permit is occurring within the development, the Administrator shall issue a stop work order on such construction, and he/she shall notify the responsible parties of the violation who will immediately cease and desist further work on the project.
2. If the nonconforming construction is not brought into compliance with the permit or the applicant has not filed an appeal with the Board of Adjustment within thirty days, the Administrator may initiate a revocation of the special use permit.
3. The Administrator may also act to suspend the issuance of any additional building permits within the development if there is reason to believe that such construction will not be in conformance with the approved permit or such construction will increase or reinforce the degree of nonconformance.

J. Expiration

1. Approval of a special use permit shall confer upon the developer all vested rights as set forth in this ordinance.
2. In order for a special use permit to remain in effect for a particular development, a valid building permit must be issued for construction within the time period vested. If at any time after this date, construction has not been completed and no valid building permits are outstanding for construction within the development, the special use permit shall expire. No further construction may occur within the development until the Board of Adjustment has issued a new special use permit. Application for a new special use permit shall follow the procedures outlined in this article.

9.9 Determinations

A determination is a final and binding order, requirement, or determination regarding an administrative decision. The Administrator is authorized to make determinations. Any determination shall be provided in writing, by personal delivery, electronic mail, or first-class mail to the property owner or party legally authorized to take action on their behalf.

9.10 Exempt Subdivisions

The following shall be considered shall not be included within the definition of a subdivision as outlined in NCGS 160D-802 and shall only require review of a Final Plat by the Administrator.

- A. 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 the Town of North Wilkesboro.
- B. The division of land into parcels greater than ten (10) acres where no street right-of-way dedication is involved.
- C. The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- D. The division of a tract in single ownership whose entire area is no greater than two (2) acres into not more than three (3) lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the Town of North Wilkesboro, as contained herein.
- E. 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 General Statutes.

9.11 Minor Subdivision Preliminary Plat is reviewed as Final Plat

Minor Subdivisions, as defined in Article 4, are any subdivision not considered exempt nor meeting the criteria of a Major Subdivision. The following review procedures shall apply to all Minor Subdivisions.

A. Simplified Review

- 1. All proposed Minor Subdivisions shall first be discussed with the Administrator to ensure the understanding that the requirements are the same as for the approval of a final plat.
- 2. Following the meeting with the Administrator, the final plat shall be prepared by a professional land surveyor currently licensed and registered in the state of North Carolina and contain the required certificates as included in Appendix A and meet all final plat content requirements as outlined in Appendix B.
- 3. The subdivider shall submit a digital copy of the final plat to the administrator for review. Once the Administrator has confirmed the final plat to be in conformity with the UDO and preliminary plat (if applicable), a recordable mylar shall be provided for signatures.

9.12 Major Subdivision Preliminary Plat

Major Subdivisions are defined in **Article 4** and shall be subject to the following review procedures.

A. Preliminary Plat

- 1. All major subdivisions (excluding those which qualify as major based solely upon size and having no public and/or private infrastructure) shall require review by the Technical Review Committee (TRC) in addition to the Planning Board. Construction or installation of

improvements may not begin until after preliminary plat review and approval by the Planning Board.

2. The subdivider shall submit an appropriate number of copies of the preliminary plat as determined by the Administrator at least twenty-one (21) days prior to a regularly scheduled meeting of the Planning Board. The Preliminary Plat shall contain all required contents as outlined in Appendix B.

C. TRC Review

1. The preliminary plat shall be reviewed by the Technical Review Committee (TRC). The TRC's function is to ensure conformance of the proposed development with the town's various ordinances and development standards. The Planning Director (Administrator of this ordinance) shall serve as chairperson of TRC. Other staff members and individuals may be called on to provide input to the committee, as the Administrator deems necessary.
2. The TRC shall review the plans for development and report its findings to the Administrator prior to the Planning Board meeting.
3. All TRC meetings shall be open to the public however no public comment shall occur during these meetings.
4. Following TRC review, all papers and data pertinent to the plat shall be transmitted to the Planning Board.
5. If the Administrator determines that the land to be subdivided warrants special consideration because of topographical or other conditions peculiar to the site, the subdivider shall submit, upon request, a separate topographic map of the site with a contour interval deemed necessary by the board. The topographic map cannot be used as the same preliminary plat for the subdivision because of the difficulty of interpreting all of the information required on one document.
6. Before acting on the preliminary plat, the Planning Board may request a report from any person or agency directly concerned with the proposed development, such as the NCDOT district highway engineer, Wilkes County Health Department, North Carolina Department of Environment Quality, the superintendent of schools, and any other officials or agencies deemed necessary. Such report shall certify compliance with or note deviations from the requirements of this chapter and include comments on other factors which bear upon the public interest.
7. The Planning Board shall review the preliminary plat at its next regularly scheduled meeting and shall recommend approval, temporary approval subject to minor modifications, or disapproval. If approval is recommended subject to modifications, specific references shall be made of the preliminary plat stating the nature of the regulatory noncompliance and possible modifications. If the Planning Board recommends disapproval of the preliminary plat, the reasons for such recommendations shall be stated in writing and references shall be made to the specific regulations with which the preliminary plat does not comply. The applicant shall then have the right of appeal to the Board of Adjustment within thirty days of the written rendered decision.
8. Approval of the preliminary plat shall be effective for a period not to exceed two years and shall thereafter expire and be considered null and void, unless a petition for an extension of time is submitted to and subsequently approved by the Planning Board prior to the two-year limit. Vested rights are to be followed per 160D-108.

D. Final Plat

No street shall be accepted and maintained by the town, nor shall any street lighting, water, or sewer be extended to or connected with any subdivision of land as defined herein, nor shall any permit be issued by an administrative agent or department of the town for the construction of any building or other improvement requiring a permit, upon any land concerning which a plat is required to be approved unless and until the final plat has been approved by the Administrator and TRC. The procedure for obtaining final plat approval is as follows:

1. Upon approval of the preliminary plat by the Planning Board, the subdivider may proceed with the preparation of the final plat, and the installation of or arrangement for required improvements in accordance with the approved preliminary plat. Prior to approval of a final plat, the subdivider shall have installed the improvements specified in this chapter or guaranteed their installation as provided in **Article 4**.
2. The final plat shall be prepared by a professional land surveyor currently licensed and registered in the state of North Carolina and contain the required certificates as included in **Appendix A** and meet all final plat content requirements as outlined in **Appendix B**.
3. The subdivider shall submit a digital copy of the final plat to the administrator for distribution to the TRC. Once the Administrator and TRC have confirmed the final plat to be in conformity with the UDO and preliminary plat, a recordable mylar shall be provided.

9.13 Floodplain Development Permit

See Article 5, Environmental Standards.

9.14 Sign Permit

A. Applicability

Sign permits shall require review in accordance with the standards outlined in **Article 7**.

B. Effect

Except as otherwise provided in this UDO, no sign may be erected, moved, enlarged, or altered except in accordance with and pursuant to an approved sign permit.

C. Other Permits Required

A sign may also require separate building and electrical permits from the Town, verify at the time of permitting.

9.15 Administrative Modifications

A. Applicability

A design modification may be requested for any valid development approval or site-specific vesting plan, including conditional zoning districts and special use permits.

B. Design-related modifications to approved plans, permits, or development approvals shall be approved according to the following standards:

1. Major Modifications

- a. Major modifications require review according to the appropriate review procedure per the Development Review Process Table.

b. Major Modifications Include:

- (1) Removal of a new vehicular access point to an existing street, road, or thoroughfare.
- (2) Modification of special performance criteria, design standards, or other conditions or requirements specified in the original entitlement.
- (3) An increase or decrease in the total number of residential dwelling units by 10 percent or greater.
- (4) An increase in total floor area by 10 percent or greater or a decrease in total floor area by 20 percent or greater.
- (5) Any increase in the number of parking spaces of greater than 10 percent.
- (6) Any increase greater than 20 percent or decrease of greater than 10 percent in open space.
- (7) Any increase greater than 10 percent in the amount of public right-of-way or utilities, provided that any change in location or reduction in amount must also be reviewed and approved by TRC.

2. Minor Modifications

All other design-related modifications shall be considered minor, except that if cumulative minor modifications would result in a significant deviation from the original entitlement, or if review of a minor modification requires the application of subjective review criteria or standards, the modification request shall be considered major and subject to the appropriate review process.

a. Review

The TRC shall review minor modifications for consistency with this UDO and adopt Town plans and specifications.

b. Decision

- (1) Upon certification by the TRC that the modification meets (or will meet) all applicable standards of this Ordinance and other Town ordinances, the Administrator shall approve the modification with or without conditions. Approval with conditions may only be permitted to the extent that such conditions specify the actions necessary to bring the application into complete compliance with this UDO.
- (2) Should the TRC make a final determination that all such requirements and provisions have not been (nor will be) satisfied, the Administrator shall deny the application.

9.16 Temporary Use Permit

A. Applicability

Temporary uses operating for up to 90 days within a one-year period shall obtain a temporary use permit from the Administrator that outlines conditions of operations to protect the public health, safety, and welfare. Such uses include short-term or seasonal uses that are not otherwise permanently allowed in the zoning district regulations.

B. Application Submittal

The application should be submitted at least fifteen (15) days prior to the requested start date. Applications submitted late may not be approved.

C. Review

1. The TRC shall evaluate temporary uses based on the following standards:

a. **Land Use Compatibility**

The temporary use must be compatible with the purpose and intent of this UDO and the associated zoning district. The temporary use shall not impair the primary use of the same site.

b. **Other Departmental Review**

Any temporary structures shall require building permits or approvals by the Building Official and Fire Code Inspector. If necessary, the applicant must obtain approvals from the State of North Carolina and Wilkes County Health Department.

c. **Duration**

The duration of the temporary use shall be approved by the Administrator.

d. **Design Standards**

All proposed parking, landscaping, and signage shall be reviewed and approved by the Administrator so that no adverse effects are created for adjoining properties and permanent uses in the vicinity.

9.17 Administrative Appeals

The following is established to provide an appeal process for parties aggrieved by an order, requirement, decision, or determination made by the Administrator or designee charged with enforcing the specific provision of the ordinance.

A. **Application Procedure**

An appeal of an administrative decision may be taken by any person who has standing under G.S. 160D-1402(c) or by the Town, to the Board of Adjustment. Such an appeal shall be made within thirty (30) days of the receipt of the written notice of decision from the Administrator or designee, or of the filing of the written notice with the Town Clerk. If notice is sent via first-class mail, it is deemed received on the third business day following the deposit of the notice, for mailing with the United States Postal Service. A complete application, in accordance with Section 9.2, is required for an Appeal.

B. **Stay of Proceedings**

The filing of an appeal shall stay enforcement of the action appealed from and accrual of any fines assessed during the length time of the appeal to the board of adjustment and any subsequent appeal in accordance with G.S. 160D-1402 or during the length of time of any civil proceeding authorized by law or appeals therefrom unless the Administrator or designee certifies that, in their opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order or preliminary injunction granted by the Superior Court of Wilkes County in accordance with Rule 65 of the North Carolina Rules of Civil Procedure.

C. **Required Appeal Application Information**

Upon submission of a complete application, containing such relevant information as may reasonably allow the Board of Adjustment to understand the basis for the applicant's appeal, the Administrator or designee shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.

D. **Review Process**

1. Upon receiving the application and being deemed complete, the Administrator or designated staff for the Board of Adjustment shall schedule a public, evidentiary hearing on the appeal. The applicant, the local government, and any person who would have the standing to appeal the decision under G.S. 160D-1402(c) shall have the right to participate as a party at the evidentiary hearing. Refer to **Section 9.7** for hearing procedures.
2. After conducting the public hearing, the Board of Adjustment shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision, or determination in question. It shall take a simple majority vote of the Board of Adjustment to reverse or modify the contested action.
3. The Board of Adjustment, in making its ruling, shall have all the powers of the Administrator or designee from whom the appeal is taken, and may issue or direct the issuance of a permit.
4. The decision of the Board of Adjustment must be in writing and permanently filed in the minutes as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board of Adjustment, which must be delivered to parties of interest by certified mail.

9.18 Variances

The variance process administered by the Board of Adjustment is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance. However, in no event shall the Board of Adjustment grant a variance that would conflict with any state code, would allow the establishment of use that is not otherwise allowed in a particular zoning district, or which would change the zoning district classification or the district boundary of the property in question. For variances to the requirements of a water supply Watershed Overlay District and Floodplain Ordinance, see Article 5.

A. Application Procedure

An application for a variance may be filed by the owner of the property or by an agent specifically authorized by the owner to file such an application. Staff shall review an application for a variance to determine if it is complete. If an application is complete, the Administrator or designated staff shall schedule the matter for consideration at a meeting of the Board of Adjustment. The Administrator or designee shall prepare a staff report regarding the submitted variance application.

B. Review Process

1. Upon receipt of the request for a variance from the Administrator or designee, the Board of Adjustment shall hold a public, evidentiary hearing on the request.
2. After conducting the hearing and within forty-five (45) days, the Board of Adjustment 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 (4/5) of the members of the Board of Adjustment shall be necessary to grant a variance.

C. Conditions.

1. In granting any variance, the Board of Adjustment may attach such conditions to the approval as it deems necessary and appropriate to satisfy the purposes and objectives of this ordinance. The Board 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.

2. 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 below in **Required Findings**.

D. Required Findings

The Board of Adjustment shall not grant a variance unless and until it makes all of the following findings:

1. Carrying out the strict letter of the ordinance would result in 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.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
3. The hardship did not result from actions taken by the applicant of the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of this ordinance, such that public safety is secured, and substantial justice is achieved.
5. That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located..

9.19 Text Amendments

A. Applicability

Amendments to the text of this chapter shall be made in accordance with the provisions of this section. The Town Board of Commissioners shall consider amendments to the text of this chapter, as may be required from time to time.

B. Initiation of Amendment

A request to amend the text of this chapter may be initiated by the Town Board of Commissioners, Board of Adjustment, Planning Board, Administrator, or the general public.

C. Action by Administrator.

1. The Administrator shall draft the appropriate amendment and prepare a staff report that reviews the proposed text amendment request.
2. Following completion of technical review by staff, the Administrator shall forward the completed request and any related materials to the Planning Board for a recommendation.

D. Action by Planning Board

1. The Planning Board shall make a recommendation on the application to the Town Board of Commissioners. If the Planning Board fails to make a recommendation within thirty (30)-days

of referral, the Town Board of Commissioners may process the request without a recommendation.

2. When conducting a review of proposed map amendment pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan or future land use plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Board of Commissioners that addresses plan consistency. A comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Board of Commissioners.
3. Following Planning Board review, the Administrator or designee shall forward the completed request and any related materials, including the Planning Board recommendation (if applicable), to the Town Board of Commissioners for final action.

E. Action by Town Board of Commissioners

1. Before taking action on a text amendment, the Town Board of Commissioners shall consider the recommendations of the Planning Board and Administrator or designee.
2. The Town Board of Commissioners may approve the amendment, deny the amendment, or send the amendment back to the Planning Board for additional consideration.
3. Concurrently with adopting, denying, or remanding any text amendment, the Town Board of Commissioners shall adopt a statement describing whether its action is consistent or inconsistent with the adopted plans and policies of the Town and explaining why the Town Board of Commissioners considers the action taken to be reasonable and in the public interest. The requirement may also be met by a clear indication in the minutes of the Town Board of Commissioners that the Board was aware of and considered the planning board's recommendations and any relevant portions of the comprehensive plan.

F. Approval Criteria

1. In evaluating any proposed amendment of the text of this chapter, the Planning Board and the Town Board of Commissioners shall consider the following:
 - a. The extent to which the proposed text amendment is consistent with the remainder of the chapter, including, specifically, any purpose and intent statements;
 - b. The extent to which the proposed text amendment represents a new idea not considered in the existing chapter, or represents a revision necessitated by changing circumstances over time;
 - c. Whether or not the proposed text amendment corrects an error in the chapter; and
 - d. Whether or not the proposed text amendment revises the chapter to comply with state or federal statutes or case law.
2. In deciding whether to adopt a proposed text amendment to this chapter, the central issue before the Town Board of Commissioners is whether the proposed amendment advances the public health, safety or welfare and is consistent with the adopted plans and policies of the Town and the specific intent of this chapter.

A. Applicability

1. Amendments to the Zoning Map shall be made in accordance with the provisions of this Section.
2. Rezoning should correspond with the boundary lines of existing platted lots or parcels. Where the boundaries of a rezoning request stop short of an exterior property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this chapter.
3. All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, prior to advertisement of the public hearing, the rezoning shall be expanded to include all property necessary to meet zoning requirements.

B. Initiation of Amendment

1. The Town Board of Commissioners, any Town agency, or any resident or landowner within the land use jurisdiction of the Town may initiate a rezoning, in accordance with N.C.G.S. 160D.
2. **Citizen Comment**
If any resident or property owner in the Town submits a written statement regarding a proposed amendment, modification, or repeal to zoning regulation, including a map amendment that has been properly initiated as provided in 160D-601, to the clerk to the Board of Commissioners at least two (2) business days prior to the proposed vote on such change, the clerk shall deliver such written statement to the Town Board of Commissioners.

C. Review Process

1. Action by Administrator

- a. The Administrator shall prepare a staff report that reviews the rezoning request in light of the adopted plans and policies of the Town and the general requirements of this chapter.
- b. Following completion of technical review by staff, the Administrator shall forward the completed request and any related materials to the Planning Board.

2. Action by Planning Board

- a. All proposed amendments of the zoning map shall be submitted to the Planning Board for review and comment. If no written report is received from the planning board within thirty (30) days of referral of the amendment to that board, the Town Board of Commissioners may act on the amendment without the planning board report. The Town Board of Commissioners is not bound by the recommendations, if any, of the planning board.
- b. When conducting a review of proposed map amendment pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan or future land use plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Town Board of Commissioners that addresses plan consistency.
 - (1) A comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Town Board of Commissioners.

- (2) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.
- (3) The review and comment required of the Planning Board by this section shall not be assigned to the Town Board of Commissioners and must always be performed by a separate board, even if the Town Board of Commissioners is acting on behalf of the Planning Board.

- c. Following Planning Board review, the Administrator shall forward the completed rezoning request and any related materials, including the Planning Board recommendation (if applicable), to the Town Board of Commissioners for final action

3. Action by the Town Board of Commissioners

- a. Before taking action on a rezoning, the Town Board of Commissioners shall consider the recommendations of the Planning Board and Administrator.
 - b. The Town Board of Commissioners may approve the rezoning, deny the rezoning, or send the rezoning back to the Planning Board for additional consideration.
 - c. Concurrently with adopting, denying, or remanding any rezoning, the Town Board of Commissioners shall adopt a statement describing whether its action is consistent or inconsistent with the adopted plans and policies of the Town and explaining why the Town Board of Commissioners considers the action taken to be reasonable and in the public interest. The requirement may also be met by a clear indication in the minutes of the Town Board of Commissioners that the Town Board of Commissioners was aware of and considered the planning board's recommendations and any relevant portions of the comprehensive plan.
- (1) If a zoning map amendment is adopted and the action was deemed inconsistent with the plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required.
 - (2) A comprehensive plan amendment and a zoning amendment may be considered concurrently.
 - (3) The comprehensive plan consistency statement is not subject to judicial review.
 - (4) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Board of Commissioners' statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

(5) Additional Reasonableness Statement for Rezoning

- (a) When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the Town Board of Commissioners. This statement of reasonableness may consider, among other factors:
- (b) The size, physical conditions, and other attributes of the area proposed to be rezoned,

- (c) The benefits and detriments to the landowners, the neighbors, and the surrounding community,
 - (d) The relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
 - (e) Why the action is taken is in the public interest; and
 - (f) Any changed conditions warranting the amendment.
 - (g) If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the Town Board of Commissioners' statement on reasonableness may address the overall rezoning.
- (6) Single Statement Permissible**
The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

9.21 Conditional Zoning

A. Applicability

1. Development in a conditional zoning district shall be subject to all the use and development standards and requirements that apply to development in the parallel general zoning district, plus any conditions imposed as part of the conditional zoning approval.
2. The purpose of this section is to provide a uniform means for amending the Official Zoning Map to establish a conditional zoning district.
3. Only the property owner(s) may initiate the classification of property to a conditional district, or an agent authorized by affidavit to act on the owner's behalf. The developer is strongly encouraged to work closely with staff and/or Administrator and neighboring property owners before and during the application and review process to minimize delays and address concerns that may arise.

B. Petition

1. A request for rezoning to a conditional district shall include an official petition consisting of the following:
 - a. A completed application form.
 - b. A list of adjoining properties, including tax parcel numbers and the name and address of each owner. For the purposes of this section, adjoining property owners shall include owners of properties lying within one hundred feet of the subject property if located across a public or private street.
 - c. A map of the parcel and its relationship to the general area in which it is located.
 - d. All appropriate fees.
 - e. A site plan meeting the requirements of **Section .9.6.**

- f. A written description or notation on the map explaining the proposed use of all land and structures, including the number of residential units, permitted uses, yard requirements or the total square footage of any nonresidential development and planned amenities.
- g. A preliminary subdivision plat that meets all of the requirements of the subdivision ordinance, including type and quantity for submission, where subdivision of land is proposed. Any other information deemed necessary by the Administrator or Planning Board.

C. Modifications

1. The following changes and/or modifications to a Conditional District ordinance and site plan require consideration and approval by the Town Board of Commissioners. All other changes and/or modifications require consideration and approval by the Administrator. However, if in the judgment of the Administrator, the requested changes and/or modifications alter the basic development concept, the Administrator may require concurrent approval by the Planning Board and Town Board of Commissioners.
 - a. Land area being added or removed from the Conditional District.
 - b. Modification of special performance criteria, design standards, or other requirements specified by the Conditional District ordinance.
 - c. A change in land use or development type beyond that permitted by the Conditional District ordinance.
 - d. When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access.
 - e. When there is an increase in the total number of residential dwelling units originally authorized by the Conditional District ordinance.
 - f. When the total floor area of a commercial or industrial classification is increased more than ten percent (10%) beyond the total floor area originally authorized by the Conditional District ordinance.

D. Additional Requirements for Planned Developments

1. In addition, the following must be submitted prior to the public hearing for Planned Development Conditional District rezonings:
 - a. Evidence of unified control of the area of the proposed district.
 - b. Statement of agreement of all present owners and their successors in title to proceed with the proposed development according to regulations in effect when the map amendment creating the PD district is established. This statement shall be filed at the Wilkes County Register of Deeds on the subject property after approval is made for the amendment. All costs associated with filing shall be at the owner's expense.
 - c. Statement of agreement of all present owners and their successors in title to provide bonds, dedications, guarantees, agreements, contracts, and deed restrictions acceptable to the Town Board of Commissioners for completion of the development according to approved plans and for continuing operation and maintenance of areas and facilities not provided at public expense; and such dedications, contributions, or guarantees as required for public facilities and services. This statement shall be filed at the Wilkes County Register of Deeds on the subject property after approval is made for the amendment. All costs associated with filing shall be at the owner's expense.

- d. Statement of agreement of all present owners to bind future successors in title to any commitments made under subsections b and c above.
- e. Detailed proposals in accordance with subsections b and c above as a basis for specific modification of applicable regulations where such modification is intended to serve public purposes.

E. Conditions

1. Prior to the action on the proposed amendment (which may also include a period after the public hearing) any Planning Board or Town Board of Commissioners member (or any group of members not comprising a majority of such board) may meet with the petitioner to discuss the proposed plan and suggest features to be included in the rezoning proposal.
2. The specifics of the plan may be negotiated to address community issues or concerns and to ensure that the spirit and intent of this article are preserved.
3. During the public hearing, the Town Board may suggest additional features to be included or reflected in the proposal prior to taking action on the request.
4. Any modifications and/or conditions, the Board must obtain the applicant's/landowner's written consent to conditions and/or modifications related to a conditional zoning approval in regards to enforceability.

9.22 Enforcement and Penalties

A. Purpose and Intent

This section provides for the methods of notification and penalties involved in enforcement of this Ordinance. Whenever possible, it is desirable to gain voluntary compliance with the provisions of this Ordinance without the necessity of pursuing formal enforcement measures.

B. Violation

It is unlawful and a violation of this ordinance to establish, create, expand, occupy, or maintain any use, land development activity, or structure, including, but not limited to, signs and buildings, that violates or is inconsistent with any provision of this Ordinance. Approvals and authorizations include, but are not limited to Special Use Permits, Sign Permits, Building Permits, Certificates of Zoning Compliance, Certificates of Occupancy, Variances, development plans, site plans, landscaping plans, and conditions of such permits and plans. It is also a violation to engage in any construction, land development activity, or use without all approvals and authorizations required by this Ordinance.

C. Violators

1. Violators include but are not limited to, any person (s) who owns, leases, occupies, manages, or builds any structure or land development activity in violation of this Ordinance, and any person(s) who owns, leases, or occupies a use in violation of this Ordinance. A violation may be charged against more than one violator. For the purpose of **Article IV of this Ordinance**, the term "person" is defined to include but not be limited to any individual, group of individuals, or any corporation, partnership, association, company, or business, trust, joint venture, or other legal entity. In addition, one or more of the following persons may be held responsible for a violation of this Ordinance, and be subject to the remedies and penalties provided in this Section:
 - a. An owner of the property on which the violation of this Ordinance occurs, any tenant or occupant of that property who has control over, or responsibility for, its use or

development, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this Ordinance.

D. Responsibility

The Administrator shall enforce this Ordinance and the remedies authorized under this Section. The Town Attorney shall have the authority to settle any violations that involve the payment of money to the governing body.

9.23 Vested Rights

A. Applicability

1. Any amendments, modifications, supplements, repeal or other changes in these regulations or the zoning maps shall not be applicable or enforceable without the consent of the owner with regard to buildings and uses:
 - a. For which a building permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to G.S. 160D-403 and the building permit has not been revoked pursuant to G.S. 160D-403; or;
 - b. For which a zoning permit has been issued prior to the effective date of the ordinance making the change so long as the permit remains valid and unexpired pursuant to this article; or
 - c. For which a vested right has been established and remains valid and unexpired pursuant to this section.

B. Additional Procedures

A vested right to commence a planned development or use of property according to a vesting plan shall be established upon approval of a special use permit, or conditional zoning by the appropriate board. The vested right thus established is subject to the terms and conditions of the site plan. Only those design elements shown on or made a part of the site plan or permit shall be vested.

C. Term

1. A right, which has been vested by the Town of North Wilkesboro, shall remain vested for a period of two years from date of approval. Modifications or amendments to an approved plan do not extend the period of vesting unless specifically so provided by the appropriate board when it approves the modification or amendment. A vested right obtained under this section is not a personal right, but shall attach to and run with the subject property. A right which has been vested under the provisions of this sub- section shall terminate at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit has been issued except that:
 - a. When a vested development plan has been at least fifty percent completed by the end of the vesting period, the project as a whole shall be given two more years to complete development in conformance with the approved plan not to exceed a total vested period of five years; and
 - b. Prior to the vested right terminating at the end of the two-year period, the owner of the property may petition the appropriate board for a one-time, two-year extension of the vested right not to exceed a total vested period of five years. In its deliberations regarding the extension request, the board may consider, among other things:

- (1) the percentage of the project completed;

- (2) a demonstration by the petitioner of good faith efforts made towards project completion;
 - (3) the reasons for the delay of project build-out; and
 - (4) the compatibility of the planned development with current town plans and the surrounding landscape. The board may choose to extend the vested right for the entire project or only a portion of the project and may require one or more design features shown on the plan or incorporated in the permit to meet the current code
2. A multi-phased development shall be vested for the entire development with the zoning regulations, ordinances, subdivision regulations, ordinances, and unified development ordinances then in place at the time a site plan approval is granted for the initial phase of the multi-phased development.
 3. This right shall remain vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development. For purposes of this subsection, "multi-phased development" means a development containing 25 acres or more that:
 - a. is submitted for site plan approval for construction to occur in more than one phase and
 - b. is subject to a master development plan with committed elements, including a requirement to offer land for public use as a condition of its master development plan approval.

D. Vested Rights and Annexation

A petition for annexation filed with the town under G.S. 160A-31 or G.S. 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to the petition has been established. A statement that declares that no zoning vested right has been established under G.S. 160D-108, or the failure to sign a statement declaring whether or not a zoning vested right has been established shall be binding on the landowner, and any such zoning vested right which may have existed shall be terminated.

9.24 Nonconformities

A. Purpose and Applicability

The purpose of this section is to regulate and limit the continued existence of uses and structures that were established prior to the effective date of these regulations and that do not conform to these regulations. Any nonconformity created by a change in the text of these regulations or by the reclassification of property shall be regulated by the provisions of this Section. The "effective date" referenced below shall be the date the text of these regulations or the zoning map is amended to render a particular use, structure, or lot nonconforming. Many nonconformities may continue, but the provisions of this chapter are designed to curtail substantial investment in nonconformities, and to bring about their eventual improvement or elimination.

B. Specific Terms

For the purposes of this article and discussing nonconformities, the following definitions shall apply:

1. **Abandon:** To cease, either intentionally or unintentionally, from actively using land, structures, or any premises for the intended or previous use, but excluding temporary periods of inactivity due to remodeling, maintaining, or otherwise improving a facility. Abandonment is often referenced to a specified time period. This definition includes "abandon", "abandonment", and any other tense or version of the word "abandoned."

2. **Discontinued:** To quit or cease, either intentionally or unintentionally, operation or activity associated with a use of land, structures, or any premises from their intended or previous use or to replace the previous use with a new use of a different kind or class. A change of occupancy, owner, or tenant does not constitute a discontinuance or change of use. This definition includes "discontinue", "discontinuance", "ceased" (as it refers to a use), and any other tense or version of the word "discontinued."

C. Other Clarifications

An "intent to resume" a use, operations, or activities may be demonstrated through continuous operation of a portion of the facility, by the maintenance of water, sewer, electric, and other utility service (as appropriate), or by other outside documentation such as proof of deliveries.

D. Nonconforming Uses

1. Normal Maintenance and Repair of Structures with Nonconforming Uses

Normal maintenance or repair of structures where nonconforming uses are located may be performed in any consecutive 12-month period, to an extent not exceeding thirty-three (33) percent of the current assessed value of the structure. Such maintenance and repair shall not be allowed to increase the cubic content of the structure occupied by the nonconforming use, except pursuant to this section.

2. Extension

- a. A nonconforming use may be extended throughout any portion of a completed structure that, when the use was made nonconforming by this UDO, was manifestly designed or arranged to accommodate such use. However, a nonconforming use may not be extended to additional structures or to land outside the original structure.
- b. A nonconforming use of open land may not be extended to cover more land area than was occupied by that use when it became nonconforming, except that a use involving the removal of natural materials (e.g., a quarry) may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming if ten percent or more of the earth products had already been removed prior to **XX,XX,XXXX**.

3. Change of Use

A nonconforming use may be changed to any permitted use(s) in the subject district, so long as new nonconformities or an increase in the extent of existing nonconformities, such as parking requirements, are not created. The affected property may not then revert to a nonconforming use.

4. Continuation of Accessory Use

No use that is accessory to a principal nonconforming use shall continue after such principal use has discontinued, ceased, been abandoned, or terminated unless it conforms to all provisions of this UDO.

5. Discontinuance and Abandonment

- a. A nonconforming use shall be presumed to be discontinued and abandoned, shall lose its nonconforming status, and shall not be reestablished or resumed and thereafter be used only for conforming purposes, when any of the following has occurred:
 - (1) The owner has indicated intent to abandon the use, delivered in writing to the Administrator.

- (2) When a nonconforming use is abandoned or discontinued for a consecutive 180-day period or for a total of 180 calendar days in a 12-month period.
- (3) At the point when the electric meter is pulled off or water service or other public utility service is terminated on a structure or lot due to any reason, provided that it is not replaced or reactivated within the 180-day period immediately following.
- b. All of the uses and structures maintained on a lot are generally to be considered as a whole in determining whether a right to continue a nonconforming situation is lost pursuant to this section. However, if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter.

E. Nonconforming Structures

1. Normal Maintenance and Repair

Normal maintenance or repair of nonconforming structures may be performed in any consecutive twelve-month period, to an extent not exceeding thirty-three (33) percent of the current tax assessed value of the structure. Such maintenance and repair shall not be allowed to increase the cubic content of the structure, except pursuant to this section.

2. Alterations or Additions

Alterations or additions to a nonconforming structure may be permitted as long as the alterations or additions do not increase the nonconformity of the structure related to the building setback line, height limitations, yard, or other provisions regulating the size and placement of structures for the district in which the nonconforming structure is located.

3. Reconstruction

a. Nonresidential Structures

- (1) If a nonresidential structure, including any accessory structure, is damaged by reason of fire, flood, explosion, earthquake, or other extraordinary circumstance; it may be repaired, reconstructed, and used as before if the damage does not exceed fifty (50) percent of its replacement value based on tax assessed value or appraisal from a licensed professional as determined by the Administrator, and if the repairs and reconstruction are done within 12 months from the time such damage occurred. Notwithstanding the foregoing, no illegal use shall be re-established.
- (2) If a nonresidential building or structure, including any accessory structure, is damaged, and if such damage is greater than fifty (50) percent of its replacement value based on tax assessed value or appraisal from a licensed professional as determined by the Administrator, such building or structure may only be reconstructed to conform with the current standards in the district in which it is located.

b. Residential Structures

If a residential structure, including any accessory structure, is damaged greater than fifty (50) percent of its replacement value based on tax assessed value or appraisal from a licensed professional as determined by the Administrator, such building or structure may be repaired, reconstructed, and used as before if the repairs and reconstruction are done within twelve 12 months from the time such damage occurred. Notwithstanding the foregoing, no illegal use shall be re-established.

4. Unsafe Structure

If a nonconforming structure or portion thereof is declared to be an unsafe structure per G.S. § 160D-1119, it shall thereafter be rebuilt only in conformance with the standards of this UDO and the adopted building code.

5. Discontinuance and Abandonment

- a. If a nonconforming structure on a property is abandoned or all associated use of the structure has been discontinued for a period of one-hundred and eighty (180) consecutive days, any subsequent use of that property shall conform to current zoning district regulations.
- b. When a structure made nonconforming by this UDO is abandoned or all associated use of the structure has been discontinued for more than one-hundred and eighty (180)-day period.
- c. All of the uses and structures maintained on a lot are generally to be considered as a whole in determining whether a right to continue a nonconforming situation is lost pursuant to this section.
- d.

1. Setback Requirements

When the use proposed for a nonconforming lot is one that is conforming in all other respects but the applicable setback requirements cannot reasonably be complied with, then the entity authorized to issue a permit for the proposed use may allow deviations from the setback requirements if it makes all of the following findings:

- a. That the property cannot reasonably be developed for the use proposed without such deviations.
- b. That these deviations are necessitated by the size or shape of the nonconforming lot.
- c. That the property can be developed as proposed without any significantly adverse impact on surrounding properties or the public health or safety.

2. Setback Hardship

For purposes of this section, strict compliance with applicable setback requirements is not reasonably possible if a building serving the minimal needs of the proposed use cannot practically be constructed and located on the lot in conformity with setback requirements. Financial hardship does not constitute grounds for finding that compliance is not reasonably possible.

3. Governmental Acquisition of Land

A lot, established under the provisions of this Ordinance or a previous town zoning ordinance, that is reduced in size by governmental action, such as acquisition for a right-of-way or other governmental use, shall not render the lot nonconforming.

F. Nonconforming Signs

1. Normal Maintenance and Repair

- a. Nonconforming signs may be maintained or repaired as long as the cost of any work requiring a permit does not exceed, within a 12-month period, 33 percent of the value of such sign. Proof of value is required at the time of permit.

- b. The message of a nonconforming sign (sign face) may be changed, so long as a change in use has not occurred. If a change in use occurs, a change of sign face is not considered normal maintenance and repair; therefore, the sign and associated sign structure(s) must be brought into full conformity with this UDO.

2. Enlargement of Alteration

- a. No nonconforming sign shall be enlarged or altered in any manner that results in a greater degree of nonconformity.
- b. No alteration of the structure of any nonconforming sign shall be permitted, except to bring the sign into conformity.
- c. Illumination may not be added to a nonconforming sign that previously was unilluminated.

3. Discontinuation of Business

If a nonconforming sign other than a billboard advertises a discontinued business, service, commodity, accommodation, attraction or other enterprise, that sign shall be considered abandoned and shall be removed within ninety (90) days after such abandonment by the sign owner, property owner, or other person having control of the property.

4. Billboards on Federal-Aid Highways

Billboards on federal-aid highways are protected by the State and Federal Highway Beautification Acts (Article 11 of G.S. § 136, and 23 U.S.C. § 131) and cannot be amortized and can only be removed upon payment of just compensation as defined by those Acts.

9.25 Enforcement Procedures

A. Inspections and Investigations

A program of inspections and investigations to determine compliance with the Zoning Ordinance and orders, plans, permits, certificates, and authorizations issued under the Zoning Ordinance, is hereby authorized. This program shall be conducted under the general authority of the Administrator. On receiving complaints or other information indicating a violation of this Ordinance, the Administrator or Zoning Enforcement Officer shall investigate the situation and determine whether a violation exists. Inspections shall be during reasonable hours and the inspector must present credentials and consent of the premises owner or an administrative warrant to inspect areas not open to the public.

B. Initial Notice of Violation

On determining that a violation exists, the Administrator, whenever possible, make contact with the violator either in person or via telephone to discuss the violation. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property and shall be recorded in the file. The notice shall describe the nature of the violation and its location, state the actions necessary to correct the violation, and invite the alleged violator to meet with the Administrator to discuss the violation and how it may be corrected. The Administrator may provide the alleged violator additional notices of violation. This notice is an administrative determination subject to appeal.

C. Final Notice of Violation; Correction Order

1. The Administrator's final written notice of violation (which may be the initial notice) shall also order correction of the violation, specify a reasonable time period in which the violation must be corrected, state the remedies and penalties authorized in Section the Administrator may pursue if the violation is not corrected within the specified time limit, and state that the correction order may be appealed to the Board of Adjustment if the correction order is the initial notice.
2. The final notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property and shall be recorded in the file.
3. A notice of a new violation is not required where a notice of a violation of the same kind has been issued to the same violator at the same property within the previous two (2) years. In such cases, the violator may be charged with a continuing violation without further notice, as provided in Section X.X below. A notice is also not required where action is taken under Sections X.X or X.

D. Appeal to the Board of Adjustment

Any person aggrieved by the Administrator's determination of a violation or a correction order may appeal that determination or order to the Board of Adjustment. An appeal generally stays all further actions to enforce a notice of violation, correction order, or Stop Work Order, until the Board of Adjustment has made a decision concerning the appeal. Civil Penalty citations that follow the initial notice of violation may not be appealed to the Board of Adjustment. The Board shall hear the appeal and may affirm, modify, or revoke the Administrator's determination of a violation. If there is no appeal, the Administrator's determination of the nature and degree of the violation are final.

E. Failure to Comply with Notice or Board of Adjustment Decision

If the violator does not comply with a notice of violation, correction order, Stop Work Order, which has not been appealed, or with a final decision of the Board of Adjustment, the violator shall be subject to enforcement action as prescribed by G.S.160D-403 or by this Ordinance.

F. Extension of Time Limit to Correct Violation

The recipient of an initial notice of violation, correction order, or Stop Work Order, or the owner of the property on which the violation occurs, may, within thirty (30) days of the receipt or posting of the initial notice of violation or correction order, whichever is earlier, submit to the Board of Adjustment, a written request, to be filed with the Administrator, for extension of the specified time limit for correction of the violation. In cases where an appeal of the notice of violation has been properly filed with the Board of Adjustment, the thirty (30) day period shall commence upon receipt of the notice of the Board of Adjustment decision concerning the violation or correction order. The Administrator shall assist individuals in the preparation of said statement in cases where an individual(s) is/are unable to prepare a written statement. The Administrator will recommend whether the time limit should be extended. On determining that the request includes enough information to show that the violation cannot be corrected within the specified time limit, for reasons beyond the control of the person requesting the extension, the Board of Adjustment may extend the time limit as reasonably necessary to allow timely correction of the violation.

G. Enforcement Action After Time Limit to Correct Violation

Following the time limit for correction of the violation, including any stay or extension thereof, the Administrator shall determine whether the violation has been corrected. If the violation has been corrected, the Administrator shall take no further action against the alleged violator. If the violation has not been corrected, the Administrator may act to impose one or more of the remedies and penalties specified in the notice of violation, correction order, or Stop Work Order.

H. Emergency Enforcement Without Notice

If delay in correcting a violation would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety, or welfare, the Administrator may seek immediate enforcement without prior written notice through any of the remedies or penalties authorized in Section 9.22.

I. Remedies, Penalties, Enforcement Action

The Administrator may pursue one (1) or more of the following remedies and penalties described below or in Section 9.22, or otherwise authorized by common law or statute, to prevent, correct, or abate a violation of this Ordinance. Use of one (1) of the authorized remedies and penalties does not preclude the Administrator from using any other authorized remedies or penalties, nor does it relieve any party to the imposition of one (1) remedy or penalty from imposition of any other authorized remedies or penalties.

J. Permit Revocation

In accordance with the provisions of this Ordinance, the Administrator, upon a written determination, may revoke any permit, certificate, or other authorization granted under this Ordinance for failure to comply with the provisions of this Ordinance or the terms and conditions of a permit or authorization granted under this Ordinance. Any permit, certificate, or authorization mistakenly issued in violation of State law or local ordinance, or issued on the basis of misrepresentations by the applicant, owner, or owner's agent may be revoked without such written determination.

K. Permit Denial or Conditioning

As long as a violation of this Ordinance remains uncorrected, the Administrator may deny or withhold approval of any permit, certificate, or other authorization provided for in this Ordinance that is sought for the property on which the violation occurs. The Administrator may also condition a permit, certificate, or authorization on the correction of the violation and/or payment of a civil penalty, and/or posting of a compliance security.

L. Injunctive and Abatement Relief in Superior Court

A violation may be corrected by any appropriate equitable remedy, a mandatory or prohibitory injunction, or an order of abatement as authorized by NC General Statute 160A-175. The Administrator shall have the authority to execute an order of abatement if the violator does not comply with such order, and the costs of the execution shall be a lien on the property in the nature of a mechanic's or material man's lien.

M. Judicial Action to Collect Civil Penalty

1. A civil action in the nature of a debt may be filed in any court of competent jurisdiction to collect an unpaid civil penalty imposed under **Section X.X** below.

a. Stop Work Order

- (1) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, moved or maintained, or any building, structure or land is used in violation of a Stop Work Order, the Administrator, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or lands, or to prevent any illegal act, conduct, business or use in or about the premises.
- (2) The stop work order shall be in writing, directed to the person doing the work or activity, and shall state the specific work or activity to be stopped, the reasons therefore, and the conditions under which the work or activity may be resumed. A copy of the order shall be delivered to the holder of the development approval and to the owner of the property involved (if that person is not the holder of the

development approval) by personal delivery, electronic delivery, or first-class mail. The person or persons delivering the stop work order shall certify to the local government that the order was delivered and that certificate shall be deemed conclusive in the absence of fraud.

- (3) No further work or activity shall take place in violation of a stop work order pending a ruling on the appeal. Violation of a stop work order shall constitute a Class 1 misdemeanor.
- (4) The person(s) conducting the violating activity and/or the property owner may appeal the Stop Work Order to the Board of Adjustment pursuant to Section 9.22 of this ordinance.

9.26 Civil Penalty

A. General.

The Administrator, may impose one or more civil penalties and issue one or more Civil Penalty citations for a violation as provided below. If the violator does not pay the penalty, the Administrator may collect it in a court through a civil action in the nature of a debt.

B. Notice of Civil Citations.

Notice of civil citations shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of civil citation may be posted on the property. The notice shall include a copy of the notice of violation, the amount of the penalty, information about where to pay the penalty, the deadline for payment, which shall be ten (10) days from the date of the notice, and the possibility of civil enforcement.

C. Amount

1. Fines associated with notices of violations are outlined in the Town's fee schedule.
2. In addition to civil penalties rendered, the violator may be required to pay any and/or all attorney's fees in the collection of monetary penalties.

D. Continuing Violations

The Administrator may issue a Civil Penalty citation for a violation that continues without being corrected. The violator in such cases may be assessed a penalty for each day of the continuing violation. An initial Civil Penalty citation for a single violation must be issued before a Civil Penalty citation for a continuing violation is issued. If the violator has failed to pay the penalty and correct the violation after the initial Civil Penalty citation, the violator is subject to a Civil Penalty citation for a continuing violation with a daily penalty. An initial Civil Penalty citation is not required if the Town has previously issued a Civil Penalty citation to the violator for the same violation at the same location within the previous two (2) years. The Administrator may give a single notice of a Civil Penalty citation for a continuing violation. The notice must contain a copy of the notice of violation and must state that the violation is continuing, that a daily penalty of a specified amount is being imposed, and that the penalty is cumulative.

E. Settlement of Claims

The Town Attorney is authorized to determine the amount of payment that will be accepted in full and final settlement of some or all of the claims the Board of Commissioners may have in connection with the violation. The Town Attorney shall indicate in writing the claims from which the violator is released. If the violation has not been remedied, payment shall not release a violator from potential civil prosecution or a claim for injunctive relief and/or an order of abatement.

A. General Provisions

1. No subdivision plat of land within the Water Supply Watershed shall be filed or recorded by the Register of Deeds until it has been approved in accordance with the provisions of this Article. Likewise, the Clerk of Superior Court shall not order or direct the recording of a plat if the recording of such plat would conflict with this Article.
2. The approval of a plat by itself does not constitute or effect the acceptance by the Town of North Wilkesboro or the public of the dedication of any street or other ground, easement, right-of-way, public utility line, or other public facility shown on the plat and shall not be construed to do so.
3. All subdivisions shall conform with the mapping requirements contained in GS 47-30.
4. All subdivisions of land within the jurisdiction of [county][town] after the effective date of this ordinance shall require a plat to be prepared, approved, and recorded pursuant to this ordinance.

B. Subdivision Application and Review Procedures.

1. All proposed subdivisions shall be reviewed prior to recording with the Register of Deeds by submitting a vicinity map to the Administrator to determine whether or not the property is located within the designated Water Supply Watershed. Subdivisions that are not within the designated watershed area shall not be subject to the provisions of this ordinance and may be recorded provided the Administrator initials the vicinity map. Subdivisions within a WS-IV watershed are subject to the provisions of this ordinance only when an erosion and sedimentation plan is required under the provisions of State law or approved local program, unless another stormwater program applies. Local government should always be aware that other post construction requirements may apply even when water supply watershed protection requirements do not. Subdivisions within the designated watershed area shall comply with the provisions of this Article and all other state and local requirements that may apply.
2. Subdivision applications shall be filed with the Administrator. The application shall include a completed application form, two (2) copies of the plat, a description of the proposed method of providing storm water drainage, and supporting documentation deemed necessary by the Administrator.
3. The Administrator shall review the completed application and shall either approve, approve conditionally or disapprove each application. The Administrator shall take final action within forty-five (45) days of submission of the application. The Administrator may provide public agencies an opportunity to review and make recommendations. However, failure of the agencies to submit their comments and recommendations shall not delay action within the prescribed time limit. Said public agencies may include, but are not limited to, the following:
 - i. The NCDOT district highway engineer with regard to proposed streets and highways.
 - ii. The Health Department director with regard to proposed private water system or sewer systems normally approved by Health Department.
 - iii. The state Division of Water Resources with regard to proposed sewer systems normally approved by the Division. The state Division of Energy, Mineral and Land Resources with regard to engineered storm water controls or storm water management in general.
 - iv. The county for subdivisions located in Extraterritorial Jurisdiction (ETJ) of a municipality.
 - v. Local government entities responsible for proposed sewer and/or water systems.
 - vi. Any other agency or official designated by the Administrator.
4. If the Administrator approves the application, such approval shall be indicated on both copies of the plat and signed by the Administrator.

5. If the Administrator disapproves or approves conditionally the application, the reasons for such action shall be stated in writing for the applicant and may be entered in the minutes. The subdivider may make changes and submit a revised plan which shall constitute a separate request for the purpose of review.
6. As a condition for approval, all subdivision plats shall comply with the requirements for recording of the County Register of Deeds.
7. The plat shall be recorded within ninety (90) days of approval. The Subdivider shall provide the Administrator with evidence the plat has been recorded with the Register of Deeds within five (5) working days of recordation.

C. Subdivision Standards and Required Improvements.

1. All lots shall provide adequate building space in accordance with the development standards contained in this ordinance. Lots smaller than the minimum required for residential lots may be developed using built-upon area criteria in accordance with this ordinance.
2. 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.
3. Storm Water Drainage Facilities: The application shall be accompanied by a description of the proposed method of providing storm water drainage. The subdivider shall provide a drainage system that diverts stormwater runoff away from surface waters, incorporates Storm water Control Measures to minimize water quality impacts, and meets any local requirements.
4. Erosion and Sedimentation Control: The application shall, where required, be accompanied by the Sedimentation and Erosion Control Plan approval by the [local agency administering a Sedimentation and Erosion Control Ordinance approved by the N.C. Division of Energy, Mineral and Land Resources] [N.C. Division of Energy, Mineral, and Land Resources].
5. Roads constructed in critical areas and watershed vegetated conveyance areas: Where possible, roads should be located outside of critical areas and watershed vegetated conveyance areas. Roads constructed within these areas shall be designed and constructed to minimize their impact on water quality.

D. Construction Procedures

1. No construction or installation of improvements shall commence in a proposed subdivision until a preliminary subdivision plat has been approved.
2. No building or other permits shall be issued for erection of a structure on any lot not on record at the time of adoption of this Ordinance until all requirements of this Ordinance have been met. The subdivider, prior to commencing any work within the subdivision, shall make arrangements with the Administrator to provide for adequate inspection.

E. Penalties for Transferring Lots in Unapproved Subdivisions

Any person who, being the owner or agent of the owner of any land located within the jurisdiction of North Wilkesboro, thereafter subdivides his land in violation of this ordinance or transfers or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the plat has been properly approved under this ordinance and recorded in the office of the register of deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring land shall not exempt the transaction from this penalty. The Town of North Wilkesboro may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with this ordinance.

Rules of Construction.

For the purposes of these regulations, the following rules of construction apply.

- A. Interpretations shall be guided by statements of intent.
- B. The term "ordinance" shall refer to the Town of North Wilkesboro Unified Development Ordinance.
- C. The words "shall", "must", and "will" are mandatory, implying an obligation or duty to comply with the particular provision.
- D. The word "may" is permissive, except when the context of the particular use is negative, then it is mandatory (i.e. may not.).
- E. The word "should", whether used in the positive or the negative, is a suggested guideline.
- F. References to "days" will always be construed to be business days, excluding weekends and Town-observed holidays, unless the context of the language clearly indicates otherwise.
- G. For purposes of interpreting this ordinance, certain words, concepts, and ideas are defined in Section 5.3. Except as defined herein, all other words used in this ordinance shall have their everyday dictionary definition.
- H. Words used in the present tense include the future tense, and words used in the future tense include the present tense.
- I. Words used in the singular number include the plural, and words used in the plural number include the singular.
- J. The word "person" includes a firm, association, organization, partnership, corporation, trust, and company, as well as an individual.
- K. The word "lot" includes the word "plot", "parcel" or "tract".
- L. The word "building" includes the word "structure", and the word "structure" includes the word "building".
- M. The words "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed" to be used or occupied.
- N. Words used in the masculine gender include the feminine gender.
- O. The word "street" includes the words road, avenue, place, way, drive, lane, boulevard, highway, and any other facility principally designed for motor vehicle traffic, except an alley or an easement solely for utilities or pedestrians
- P. The terms "Town Board" and "Board of Commissioners" shall mean the Town Board of Commissioners of the Town of North Wilkesboro, North Carolina.
- Q. The term "Planning Board" shall mean the Planning Board of the Town of North Wilkesboro, North Carolina.
- R. The term "Administrator" shall mean the Zoning Administrator of the Town of North Wilkesboro's Unified Development Ordinance, North Carolina, currently designated as the Planning Director or other Town Manager designee.

- S. The term "Manager" or "Town Manager" shall mean the Town Manager of the Town of North Wilkesboro, North Carolina.
- T. The term "Board of Adjustment" shall mean the Board of Adjustment of the Town of North Wilkesboro, North Carolina.
- U. The term "state" shall mean the State of North Carolina.
- V. Any reference to an article shall mean an article of the Town of North Wilkesboro Zoning Ordinance, unless otherwise specified.
- A. Where uncertainty exists as to the boundaries of any district shown on the official zoning map, the Administrator shall employ the following rules of interpretation.
 - 1. Where the zoning maps show a boundary line located within a street or alley right-of-way, railroad or utility line right-of-way, easement or waterway, it shall be considered to be in the center of the right-of-way, easement or waterway. If the actual location of such right-of-way, easement or waterway varies slightly from the location as shown on the zoning maps, then the actual location shall control.
 - 2. Where the zoning maps show a district boundary to approximately coincide with a property line or city, town or county border, the property line or border shall be considered to be the district boundary, unless otherwise indicated on the zoning map.
 - 3. Where the zoning maps show a district boundary to not coincide or approximately coincide with any street, alley, railroad, waterway or property line, and no dimensions are shown, the location of the boundary shall be determined by use of the scale appearing on the zoning maps to determine the boundary's distance from other features shown on the map.
 - 4. If, because of error or omission in the zoning maps, any property within the jurisdiction of this ordinance is not shown as currently being in a zoning district, such property will be classified as "R10", until changed by amendment.
 - 5. The Administrator shall decide the exact location of zoning district boundary lines when a question arises concerning boundary lines shown on the zoning maps. This decision may be appealed to the Board of Adjustment.
 - 6. Where district boundaries appear to be parallel to the centerline of streets, easements or rights-of-way, such district boundaries shall be construed to be parallel thereto and at such a distance there from as is indicated on the zoning maps.

B. Split Tracts

- 1. The Administrator shall employ the following rules with respect to split tracts and fractional requirements:
- 2. Where a district boundary line divides a lot or tract in single ownership, the district requirements for the most restricted portion of such lot or tract shall be extended to apply to the whole, provided such extensions shall not include any part of a lot or tract more than thirty-five feet beyond the district boundary line. The term "most restrictive" shall refer to all zoning restrictions except lot or tract size.
- 3. When any requirement of this ordinance results in a fraction of a dwelling unit or other measurement, that fraction will be disregarded and the nearest lower whole number shall apply.

4. Whenever a density calculation for a legal lot of record results in less than one (1) dwelling unit being permitted, one dwelling unit will be permitted subject to the remaining provisions of this ordinance.

C. Rules of Conflict

1. In the event of a conflict between the text of this article and any caption, figure, illustration, or table included herein, the text of this article shall control.
2. In the event there is a conflict in limitations, requirements or standards applying to any individual use or structure, the more stringent or restrictive provision shall apply.

D. Distance Measurements

1. Distance separations are required for many uses in this article. Unless otherwise specified, the following rules shall apply in determining such measurements:
 - a. Where lot separation is required, measurements shall be made from lot line to lot line using the shortest straight-line distance between lots.
 - b. Where separation between a building, structure, parking area, buffer, driveway or similar feature on a development site and any other feature on the same or abutting site is required or is part of a regulation contained herein, such separation shall be measured between the closest points on the feature using the shortest straight-line distance between the two (2).

ARTICLE X. DEFINITIONS

For the purpose of interpreting this ordinance, certain words and terms used in this ordinance are defined as follows. Except as defined herein, all other words used in this ordinance shall have their usual, customary dictionary meaning.

10.1 Definitions

ABANDONED.

A use shall be deemed to be abandoned when:

- a) the use is physically and objectively discontinued (other than in association with the settlement of an estate or for any use which is seasonal in nature); or
- b) the premises are devoted to the use not originally permitted; or
- c) the characteristic equipment and furnishings of a nonconforming nonresidential use have been physically removed from the premises and have not been replaced by the same or similar equipment within thirty (30) days.

All of the above events are considered abandonment, regardless of the intent of the owner, lessee or occupant and regardless of any circumstances beyond the control of such parties that prevent continuation of the use.

ABATTOIRS.

A facility used for slaughtering and processing of animals and the refining of their byproducts.

ABUTTING PROPERTIES.

Properties having common boundaries or lot lines which are not separated by a street, alley, or other vehicular right-of-way such as a railroad.

ACCESSORY COMMUNICATION ANTENNAE.

An antennae configuration that is attached to a building, water tower, or other existing structure where the communication facility is customarily incidental to the main or principal building or structure.

ACCESSORY DWELLING UNIT.

See "Dwelling Unit, Accessory, Attached" and "Dwelling Unit, Accessory, Detached".

ACCESSORY STRUCTURE OR USE.

A use or structure that is customarily or typically subordinate to and serves a principal use or structure; is clearly subordinate in area, extent, or purpose to the principal use or structure served; and is located on the same lot as the principal use or structure. This includes freestanding satellite dishes, any other devices that access satellites, and amateur radio antennae.

ADAPTIVE REUSE.

A rehabilitation, reconstruction or renovation of existing buildings or structures for any use other than its current use.

ADDITION.

(Applies only to the Floodplain Overlay District.) An extension or increase in the floor area or height of a building or structure.

ADJACENT PROPERTY.

A tract that is contiguous or abutting with the subject property assuming that intervening railroads, roads, and other rights-of-way do not exist.

ADMINISTRATOR.

The staff person or their designee responsible for the administration of this Ordinance, whole or in part.

ADULT ESTABLISHMENT.

A principal or accessory structure or use of land which meets the definition of adult establishment as set forth in G.S. 14-202.10 et. seq. and the North Wilkesboro code of Ordinances, but excluding massage therapy.

ADULT USES.

A structure or use of land which meets any definition of adult establishment as outlined in G.S.14-202.10 (Licensed health massage/body work therapists shall not be considered an adult massage business).

AGRICULTURAL INDUSTRY.

A commercial poultry or swine production, cattle or swine feed lot, fur bearing animal farm, commercial plant production (not retail nurseries) on more than two acres, commercial fish or poultry hatchery, and other similar activities.

AIRCRAFT.

An airplane, helicopter, or other machine capable of flight. Including all fixed-wing or rotary-wing crafts.

AIRPORT ELEVATION.

(Applies only to the Airport Overlay District.) A measurement of the highest point of the airport's useable landing area, measured in feet above mean sea level (1301.0').

AIRPORT.

(Applies only to the Airport Overlay District.) A landing field(s), parking and service facility, passenger and baggage terminal(s), and related facilities for the operation, service, fueling, repair, storage, charter, sales, and rental of aircraft. This term shall also be used in reference to the Wilkes County Airport.

ALLEY.

A service way providing a secondary means of public access to abutting property. Alleys shall not be used for sole frontage of a property.

ALTERATION OF A WATERCOURSE.

(Applies only to the Floodplain Overlay District) A dam, impoundment, channel relocation, change in channel alignment, channelization, or change in cross-sectional area of the channel or the channel capacity, or any other form of modification which may alter, impede, retard or change the direction and/or velocity of the riverine flow of water during conditions of the base flood.

ALTERATION.

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

AMENDMENT.

A change by the Town Board to the text of these regulations or the official zoning maps.

AMORTIZATION.

A provision requiring a non-conformance to either become conforming or be removed within a set period of time, otherwise known as the amortization period.

ANIMAL UNIT.

(Applies only to the Watershed Overlay District.). A unit of measurement developed by the U.S. Environmental Protection Agency that is used to measure the impact of animal operations on a water supply watershed. One animal unit is equivalent to one (1) head of cattle excluding mature dairy and veal cattle; 0.7 mature dairy cows; two and one half (2.5) swine weighing more than fifty-five (55) pounds; ten (10) swine weighing fifty (55) pounds or less; fifty-five (55) turkeys; one hundred (100) chickens; and one (1) veal calf.

AMUSEMENT, COMMERCIAL INDOOR.

A business establishment which is primarily engaged in providing an amusement activity such as a video arcade, billiard parlor, skating rink or similar activity as a principal use to the general public, but does not include indoor motion picture theaters.

AMUSEMENT, COMMERCIAL OUTDOOR.

A business establishment which is primarily engaged in providing an amusement activity such as a miniature golf course, skateboard course, water slide, mechanical ride, Par 3 golf course, golf driving range, or go-cart course, fish ranch, or similar activity to the general public, but does not include outdoor motion picture theaters, raceways, drag strips, or motorcycle courses.

APPEAL.

An action requesting reversal or modification of an interpretation or decision made by the Zoning Administrator or Floodplain Administrator in the application of these regulations.

APPLICANT.

A person seeking approval under these regulations for any form of development or use of land.

APPROACH SURFACE.

(Applies only to the Airport Overlay District.). A surface longitudinally centered on the extended runway centerline of the airport, 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 6.5(A) (3) B. In plan, the perimeter of the approach surface coincides with the perimeter of the approach.

AREA OF SHALLOW FLOODING.

(Applies only to the Floodplain Overlay District.). A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with base flood depths determined to be from one (1) to three (3) feet. These areas are located where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD.

(Applies only to the Floodplain Overlay District). See "SPECIAL FLOOD HAZARD AREA (SFHA)"

ARENA.

A structure or facility designed and intended to be used primarily for athletic events and containing seating for spectators of those events, but not including a raceway or drag strip.

ARMORY.

A Federal or state military facility engaged in the storage and maintenance of weapons and munitions.

STUDIO.

A place used for the creation of objects, made one at a time, by hand. Such creation includes, but is not limited to, wood working, tin-smithing, silver-smithing, pottery throwing, glass blowing, painting, weaving, caning, metal working, and sculpting.

ARTIFICIAL OBSTRUCTION.

An object or material which is not a natural obstruction, while not a significant obstruction in itself, is capable of accumulating debris and thereby reducing the flood-carrying capacity of a stream.

ASPHALT AND CONCRETE PLANT AND CONTRACTORS.

A facility preparing asphalt and/or concrete mixtures for street and driveway paving, including contractors engaged in asphalt and/or cement work.

ASSEMBLY HALLS.

A public or private facilities used or intended as venues for gatherings, not including churches, courthouses, town halls or community centers.

AUCTION HOUSE.

A structure where gatherings are held and organized for the auction, bidding and sale of merchandise.

AUTOMATIC TELLER MACHINE.

A type of banking and financial service(s) with automated or self-service banking features with no staff or personnel provided.

AUTOMOTIVE PARKING LOTS AND DECKS.

Land and/or structures used principally for temporary parking of motor vehicles.

AWNING.

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

BALANCE OF WATERSHED.

(Applies only to the Watershed Overlay District.). An area within a designated water supply watershed that is not a critical area as defined in this article.

BANKING AND FINANCIAL SERVICES.

A facility engaged in deposit banking or extending credit in the form of loans.

BAR.

An establishment where the principal use is to serve spirituous liquors and/or beer to be consumed on the premises. Usually furnished with counters and stools. Food may or may not be served.

BASE FLOOD ELEVATION (BFE).

(Applies only to the Floodplain Overlay District.). 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 or State or other source using FEMA approved engineering methodologies. This elevation, when combined with the "Freeboard", establishes the "Regulatory Flood Protection Elevation".

BASEFLOOD.

(Applies only to the Floodplain Overlay District.). Means the flood level having a one (1) percent chance of being equaled or exceeded in any given year.

BASEMENT.

(Applies only to the Floodplain Overlay District.). An area of the building having its floor subgrade (below ground level) on all sides.

BED AND BREAKFAST ESTABLISHMENT.

An owner-occupied residential building providing rooms for temporary overnight lodging and breakfast for more than three but not more than eight guests on a paying basis.

BERM.

An earthen mound designed to provide visual interest, screen undesirable views, and/or decrease noise.

BEST MANAGEMENT PRACTICES (BMPs).

(Applies only to the Watershed Overlay District.) A structural or non-structural management-based practice used singularly or in combination to reduce non-point source pollution entering receiving waters in order to achieve water quality protection goals. Acceptable BMPs shall consist of only those described in the Department of Environmental Quality's latest Stormwater Design Manual at <https://www.deq.nc.gov/about/divisions/energy-mineral-and-land-resources/stormwater/stormwater-program/stormwater-design-manual>

BEST MANAGEMENT PRACTICES (BMP), NON-STRUCTURAL.

A non-engineered methods used to control the amount of non-point source pollution entering the receiving waters. These may include land-use controls and vegetated buffers.

BEST MANAGEMENT PRACTICES (BMP), STRUCTURAL.

An engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply.

BOARDING OR ROOMING HOUSE.

A residential dwelling, or part thereof, in which lodging is provided to more than three but not more than eight paying guests on a weekly or longer basis and where the rooms rented neither individually nor collectively constitute separate dwelling units.

BOWLING ALLEY.

A commercial indoor recreational establishment providing lanes and equipment for bowling.

BREAKAWAY WALL.

(Applies only to the Floodplain Overlay District). A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system.

BREWERY.

An establishment primarily engaged in the wholesale production and distribution of beer, ale, porter and other fermented malt beverages. Areas for demonstration, education or tasting are included in this definition and are incidental to the primary use of producing beverages in accordance with state ABC permits.

BREW PUB. An eating establishment engaged in the incidental retail production of beer, ale, porter and other fermented malt beverages. Areas for demonstration, education or tasting are included in this definition and are incidental to an eating establishment and producing beverages in accordance with state ABC permits.

BROADCAST STUDIO.

An establishment primarily engaged in providing two-way radio/telephone communication services, telephone voice and data communications, telegraph services, radio and television broadcasting, or cable and other pay television services, but excluding those uses classified as utilities.

BUFFER WITHIN WATERSHED AREA.

(Applies only to the Watershed Overlay District.). 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.

(See also "Screening".) A strip of land with natural or planted vegetation, located between a structure or use and a front, side or rear property line, intended to spatially separate and visually obstruct the view of two adjacent land uses or properties from one another. A buffer area may include any required screening for the site.

BUILDING AREA.

An area of a zoning lot remaining after the minimum setback requirements of this ordinance have been satisfied.

BUILDING CONTRACTORS, GENERAL.

An establishment providing general contracting and/or building construction services for residential, farm, industrial, or commercial uses, and which typically does not involve outdoor storage of machinery or equipment.

BUILDING CONTRACTORS, HEAVY.

An establishment providing general contracting and/or building construction services other than for buildings, such as highways and streets, bridges, sewers, and flood control projects, and which may involve outdoor storage of machinery or equipment.

BUILDING FOOTPRINT.

An outline of the total area covered by a building's exterior walls at the ground level.

BUILDING HEIGHT.

The vertical distance measured from the average elevation of the finished grade of all sides of a building, measured at the midpoint of each side, to the topmost elevation of the roof or to the topmost projection of the building above any roof, including parapet walls. Enclosed penthouses or equipment rooms are considered a part of the building and included in the calculation of building height.

BUILDING LINES.

Lines that are tangent to the exterior surface of buildings or structures, or the surfaces of cantilevered projections therefrom, parallel to front, side, and rear lot lines, and referred to as front, side, and rear building lines, respectively.

BUILDING MATERIALS SUPPLY.

An establishment engaged in selling lumber and a general line of building materials and hardware to the public.

BUILDING PRESENTATION.

Direction of the architectural front façade of a building in relation to the street or public space.

BUILDING SETBACK LINE.

A line parallel to the front property line in front of which no structure shall be erected.

BUILDING SITE.

(See also "DEVELOPMENT".) An area of land or property where development is undertaken.

BUILDING WALL.

Entire surface area, including windows and doors, of an exterior wall of a building. For the purposes of this ordinance, the area of a wall will be calculated for only the first three stories, or forty-five feet in height of a building, whichever is less.

BUILT-UPON AREA.

(Applies only to the Watershed Overlay District The impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. Further defined within GS 143-214.7.)

BUILDING, PRINCIPAL.

A building in which the principal use of the zoning lot is conducted.

BUILDING.

Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature

BUILD-TO LINE.

A line extending through a lot that is generally parallel to the front property line and marks the location from which the principle vertical plane of the front building elevation must be erected; intended to create an even building façade line on a street. The build- to line is established on the record plat (final plat).

BULK STORAGE OF PETROLEUM PRODUCTS (TANK FARMS).

Storage on a zoning lot of two thousand five hundred gallons water capacity or more of flammable liquid, or two thousand gallons water capacity or more of flammable gas, excluding "storage tanks, above ground" and "fuel dealers" as defined herein.

BUS/TRANSIT SHELTER.

A freestanding structure less than one hundred square feet, located on a bus transit route, which is designed to accommodate embarking and disembarking bus transit passengers.

CALIPER.

Diameter measurement of a tree-trunk.

CAMPGROUND.

Also see "Recreational Vehicle Park and Campground". A plot, parcel, or tract of land upon which two (2) or more Campsites are located, established, or maintained for occupancy by Camping Units as temporary living quarters for recreation, education, or vacation purposes. A Campground includes any Summer Camp or any other land area which is consistent with this definition.

CANOPY TREE.

A species of tree which normally grows to a mature height of thirty- five feet or more with a minimum mature crown width of thirty feet and meets the specifications of the American Nursery Stock Standards published by the American Horticultural Society.

CANOPY.

A structure, either detached from or attached to and extending from the enclosed portion of a building, and used principally to provide shelter in connection with activities conducted in the principal building.

CARPORT.

A roofed structure enclosed on not more than two sides and used for the parking of motor vehicles.

CAR WASH.

Unattended or unattended facility for the washing of automobiles, recreational vehicles, commercial trucks, and machinery.

CEMETERY, LICENSED.

Land and facilities used for burial of the dead meeting the requirements of a perpetual care cemetery under state law. Such a facility includes any burial ground, mausoleum, or columbarium operated by a cemetery company and meeting licensing requirements of the state.

CEMETERY.

Land and facilities, including any burial grounds, mausoleums, columbariums, offices, and chapels, used for the burial of the dead.

CERTIFICATE OF COMPLIANCE.

A certificate issued by the Zoning Administrator setting forth that a lot, building, structure, or use complies with the zoning ordinance and that the same may be used for the purposes stated therein. For the storage of any chemical or chemically reactive products.

CERTIFICATE OF OCCUPANCY.

A certificate issued by the building inspector setting forth that a building, structure, or use complies with all North Carolina State Building Codes in effect within the Town's jurisdiction.

CHANGE OF USE.

A change in the use of a structure or land for which a certificate of compliance is required.

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 INSTITUTION.

A facility providing residential and non- residential care for thirteen or more children under the age of twenty-one, who are handicapped or who are without the benefit of parents who can provide for those children's basic physical, emotional, educational, spiritual, and/or other special needs.

CHURCH OR RELIGIOUS INSTITUTION.

A facility of a church, temple, synagogue, or other non-profit religious organization operated for worship and which may include religious training or study.

CHURCH OR RELIGIOUS INSTITUTION, COMMUNITY SCALE.

A church or religious institution in which the seating capacity in the sanctuary or main activity area is greater than six hundred persons.

CHURCH OR RELIGIOUS INSTITUTION, NEIGHBORHOOD SCALE.

A church or religious institution in which the seating capacity in the sanctuary or main activity area is six hundred persons or less.

CIRCUSES, CARNIVALS, REVIVAL GROUNDS.

A temporary, seasonal or occasional use of vacant, unimproved property for recreational activities or meetings outdoors or housed in tents.

CLINIC, VETERINARY.

See "Veterinary Services".

CLINIC.

An establishment where patients are admitted for examination and treatment on an outpatient basis by one or more physicians, dentists, psychologists, social workers, or other medical personnel and are not lodged overnight.

CLINICAL LABORATORIES.

A commercial facility engaged in specimen analysis for medical purposes.

CLUB OR LODGE, NON-PROFIT.

A building or land used for the activities of a non-profit private club or social organization and not adjacent to, operated as, or in connection with a public tavern, cafe, or other place open to the public.

CLUSTER DEVELOPMENT.

A grouping of buildings and built-upon areas in order to conserve and/or protect natural resources and to provide for innovation in the design of a development project. This term includes non-residential development as well as single-family residential subdivisions and multi-family developments that do not involve the subdivision of land.

CLUSTER HOUSING.

A development pattern where the dwelling units are grouped or "clustered" on a density basis for the total land area of the development, rather than spread evenly throughout the site on a lot-by-lot basis. A cluster housing development includes permanent open space and greenways usually owned and maintained by a homeowner's association or developer.

COLISEUMS AND STADIUMS.

A structures or facilities designed, intended or used primarily for public gatherings; indoor exhibitions, galleries or conventions; or indoor or outdoor spectator events including but not limited to professional and amateur sporting events, concerts, theatrical presentations, and motor vehicle racing.

COLLEGE OR UNIVERSITY.

An institution of higher education offering undergraduate and/or graduate degrees.

CO-LOCATION.

Siting of two or more separate wireless antennas on the same support structure.

COLUMBARIUM.

A structure of vaults lined with recesses for urns containing cremated human remains, or any other structure or space, including a space of ground, used or intended to be used for the placement of urns containing cremated human remains.

COMMUNITY CENTER.

A building used for recreational, social, educational, and cultural activities, open to the public and usually owned and operated by a public or non-profit group or agency.

COMPOSTING FACILITY.

(Applies only to the Watershed Overlay District.). A facility in which only stumps, limbs, leaves, grass and untreated wood collected from land clearing or landscaping operations is deposited.

CONDITIONAL ZONING DISTRICT.

A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

CONGREGATE CARE FACILITY.

A licensed multi-unit facility which provides housing, part-time medical care, shared food preparation and dining areas, and recreational facilities, as well as significant social facilities to meet the needs of the elderly. Congregate care facilities do not include nursing care institutions or similar institutions devoted primarily to the care of the chronically ill or incurable.

CONICAL SURFACE.

(Applies only to the Airport Overlay District.). A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of four thousand feet.

CONSTRUCTION, START OF.

First placement of a structure, including a manufactured home, on a site, such as the pouring of slabs or footings, installation of piles, construction of columns, or any work at the point of placing the foundation, or beyond the state of excavation or the placement of a manufactured home on a foundation. This definition does not include the installation of streets or walkways nor does it include the installation of temporary buildings on the property, such as garages, sheds, or trailers, not part of the main structure nor occupied as dwelling units.

CONTIGUOUS AREA.

An area which abuts directly on a subject property or is separated from the subject property by a street or the right-of-way of a railroad or other utility or public service corporation.

CONVENIENCE STORE.

A retail establishment offering for sale gasoline, diesel fuel, kerosene, automotive products, prepackaged food products, household items, and/or other goods commonly associated with the same and having a gross floor area of less than five thousand square feet.

CONVENTIONAL SUBDIVISION.

A subdivision which complies with the standard lot dimensions of Section 6.6 of the North Wilkesboro Zoning Ordinance and the development standards found in the North Wilkesboro Subdivision Ordinance.

CORNER LOT.

See "Lot, Corner".

CORRECTIONAL INSTITUTION.

A jail or other institutional facility used to confine and provide treatment or rehabilitation to violators of criminal laws, including facilities for persons who are participating in supervised work-release programs, whether such facilities provide confinement for all of each a full twenty-four-hour period or only a portion thereof; but not including temporary holding facilities that are accessory to a police station.

CRITICAL AREA.

(Applies only to the Watershed Overlay District.). An 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.

CRITICAL ROOT ZONE.

The area under a tree, which includes all land within the drip-line of the tree. The drip-line is measured by a vertical line extending from the outermost portion of a tree's canopy to the ground.

CULTURAL FACILITY.

An indoor or outdoor theater, auditorium, or other building or structure designed, intended, or used primarily for musical, dance, dramatic, or other live performances, or a museum or gallery operated primarily for the display, rather than the sale, of works of art.

DATA CENTER.

An establishment primarily engaged in providing infrastructure for data hosting or data processing services. These establishments may provide specialized hosting activities, such as Web hosting, streaming services or application hosting, provide application service provisioning, or may provide general time share mainframe facilities to clients. Data processing establishments provide complete processing and specialized reports from data supplied by clients or provide automated data processing and data entry services.

DAY CARE.

Child or adult care arrangement for three or more individuals who receive care away from their primary residence by persons other than their parents, children, grandparents, aunts, uncles, brothers, sisters, first cousins, nieces, nephews, guardians, or full-time custodians, where care is provided on a regular basis at least once per week for more than four but less than twenty-four hours per day.

DAY CARE CENTER.

A day care facility in which day care is provided for thirteen or more children when any child is preschool-age, or sixteen or more other children and/or adults.

DAY CARE HOME, LARGE.

A facility in which day care is provided for six to twelve preschool-age children or up to fifteen other children and/or adults.

DAY CARE HOME, SMALL.

A facility in which day care is provided for up to five preschool-age children, or up to eight other children and/or adults.

DECIDUOUS.

A plant or tree with foliage that is totally shed annually.

DEDICATION.

A transfer by the owner of a right to use land for stated purposes. Dedication is made by written instrument and is completed with an acceptance by the town or its designee.

DEED RESTRICTION.

A restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the Wilkes County Register of Deeds. Also known as a restrictive covenant.

DENSITY, GROSS RESIDENTIAL.

Number of residential dwelling units per acre of land, determined by dividing the number of dwelling units by the total number of acres in the parcel to be developed.

DESIGN FLOOD.

(Applies only to the Floodplain Overlay District). See "REGULATORY FLOOD PROTECTION ELEVATION."

DETENTION STRUCTURE.

A permanent structure designed for the temporary storage of storm water runoff in order to reduce the peak rate of discharge from a site.

DEVELOPER.

A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

DEVELOPMENT.

A tract or parcel of land or a building developed for residential, commercial, or a mixture of the two, to be used as an integrated unit under single ownership or control and covering no more than two hundred acres in area. Development shall be based on a plan that allows for flexibility of design not available under normal zoning district requirements.

When applying to the Floodplain Overlay District "**DEVELOPMENT**" shall be defined as:

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.

DEVELOPMENT ACTIVITY.

(Applies only to the Floodplain Overlay District). Any activity defined as Development which will necessitate a Floodplain Development Permit. This includes buildings, structures, and non-structural items, including (but not limited to) fill, bulkheads, piers, pools, docks, landings, ramps, and erosion control/stabilization measures.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM).

(Applies only to the Floodplain Overlay District). The digital official map of a community, issued by the Federal Emergency Management Agency (FEMA), on which both the Special Flood Hazard Areas and the risk premium zones applicable to the community are delineated.

DISCHARGING LANDFILL.

(Applies only to the Watershed Overlay District.). A facility with liners, monitoring equipment and other measures to detect and/or prevent leachate from entering the environment and in which the leachate is treated on site and discharged to a receiving stream.

DISPOSAL.

(Applies only to the Floodplain Overlay District.). (as defined in NCGS 130A - 290(a)(6)), 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.

DISTILLERIES.

An establishment primarily engaged in one or more of the following:

- (1) distilling potable liquors (except brandies);
- (2) distilling and blending liquors; and
- (3) blending and mixing liquors and other ingredients.

DISTURBED AREA.

An area subject to erosion due to the removal of vegetative cover and/or earthmoving activities.

DORMITORY.

A dwelling containing bathroom facilities available for common use by the residents of the building, which is occupied or intended to be occupied as the dwelling for more than six persons who are not related by blood, marriage, or adoption but who are enrolled in, affiliated with, or employed by the same educational, religious, or health institution and which is co-located with and subordinate to such institution. "Dormitory" shall not include a boarding house, motel, hotel, group home, or health institution.

DOUBLE-FRONTAGE LOT.

A continuous (through) lot of the same depth as the width of a block containing two tiers of lots and which is accessible from both of the parallel streets upon which it fronts.

DRIVE-THROUGH SERVICE WINDOW.

A customer service facility located within the principal structure as an accessory to an office or retail establishment. Enabling the customer to transact business without exiting the motor vehicle.

DRY CLEANING AND LAUNDRY PLANTS.

A building, portion of a building, or premises used for cleaning fabrics, textiles, apparel, or articles of any sort by immersions in volatile solvents including, but not limited to petroleum distillates, and/or chlorinated hydrocarbons and any process incidental thereto.

DRY CLEANING AND LAUNDRY SERVICES.

A building, portion of a building, or premise used for the collection and distribution of dry cleaning or the cleaning of fabrics, textiles, apparel, or articles of any sort without the immersion of such articles in volatile solvents including, but not limited to petroleum distillates, and/or chlorinated hydrocarbons and any process incidental thereto. It is intended that uses in this category shall not pose a significant threat

to the health and safety of the public or adjacent uses and that such may legally discharge all liquid waste into a public sanitary sewer or private septic system.

DWELLING UNIT, ACCESSORY, ATTACHED.

A second dwelling unit connected to a residential building.

DWELLING UNIT, ACCESSORY, DETACHED.

A dwelling unit located within an accessory structure, which is located more than ten feet from the principal structure.

DWELLING UNIT, EFFICIENCY.

A dwelling unit in which the sleeping and living areas are contained in the same room.

DWELLING UNIT.

A room or combination of rooms designed for year-round habitation, containing self-sufficient bathroom and kitchen facilities, connected to all required utilities, and designed for or used as a residence by one family.

DWELLING.

Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of this Chapter, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

EASEMENT, NEGATIVE ACCESS.

An easement that allows no driveway or other vehicular access to a lot from an adjacent public street.

EASEMENT, SIGHT.

An easement that grants the right to maintain an unobstructed view across property, which is located at a street intersection.

EASEMENT.

A grant of one or more of the property rights for a specific purpose by the property owner to, or for the use by, the public or another person.

EASEMENT.

A grant by the property owner for use, by the public, a corporation, or persons of a strip of land for specified reasons.

ELEVATED BUILDING.

(Applies only to the Floodplain Overlay District).

A building without a basement which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

ENCROACHMENT.

(Applies only to the Floodplain Overlay District.).

Advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a special flood hazard area floodplain, which may impede or alter the flow capacity of a floodplain.

ENGINEER.

A person licensed to practice engineering and use the title in the State of North Carolina.

EROSION CONTROL ACT.

North Carolina Sedimentation Pollution Control Act of 1973 and all rules and orders adopted pursuant to it and amendments. (Regulated by NCDEQ)

EROSION.

Wearing a way of land surface by the action of wind, water, gravity, or any combination thereof.

EVERGREEN.

A plant or tree with foliage that persists year-round.

EXHIBITION BUILDING.

A structure or facility designed, intended, or used primarily for public gatherings, indoor exhibitions, galleries, or conventions.

EXISTING BUILDING AND EXISTING STRUCTURE.

(Applies only to the Floodplain Overlay District). Any building and/or structure for which the "start of construction" commenced before the original effective date of the floodplain management regulations adopted by the Town of North Wilkesboro.

EXISTING DEVELOPMENT.

(Applies only to the Watershed Overlay District.)

Projects that are built or projects that at a minimum have established a vested right under North Carolina Zoning Law as of the effective date of the amendment incorporating water supply watershed regulations into the North Wilkesboro Zoning Ordinance based on at least one of the following criteria:

- a) Substantial expenditures of resources (time, labor, money) based on a good faith reliance upon having received a valid local government approval to proceed with the project; or
- b) Possessing an outstanding valid building or zoning permit;

EXISTING LOT OF RECORD.

A lot which is part of a subdivision, a plat of which has been recorded in the office of the Wilkes County Register of Deeds prior to the adoption of this ordinance, or a lot described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance.

EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION.

(Applies only to the Floodplain Overlay District.). A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before the original effective date of the floodplain management regulations adopted by the Town of North Wilkesboro.

EXTERIOR FEATURES.

Architectural style, general design, and general arrangement of the exterior of a structure, including the kind, texture, and color of building materials, the size and scale of the building, and the type and style of all windows, doors, light fixtures, signs, and other appurtenant fixtures, and including the landscaping and natural features of the parcel containing the structure.

EXTRATERRITORIAL JURISDICTION (ETJ).

The land lying outside of the corporate limits of the town, yet subject to the planning and zoning ordinance of the town. The ETJ is identified on the official map of the Town of North Wilkesboro.

FAÇADE.

Exterior wall of a building extending from grade to the top of the parapet, wall, or eaves that is exposed to public view.

FAIRGROUNDS.

An area of land use including, but not limited to: agricultural related office buildings, animal judging shows, carnivals, circuses, community meeting or recreational buildings and uses, concerts, food booths and stands, games, rides, rodeos, sales and auctions, storage, and theaters.

FAMILY SUBDIVISION.

(Applies only to the Watershed Overlay District.) A division of a tract of land to:

- a) convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative or relatives as a gift or for nominal consideration, but only if no more than one parcel is conveyed by the grantor from the tract to any one relative; or
- b) divide land from a common ancestor among tenants in common, all of whom inherited by intestacy or by will.

FARM, BONA FIDE.

(Bona fide farms are exempt from the exercise of municipal extraterritorial jurisdiction.) A property employed for agricultural activities as set forth in G.S. 160D-903. For purposes of determining whether a property is being used for a bona fide farm, any of the following shall constitute sufficient evidence that the property is being used for bona fide farm purposes:

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

(The above definition relates to zoning and should not be associated with tax or other definitions.)

FARM PRODUCT SALES.

Seasonal sale of farm products raised on the premises where products are sold only as an accessory to an agricultural use.

FARMER'S MARKET.

Seasonal selling or offering for sale at retail of farm products, occurring in a pre-designated area, where the vendors are generally individuals who have produced the farm products.

FEED AND FLOUR MILL.

Establishments primarily engaged in milling flour or meal from grains (except rice) or vegetables, and/or preparing flour mixes or doughs.

FEED AND SEED STORE.

Establishments primarily engaged in the retail sale of supplies directly related to the day-to-day activities of agricultural production.

FENCE OR WALL, OPAQUE.

A vertical structure constructed of masonry, concrete, metal, or wooden material which does not allow light to pass through.

FENCE.

A vertical structure constructed of metal, vinyl or wooden material which encloses an area of ground.

FENESTRATION.

Design and positioning of windows and doors in a building or structure.

FLAG.

A piece of durable fabric of distinctive design attached to a permanent pole, that is used as a symbol or decorative feature which represents a country, state, or other political subdivision.

FLAMMABLE FUEL STORAGE.

The storage of flammable or other hazardous liquids at a below grade location in compliance with applicable state laws.

FLEA MARKET.

An occasional or periodic market held in an open area or structure where goods are offered for sale to the general public by individual sellers.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM).

(Applies only to the Floodplain Overlay District). An official map of a community, issued by the FEMA, on which the Special Flood Hazard Areas and the floodways are delineated. This official map is a supplement to and shall be used in conjunction with the Flood Insurance Rate Map (FIRM).

FLOOD HAZARD BOUNDARY MAP (FHBM).

(Applies only to the Floodplain Overlay District). An official map of a community, issued by the FEMA, where the boundaries of the Special Flood Hazard Areas have been defined as Zone A.

FLOOD INSURANCE RATE MAP (FIRM).

(Applies only to the Floodplain Overlay District.). 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. (See also DFIRM).

FLOOD INSURANCE STUDY (FIS).

(Applies only to the Floodplain Overlay District.). 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 INSURANCE.

(Applies only to the Floodplain Overlay District.). Insurance coverage provided under the National Flood Insurance Program.

FLOOD OR FLOODING.

(Applies only to the Floodplain Overlay District.) A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland or tidal waters; and/or (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD ZONE.

(Applies only to the Floodplain Overlay District.) A geographical area shown on a Flood Hazard Boundary Map or Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

FLOODPLAIN ADMINISTRATOR.

(Applies only to the Floodplain Overlay District.) The Planning Director or his/her designee.

FLOODPLAIN DEVELOPMENT PERMIT.

(Applies only to the Floodplain Overlay District.) Any type of permit that is required in conformance with the provisions of this ordinance, prior to the commencement of any development activity in a floodplain.

FLOODPLAIN MANAGEMENT REGULATIONS.

(Applies only to the Floodplain Overlay District.) Ordinance and other zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances, and other applications of police power which control development in flood-prone areas. This term describes federal, state and/or local regulations, in any combination thereof, which provide standards for preventing and reducing flood loss and damage.

FLOODPLAIN MANAGEMENT.

(Applies only to the Floodplain Overlay District.) 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.

(Applies only to the Floodplain Overlay District.) Any land area susceptible to being inundated by water from any source.

FLOODPROOFING.

(Applies only to the Floodplain Overlay District.) A combination of structural and nonstructural additions, changes, or adjustments to structures, which reduce or eliminate flood damage to real estate or improved real property, water and sanitation facilities, structures, and their contents.

FLOOD-RESISTANT MATERIAL.

(Applies only to the Floodplain Overlay District.) Any building product [material, component or system] capable of withstanding direct and prolonged contact (minimum 72 hours) with floodwaters without sustaining damage that requires more than low-cost cosmetic repair. Any material that is water-soluble or is not resistant to alkali or acid in water, including normal adhesives for above-grade use, is not flood-resistant. Pressure-treated lumber or naturally decay-resistant lumbars are acceptable flooring materials. Sheet-type flooring coverings that restrict evaporation from below and materials that are impervious, but dimensionally unstable are not acceptable. Materials that absorb or retain water excessively after submergence are not flood-resistant. Please refer to Technical Bulletin 2, Flood Damage-Resistant

Materials Requirements, and available from the FEMA. Class 4 and 5 materials, referenced therein, are acceptable flood-resistant materials.

FLOODWAY ENCROACHMENT ANALYSIS.

(Applies only to the Floodplain Overlay District.) An engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirements of the National Flood Insurance Program.

FLOODWAY FRINGE.

(Applies only to the Floodplain Overlay District.) An area lying outside the floodway, but within the floodplain.

FLOODWAY.

(Applies only to the Floodplain Overlay District.) Channel of a river or other watercourse including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOR AREA.

Sum of the gross horizontal areas of each floor of the principal building, and any accessory buildings or structures, measured from the exterior walls or from the centerline of party walls. The term does not include any area used exclusively for the surface parking of motor vehicles or for building or equipment access, such as stairs, elevator shafts, and maintenance crawl space.

FLOOR.

Top surface of an enclosed area in a building (including the basement) such as the top of the slab in concrete slab construction or the top of the wood flooring in wood frame construction.

FOOD AND BEVERAGE STORE.

An establishment primarily engaged in selling food or beverages for home preparation and consumption off premises.

FOOD TRUCK.

A motorized vehicle or mobile food unit (trailer) which is temporarily parked on a lot where food items are sold to the general public.

FUEL DEALER.

Establishment primarily engaged in the retail sale of fuel oil (excluding retail sale of motor fuels), bottled gas, coal, wood, or other fuels.

FOOT CANDLE.

A unit of illumination produced on a surface, all points of which are one foot from a uniform point source of one candle.

FREEBOARD.

(Applies only to the Floodplain Overlay District.) 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 or culvert openings, precipitation exceeding the base flood, and the hydrological effect of urbanization on

the watershed. The Base Flood Elevation plus the freeboard establishes the "Regulatory Flood Protection Elevation".

FREEWAY OR EXPRESSWAY.

A divided highway with full control of access and grade separation of all intersections.

FRONTAGE BUILDOUT.

Portion of lot frontage which has a building or wall running parallel to it.

FRONTAGE, BUILDING.

Façade of a structure facing the street.

FRONTAGE, LOT.

Lot boundary which coincides with a public street or space.

FUNCTIONALLY DEPENDENT FACILITY.

(Applies only to the Floodplain Overlay District). A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, or ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

FUNERAL HOME.

An establishment engaged in undertaking services, such as preparing the human dead for burial and in arranging and managing funerals. This definition includes crematories and mortuaries.

GASOLINE STATION, LARGE.

A retail establishment which primarily sells gasoline to the public and which may include a convenience store, garages for passenger vehicle repair with associated vehicle storage areas, and an automatic carwash as accessory uses.

GASOLINE STATION, NEIGHBORHOOD.

A retail establishment which primarily sells gasoline to non-commercial vehicle operators, having no more than two canopies and eight separate pumping stations, and providing only minor passenger vehicle repairs.

GOLF COURSE.

An area designed for golf, having at least nine holes, each with a tee, fairway, and green, and may have one or more hazards. A clubhouse, pool and other facilities associated with a country club built around a golf course are considered part of the golf course.

GATED RESIDENTIAL DEVELOPMENT.

A residential subdivision with a gate placed across the entrance street(s) at the outer periphery of the development in order to restrict access.

GOLF DRIVING RANGE.

An open-air golf practice facility.

GOVERNMENT OFFICES.

Offices of the executive, legislative, judicial, administrative and regulatory branches of federal, state, and local governments.

GRADE, EXISTING.

The elevation along the ground surface of a site as exhibited on the Town's online GIS mapping at two foot or four-foot contour intervals, or as surveyed and mapped at a contour interval of not more than four feet, by a licensed surveyor.

GRADE, FINISHED.

Elevation at the top of the ground, walk, or terrace where the ground, walk, or terrace intersects the exterior walls of a structure or the vertical supports of a sign.

GRADE.

Elevation of the land or land which is level at a specific point.

GREENWAY.

A linear open space along a natural or constructed corridor, which may be used for pedestrian or bicycle passage. Greenways often link areas of activity, such as parks, cultural features, or historic sites with each other and with populated areas.

GROSS FLOOR AREA.

Total area of any buildings in the project, including the basements, mezzanines and upper floors, exclusive of stairways and elevator shafts. It excludes separate service facilities outside the buildings such as boiler rooms and maintenance shops.

GROUND COVER.

Any plant material that reaches an average height of not more than twelve inches.

GROUND LEVEL.

(Applies only to the Floodplain Overlay District). Existing average elevation of the land.

GROUP CARE FACILITY.

A transitional housing facility for more than twenty residents, licensed by the State of North Carolina and operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care, and rehabilitation services while persons receive therapy and/or counseling for one or more of the following purposes:

- a) To assist them in recuperating from the effects of or refrain from the use of drugs or alcohol;
- b) To provide emergency and temporary shelter for persons in distress such as runaway children and battered individuals; and,
- c) To provide shelter and support for older adults and persons who are handicapped.

A Group Care Facility shall not serve primarily as an alternative to incarceration. Such facilities may have accessory uses conducted on the premises, including but not limited to, schooling of residents, training programs in occupational fields, and production of goods and crafts to be sold off-premises.

GROUP DEVELOPMENT.

A group of two or more principal structures built on a single lot, tract, or parcel of land not subdivided into the customary streets and lots and which will not be so subdivided, and designed for occupancy by separate families, businesses, or other enterprises, as permitted in the zoning district of site location.

Examples would be: cluster type subdivisions, row houses, apartment courts, housing projects, school and hospital campuses, shopping centers, and industrial parks.

GROUP HOME A.

A transitional housing facility with support and supervisory personnel licensed by the State of North Carolina and operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care, and rehabilitation services in a supportive family environment for not more than six residents, exclusive of supervisory personnel, including but not limited to, handicapped persons, older adults, foster children, and abused individuals. This use shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in North Carolina General Statute 122C-3(11) b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.

GROUP HOME B.

A transitional housing facility with support and supervisory personnel licensed by the State of North Carolina and operated by a nonprofit corporation chartered pursuant to Chapter 55A, North Carolina General Statutes, which provides room and board, personal care and rehabilitation services in a supportive family environment for not more than twelve residents, exclusive of supervisory personnel, including but not limited to handicapped persons, older adults, foster children, and abused individuals. This unit shall not serve primarily as an alternative to incarceration, shall not include individuals who are dangerous to others, as defined in North Carolina General Statute 122C- 3(11)b, and shall not include persons living together as a fraternal, sororal, social, honorary, or professional organization.

GROUP PROJECT.

A development comprising two or more buildings, such as a group of apartments, and the land is not subdivided into the customary streets and lots.

HABILITATION FACILITY A.

Facility in which eight or fewer handicapped persons receive habilitation services, rehabilitation services, or engage in recreational activities, regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the State of North Carolina and do not provide room and board. This definition does not include the principal uses "schools, elementary or schools, secondary". These facilities are intended to serve handicapped persons as defined in state law, in accordance with rights provided by applicable laws.

HABILITATION FACILITY B.

Facility in which more than eight handicapped persons receive habilitation services, rehabilitation services or engage in recreational activities, regardless of whether these services and activities are therapeutic or educational in nature. These facilities are licensed by the State of North Carolina and do not provide room and board. This definition does not include the principal uses "schools, elementary or schools, secondary". These facilities are intended to serve handicapped persons as defined in state law, in accordance with rights provided by applicable laws.

HELIPORT.

Helicopter terminal facility for general public transportation with support facilities. May include, in addition to the landing pad(s), passenger and cargo facilities; maintenance, overhaul, fueling, service, and storage facilities; tie-down areas, hangars, parking, and other necessary buildings and open spaces.

HANDICAPPED PERSON.

An individual with a physical or mental impairment which substantially limits one or more of such person's life activities; a record of having such impairment; or being regarded as having such an impairment. This definition does not include current illegal use of or addiction to a controlled substance.

This definition includes children, but does not include persons who are dangerous to others as defined by N.C.G.S. 122C-3(11) b.

HAZARD TO NAVIGATION.

(Applies only to the Airport Overlay District.). An obstruction determined to have an adverse effect on the safe and efficient utilization of the navigable airspace.

HAZARDOUS MATERIAL.

Any substance listed as such in the Superfund Amendments and Reauthorization Act (SARA), Section 302, Extremely Hazardous Substances; The Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), Hazardous Substances; Section 311 of the Clean Water Act (CWA) (oil and hazardous substances); or any solid waste, or combination of solid wastes, which because of its quantity, concentration, or physical, chemical or infectious characteristics may:

- a) Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or
- b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

HAZARDOUS SUBSTANCE.

Any chemical defined as a physical hazard or a health hazard under standards of 13 NCAC 7. Physical hazards include, but are not limited to, chemicals which are combustible, explosive, flammable, and/or reactive. Health hazards include, but are not limited to, chemicals, which are carcinogens, toxins, corrosives, and/or irritants.

HEALTH SERVICES, MISCELLANEOUS.

Outpatient care centers such as kidney dialysis centers, blood banks, birth control clinics, mental health and drug treatment centers, and similar uses.

HEIGHT, AIRPORT.

(Applies only to the Airport Overlay District.). Height of a structure or tree above mean sea level elevation, unless otherwise specified.

HEIGHT, BUILDING.

See "Building Height".

HELICOPTER LANDING PAD.

Designated takeoff and landing area from which helicopter departures and approaches are intended to originate or terminate.

HOME OCCUPATIONS.

A business, profession, occupation, or trade which is conducted within a residential building or accessory structure for the economic gain or support of a resident of the dwelling, and which is incidental and secondary to the residential use of the building.

HIGHEST ADJACENT GRADE (HAG).

(Applies only to the Floodplain Overlay District). Highest natural elevation of the ground surface, prior to construction, immediately next to the proposed walls of the structure.

HISTORIC STRUCTURE.

Any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the US Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a local inventory of historic landmarks in communities with a "Certified Local Government (CLG) Program"; or
- d) Certified as contributing to the historical significance of a historic district designated by a community with a "Certified Local Government (CLG) Program"

Certified Local Government (CLG) Programs are approved by the US Department of the Interior in cooperation with the North Carolina Department of Natural and 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.

HOMELESS SHELTER.

A supervised publicly or privately operated shelter and services designed to provide temporary living accommodations to individuals or families who lack a fixed, regular, and nighttime residence.

HORIZONTAL SURFACE.

(Applies only to the Airport Overlay District.) A horizontal plane one hundred fifty feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

HOSPITAL.

A facility providing medical, psychiatric, or surgical services for sick or injured persons, including emergency treatment, diagnostic services, training, research, and administration.

HOTEL.

A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Hotels may or may not provide onsite parking, and access to hotel rooms is generally provided through interior hallways.

HUD.

United States Department of Housing and Urban Development.

IMPERVIOUS SURFACE COVER.

The impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil. Further defined within GS 143-214.7.)

IMPROVEMENT.

A structure or constructed feature not included under the definition of structure.

INDEPENDENT LIVING FACILITY.

An unlicensed facility providing living arrangements for the elderly and their spouses in single family, duplex, or multi-family units designed to allow a predominately independent lifestyle within the framework of a larger, unified, health maintenance environment.

JAIL.

A building, and all accessory uses and structures, used to confine, house, and supervise persons who are serving terms of imprisonment for violations of criminal laws or who are awaiting trial for alleged violations of criminal laws, but not including temporary holding facilities that are accessory to a police station and not including any housing or other facilities for persons who are participating in work-release programs or who have previously served and completed terms of imprisonment for violations of criminal laws.

INDUSTRIAL DEVELOPMENT.

(Applies only to the Watershed Overlay District.) Any nonresidential development that requires a National Pollutant Discharge Elimination Systems (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 development of any product or commodity.

INFILL DEVELOPMENT.

Construction of a building on a vacant parcel located in a predominately built-up area.

JUNKYARD.

Use of more than six hundred square feet of the area of any lot for the storage, keeping, or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles, machinery or parts thereof regardless of whether such material is for sale.

KENNEL.

A parcel of land on which four or more domesticated animals more than four months of age are housed, groomed, bred, boarded, trained, or sold on a commercial basis and includes areas that are not fully included dedicated to these services.

LABORATORY, MEDICAL.

An establishment primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to the patient, on direction of a physician; or an establishment primarily engaged in making dentures, artificial teeth, and orthodontic appliances to order for the dental profession.

LANDFILL, CONSTRUCTION AND DEMOLITION.

Landfill which accepts construction or demolition debris or waste including solid waste from construction, remodeling, repair or demolition operations on pavement, buildings, or other structures.

LANDFILL, LAND CLEARING AND INERT DEBRIS (LCID).

Landfill that is limited to receiving off-site land clearing waste, concrete, brick, concrete block, gravel and rock, untreated and unpainted wood, and yard trash. This definition shall also include and apply to land clearing activities associated with subdivision construction.

LANDFILL, SANITARY.

Facility for the disposal of all types of solid wastes, excluding hazardous wastes or toxic substances.

LAUNDRY AND LINEN SUPPLY SERVICE.

Establishments primarily engaged in supplying laundered items, such as table and bed linens, towels, diapers, and types of uniforms.

LANDOWNER or OWNER.

The holder of the title is fee simple. Absent evidence to the contrary, a local government may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

LANDSCAPING.

Installation and maintenance of trees, shrubs, plant materials, and/or ground cover, including grass, mulch, decorative stone and similar materials, but excluding bare soil, uncultivated vegetation, impervious pavement materials, and gravel.

LARGER THAN UTILITY RUNWAY.

(Applies only to the Airport Overlay District.) A runway that is constructed for and intended to be used by propeller driven or jet powered aircraft of greater than twelve thousand five hundred pounds maximum gross weight.

LETTER OF MAP CHANGE (LOMC).

(Applies only to the Floodplain Overlay District.) An official determination issued by FEMA that amends or revises an effective Flood Insurance Rate Map or Flood Insurance Study. Letters of Map Change include:

- (a) Letter of Map Amendment (LOMA): An official amendment, by letter, to an effective National Flood Insurance Program map. A LOMA is based on technical data showing that a property had been inadvertently mapped as being in the floodplain, but is actually on natural high ground above the base flood elevation. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property, portion of a property, or structure is not located in a special flood hazard area.
- (b) Letter of Map Revision (LOMR): A revision based on technical data that may show changes to flood zones, flood elevations, special flood hazard area boundaries and floodway delineations, and other planimetric features.
- (c) Letter of Map Revision Based on Fill (LOMR-F): A determination that a structure or parcel of land has been elevated by fill above the BFE and is, therefore, no longer located within the special flood hazard area. In order to qualify for this determination, the fill must have been permitted and placed in accordance with the community's floodplain management regulations.
- (d) Conditional Letter of Map Revision (CLOMR): A formal review and comment as to whether a proposed project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map or Flood Insurance Study; upon submission and approval of certified as-built documentation, a Letter of Map Revision may be issued by FEMA to revise the effective FIRM.

LIBRARY, PUBLIC.

A publicly operated facility housing a collection of books, magazines, audio and video tapes, or other material for use by the general public.

LIGHT DUTY TRUCK.

(Applies only to the Floodplain Overlay District). Any motor vehicle rated at 8,500 pounds Gross Vehicular Weight Rating or less which has a vehicular curb weight of 6,000 pounds or less and which has a basic vehicle frontal area of 45 square feet or less as defined in 40 CFR 86.082-2 and is:

- (a) Designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or
- (b) Designed primarily for transportation of persons and has a capacity of more than 12 persons; or
- (c) Available with special features enabling off-street or off-highway operation and use.

LINEAR FRONTAGE.

Length of a property abutting a public right-of-way from one side lot line to another.

LIVESTOCK SALES AND AUCTIONS.

Commercial establishment where livestock are collected for sale or auction.

LODGE.

A building containing more than four individual rooms for the purpose of providing overnight lodging facilities adjacent to and ancillary to current operations of the same ownership which are restricted to guests, members, staff, or employees of a corporation, non-profit business, or other business entity without payment of compensation. Design and architecture will be complementary of the surrounding buildings. No sales of goods to the general public and services may include meals. Additionally included are common facilities for reservations and cleaning services, combined utilities, meeting rooms, on-site management and reception services.

LOGO.

A trademark or symbol used to represent a business, church, nonprofit, or any other type of organization.

LOT LINE, FRONT.

The line which separates the lot from a street right-of-way. Corner lots shall have only one front lot line.

LOT LINE, INTERIOR.

A side lot line, which separates one lot from another lot.

LOT LINE, REAR.

Lot line which is opposite and most distant from the front lot line, except in the case of a triangular lot, a line ten feet in length, entirely within the lot, parallel to, and at the maximum distance from the front lot line, or a chord thereof if the front lot line is curved, shall be considered as the rear lot line for purposes of determining the required rear yard. In cases where neither of these conditions is applicable, the Zoning Administrator shall designate the rear lot line.

LOT LINE, SIDE.

A lot line other than a front or rear lot line.

LOT LINE.

A line or series of connected line segments bounding a lot.

LOT OF RECORD.

A lot described by plat or by metes and bounds which has been recorded in the office of the Wilkes County Register of Deeds.

LOT WIDTH.

Horizontal distance between the side lot lines at the building setback line as measured along a straight line parallel to the front lot line or parallel to the chord thereof.

LOT, ADJACENT.

See "Adjacent Property".

LOT, CORNER.

A lot located at the intersection of two or more streets, or abutting a curved street or streets in such a way that the front building line meets a side lot line at an interior angle of less than one hundred thirty-five degrees.

LOT, COVERAGE.

Portion of the lot area expressed as a percent that is covered by impervious surface cover.

LOT, DOUBLE FRONTAGE.

A lot having frontage and access on two or more public streets. A corner lot shall not be considered as having double frontage unless it has frontage and access on three or more streets.

LOT, INTERIOR.

A lot other than a corner lot with frontage on only one street.

LOT, REVERSE FRONTAGE.

A lot having frontage on two or more streets, one of which is a minor or less important street in the community, the access to which is restricted to the minor street.

LOT, THROUGH.

See "Lot, Double Frontage".

LOT, ZONING.

A parcel or contiguous parcels of land which is indicated by the owner at the time of application for a building or zoning permit as being that land which is proposed for development under a single development plan.

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 any accessory structures or uses and such access ways, parking area, yards, and open spaces required in these regulations.

LOWEST ADJACENT GRADE (LAG).

(Applies only to the Floodplain Overlay District.) Elevation of the ground, sidewalk, or patio slab immediately next to the building, or deck support, after completion of the building.

LOWEST FLOOR.

(Applies only to the Floodplain Overlay District.). Lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or limited storage in an area other than a basement area is not considered a building's lowest floor, provided that such an enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

MAINTAINED EASEMENT.

A recorded right-of-way with improvements made such as crushed gravel, pavement, or graded and cleared to permit access by vehicles.

MAJOR VARIANCE.

(Applies only to the Watershed Overlay District.). A variance that results in any one or more of the following:

- a) The complete waiver of a watershed management requirement;
- b) The relaxation, by a factor of more than 10%, of any watershed management requirement that takes the form of a numerical standard;
- c) The relaxation of any watershed management requirement that applies to a development proposal granted a Special Density Allocation.

MANUFACTURED HOME SPACE.

Land in a manufactured home park allotted to or designated for the accommodation of one manufactured home.

MANUFACTURED HOME SUBDIVISION.

A parcel (or contiguous parcels) of land which is subdivided, with utilities extended for the installation or placement of manufactured homes.

MANUFACTURING A.

A manufacturing establishment primarily engaged in the fabrication or assembly of products from pre-structured materials or components.

Because of the nature of its operations and products, Manufacturing A produces little or no noise, odor, vibration, glare, and/or air and water pollution, and, therefore, has minimal impact on surrounding properties.

MANUFACTURED HOME.

A structure, substantially assembled in a manufacturing plant that contains a certification label signifying the home meets or exceeds the U.S. Department of Housing and Urban Development's Manufactured Home Construction and Safety Standards. The structure must also be transportable in one or more sections, which in the traveling mode is eight feet or more in width, or forty feet or more in length, or, when erected on site, is 320 or more square feet; and which is built on a permanent chassis and designed to be used as a dwelling.

MANUFACTURED HOME PARK.

A development site containing spaces leased or intended to be leased for occupancy by manufactured homes used as residential dwellings regardless of whether such homes are provided as part of the lease and including all uses accessory to the residential use. This definition shall not include manufactured home sales lots on which unoccupied manufactured homes are parked for the purpose of inspection and sale.

MANUFACTURING B.

A manufacturing establishment primarily engaged in the manufacture of foodstuffs, textiles, electrical components or tobacco products, and the fabrication of wood, leather, paper, water or plastic products. Because of the nature of its operations and products, Manufacturing B could impact immediately adjoining properties due to noise, odor, vibration, glare, and/or air and water pollution.

MANUFACTURING C.

A manufacturing establishment primarily engaged in the processing and manufacturing of materials or products not otherwise classified under Manufacturing A, Manufacturing B, or other use defined in this section. Manufacturing C includes the processing and manufacturing of products from extracted or raw materials, the assembly of large or heavy machinery, and the storing or using of flammable, explosive, hazardous, or toxic materials in the manufacturing processes. Because of the nature of its operations and products, Manufacturing C may impact surrounding properties due to noise, odor, vibration, glare, and/or air and water pollution.

MAP REPOSITORY.

(Applies only to the Floodplain Overlay District). The location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products have the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data the NC FRIS website (<http://FRIS.NC.GOV/FRIS>) is the map repository, and for historical flood hazard data the FloodNC website (<http://FLOODNC.GOV/NCFLOOD>) is the map repository.

MARKET VALUE.

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 AND BODY WORK THERAPY.

Massage or body work therapy as defined by the North Carolina Massage and Bodywork Therapy Practice Act, G.S. 90- 621 et. seq., provided by a person licensed by the NC Board of Massage and Bodywork Therapy as provided therein to perform such therapy.

MASSING.

Shape and form a building or assemblage of buildings assumes through architectural design.

MEDICAL AND SURGICAL OFFICES.

An establishment primarily engaged in furnishing medical and surgical services to individuals and licensed for such practice by the state

MICROBREWERY.

An establishment primarily engaged in the wholesale production and distribution of beer, ale, porter and other fermented malt beverages. Areas for demonstration, education or tasting are included in this definition and are incidental to the primary use of producing beverages in accordance with state ABC permits. A microbrewery produces less than 15,000 US barrels (460,000 US gallons) per year.

MINOR VARIANCE.

(Applies only to the Watershed Overlay District.). A variance that does not qualify as a major variance.

MIXED USE BUILDING.

Combination of both commercial and residential uses within a single building, wherein at least fifty percent of the heated floor area contains residential dwelling unit(s).

MIXED USE DEVELOPMENT.

A planned development where two or more use categories (commercial, residential, industrial, institutional, etc.) are incorporated on a single development site.

MOTOR VEHICLE.

A vehicle which is self-propelled and every vehicle designated to run upon the highways which is pulled by a self-propelled vehicle. For purposes of this definition, the term motor vehicle shall not include vehicles or implements used in farming or construction but shall include all forms of motorized watercraft.

MOBILE OFFICE.

A structure intended for office use comprised of one or more components each of which was substantially assembled in a manufacturing plant and designed to be transported to the site, and is constructed to U.S. Department of Housing and Urban Development (HUD) standards (North Carolina State Building Code is not applicable).

MODULAR HOME.

A dwelling unit which is constructed in compliance with the North Carolina State Building Code and composed of components substantially assembled in an off-site manufacturing plant and transported to the building site for final assembly on a permanent foundation or other acceptable means established by the North Carolina State Building Code.

MOTEL.

A building containing more than four individual rooms for the purpose of providing overnight lodging facilities to the general public for compensation, with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and on-site management and reception services. Motels provide on-site parking and access to most rooms is provided directly from a parking area.

MOTOR VEHICLE BODY OR PAINT SHOP.

An establishment primarily engaged in bodywork, painting, or customizing of automobiles or other motor vehicles.

MOTOR VEHICLE REPAIR AND MAINTENANCE.

An establishment engaged in providing mechanical automotive maintenance and repair, such as engine repair, exhaust system replacement and transmission repair, and/or providing other related services,

such as upholstery or glass replacement. This use includes service stations but does not include body work or painting.

MOTOR VEHICLE SALES, RENTAL AND LEASING.

An establishment where automobiles, other motor vehicles, or manufactured homes are stored and/or displayed for the purpose of sale or lease as an entire or complete unit.

MOTOR VEHICLE STORAGE YARD.

An outdoor area for the storage of more than one wrecked, damaged, or inoperative motor vehicle awaiting insurance adjustment, major body work, or other repair, or other disposition.

MOTOR VEHICLE, INOPERATIVE.

A motor vehicle which meets at least one of the following criteria:

- a) Vehicle is presently unable to satisfy the vehicle inspection standards of the State of North Carolina, regardless of whether said vehicle possesses a currently valid inspection certificate;
- b) Vehicle lacks a current inspection certificate, or displays an expired certificate;
- c) Vehicle is partially dismantled or wrecked;
- d) Vehicle cannot be self-propelled or move in the manner in which it originally was intended to move; or
- e) Vehicle has expired license plate or is unlicensed.

MULTIPLE BUILDING SITE.

A group of two or more nonresidential buildings established on a single development tract, having unified design of buildings and coordinated organization of open space, parking, and service areas.

MUSEUM OR ART GALLERY.

A structure used for the display and preservation of paintings, sculpture, and other constructed or natural objects illustrating human or natural history.

N.C.G.S. or G.S.

North Carolina General Statute

NCDEQ.

North Carolina Department of Environmental Quality.

NCDOT.

North Carolina Department of Transportation.

NEIGHBORHOOD RECREATION AREA.

Public or private tennis, basketball or other recreation courts, swimming pools or similar indoor and/or outdoor uses that are operated on a fee or membership basis primarily for the use of persons who reside in a specific area or neighborhood in which the facility is located. Neighborhood recreation areas may include accessory uses such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

NEW CONSTRUCTION.

(Applies only to the Floodplain Overlay District.). Structures for which the "start of construction" commenced on or after the effective date of the original version of the community's Flood Damage

Prevention Ordinance and includes any subsequent improvements to such structures. Initial floodplain management regulations and includes any subsequent improvements to such structures.

NONCONFORMING LOT.

Any lot of record which does not meet the dimensional requirements established in these regulations as adopted or amended.

NIGHTCLUB, BAR, LOUNGE, PRIVATE CLUB.

A place of entertainment generally open in the evening offering entertainment such as music, space for dancing and/or a stage area; and usually serving alcoholic beverages and food for consumption on the premises.

NURSERY, LAWN AND GARDEN SUPPLY STORE, RETAIL.

Establishment primarily engaged in the retail sale of trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, and other garden supplies to the general public. These establishments primarily sell products purchased from others, but may sell some plants which are grown at the establishment.

NONCONFORMING STRUCTURE.

Structure which does not comply with all of the requirements established in these regulations as adopted or amended.

NONCONFORMING USE.

Use of land or buildings which does not comply with all of the requirements established in these regulations adopted or amended.

NON-ENCROACHMENT AREA.

(NEA) (Applies only to the Floodplain Overlay District.). Channel of a river or other watercourse, including the area above a bridge or culvert when applicable, and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot as designated in the Flood Insurance Study report.

NONPRECISION INSTRUMENT RUNWAY.

(Applies only to the Airport Overlay District.). A runway having an existing or planned instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.

NONRESIDENTIAL DEVELOPMENT.

All development other than residential development, agriculture and silviculture.

NURSING CARE INSTITUTION.

A licensed healthcare facility, however named, governmental or non-governmental, which provides in-patient care to six or more non-related persons for whom planned and continued medical or nursing attention, or both, are indicated in contrast to the occasional or incidental care provided in congregate care facilities. A nursing care institution may be designed and marketed specifically for the elderly, physically handicapped, or both, but not specifically for mentally ill persons who are dangerous to others as defined in G.S. 122C-3(11)(b).

OBSTRUCTION.

(Applies only to the Airport Overlay District.). Structure, growth, or other object, including a mobile object, which exceeds a limiting height.

OFFICE, MISCELLANEOUS.

Office uses not specifically listed and defined elsewhere in this ordinance as a principal use.

OFFICE.

A use or structure in which business or professional services are conducted or rendered.

OFFICIAL MAPS OR PLANS.

Any maps or plans officially adopted by the board of commissioners as a guide for the development of the town and surrounding area.

OFF-STREET PARKING.

Parking which occurs on a lot and not on a street or other public right-of-way.

OPEN SPACE, COMMON.

Land within a development not in individually owned lots, which is designated and intended for the common use or enjoyment of the residents of the development or the public at large.

OPEN SPACE.

Land used for recreation, natural resource protection, amenities, protection of important rural and town vistas and/or buffer yards. Open space may include, but is not limited to, lawns, walkways, active recreation areas, playgrounds, wooded areas, and greenways.

OPTICAL SERVICES.

An establishment where health practitioners engage in the practice of optometry.

OUTDOOR DISPLAY, RETAIL.

An establishment primarily engaged in selling motor vehicles, trucks, manufactured homes, recreational vehicles, boats, or other large items, which require outdoor display.

OUTDOOR STORAGE.

An area which contains outdoor storage of bulk materials and/or parts, or areas regularly used for outdoor repair areas or service stations, but excluding temporary construction and related activities and closed bay docks.

WASTEWATER TREATMENT PLANT.

A pre-fabricated set of devices used in the storage, treatment and ultimate discharge or reclamation of sanitary sewer or industrial wastes of a liquid nature.

OUTDOOR LIGHTING.

Light source that is installed or mounted outside of an enclosed building, but not including street lights installed or maintained along public or private streets.

OUTPARCEL.

A separately leased or owned lot developed apart from but linked functionally to a larger development site.

OVERLAY DISTRICT.

A zoning district which combines with one or more of the zoning districts established by this ordinance and has additional regulations. In such case the property involved is subject to the requirements of both districts.

PARAPET WALL.

A building wall which extends to or above a flat roofed platform or building roof.

PARK.

Land owned by the public and open for use by the general public for active or passive recreational purposes or as a refuge for wildlife.

PARKING, LOT OR DECK.

A principal or accessory use of a zoning lot with or without a parking structure for use as a place for the temporary or long-term parking of motor vehicles.

PEDESTRIAN ORIENTED DEVELOPMENT.

Development type which accommodates the needs of the pedestrian. Such development will have parking to the side or rear of a building, will mix uses and provide them in proximity to one another, will allow the pedestrian the option of accomplishing certain trips without automobile use, and will provide a variety of interesting and detailed streetscapes which equally balance the needs of the pedestrian and car.

PERSON.

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

PERSONAL SERVICES.

Establishment primarily engaged in providing a service(s) to individuals such as a beauty and/or barber shop, a dry-cleaning establishment, advertising, or computer services but shall not include any use which may be defined as adult entertainment.

PHARMACY.

A place where drugs and medicines are prepared and dispensed by prescription from a hospital, medical or dental clinic.

PERVIOUS SURFACE COVER.

A penetrable surface cover that allows precipitation to infiltrate into the ground.

PLANNING BOARD.

Planning Board of the Town of North Wilkesboro, established pursuant to G.S. 160D-301.

PLANNING DIRECTOR.

The Planning Director of the Town of North Wilkesboro.

PLAT.

A surveyed map or plan of a parcel of land which is to be, or has been subdivided.

PLAZA.

An urban open space, constructed entirely or largely of hard- surfaced paving blocks, stone, brick, or similar materials, framed on at least two sides by the vertical rise of building walls; occasionally framed

by closely planted large maturing trees in lieu of buildings. May be used for occasional parking in front of a civic or public building.

POST OFFICE.

Facility or structure used for the collection, sorting, and distribution of mail within several zip code areas, having retail services for the general public, such as stamps, postcards, or postal insurance.

PROFESSIONAL OFFICE.

An establishment primarily engaged in providing: engineering, architectural, and surveying services; accounting, auditing, and bookkeeping services; public relations services; legal services; real estate services; the services of insurance agents, brokers and carriers; the services of security and commodity brokers; and the services of bank holding companies.

PROGRESSIVE CARE COMMUNITY.

An area of land including one or more buildings under unified management, planned and developed as a unit to provide for the traditional residency and care of the elderly in a full range of living and care arrangements which includes at least two of the following: independent living and care, congregate care, or nursing care institutions.

POST-FIRM.

(Applies only to the Floodplain Overlay District.) Construction or other development for which the "start of construction" occurred on or after the effective date of the initial Flood Insurance Rate Map for the area.

PRECISION INSTRUMENT RUNWAY.

(Applies only to the Airport Overlay District.) A runway having an existing or planned instrument approach procedure utilizing an Instrument Landing System (ILS), Geographical Positioning System (GPS), or a Precision Approach Radar (PAR); or 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.

PRE-FIRM.

(Applies only to the Floodplain Overlay District.) Construction or other development for which the "start of construction" occurred before the effective date of the initial Flood Insurance Rate Map for the area.

PRIMARY STREET FRONTAGE.

Street to which the main/front façade of a building faces. Typically the street with the most traffic.

PRIMARY SURFACE.

(Applies only to the Airport Overlay District.) A surface longitudinally centered on a runway. When the runway has a specifically prepared hard surface, the primary surface extends two hundred feet beyond each end of that runway. The width of the primary surface is one thousand feet. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

PRINCIPAL BUILDING OR STRUCTURE.

A building or structure containing the principal use of the lot.

PRINCIPAL USE.

Primary purpose or function that a lot serves or is proposed to serve.

PRINCIPALLY ABOVE GROUND.

(Applies only to the Floodplain Overlay District.). Structures where at least 51% of the actual cash value of the structure is above ground.

PROJECT AREA.

Area of land and/or water, regardless of the number of individual parcels contained therein, on which development is proposed under these regulations.

PROPERTY.

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

PROPOSED RIGHT-OF-WAY LINE.

Margin of a thoroughfare's right-of- way at its ultimate intended width, determined by:

- a) the thoroughfare's classification; and
- b) dimensional requirements or location criteria as established in the subdivision ordinance.

PUBLIC BUILDINGS AND FACILITIES.

Offices and facilities of the executive, judicial, legislative, administrative and regulatory branches of the federal, state and local governments, not including correctional facilities and public works facilities and yards. May employ buffered or screened open storage and parking.

PUBLIC SAFETY FACILITIES.

Police, fire, rescue, emergency response, ambulance service facilities and any combination thereof.

PUBLIC SAFETY/NUISANCE.

(Applies only to the Floodplain Overlay District). Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons; or anything that unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

PUBLIC WORKS FACILITY.

All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the N.C. Utilities Commission.

QUARRY.

An operation for the dredging, digging, extraction, mining, or quarrying of stone, sand, gravel, or minerals for commercial purposes.

PUBLIC.

Under the control or responsibility of the Town Board of Commissioners on behalf of the general population, rather than individual or private control.

RAILROAD FREIGHT YARDS.

Facilities located on railroad lines, usually at or near rail stations, engaged in the loading and unloading of freight and in the transfer of freight cars.

RECEPTION HALL/EVENT VENUE.

A place to allow for various private gatherings such as weddings, receptions, arts and craft shows, corporate meetings, and receptions.

RECREATION SERVICES, INDOOR.

Establishments engaged in providing indoor recreation services. Which may include public or private health or exercise clubs, tennis or other racquet courts, swimming pools, YMCAs, or similar uses which are enclosed in buildings and are operated on a fee or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Indoor recreation structures may include accessory uses, such as snack bars, pro shops, and locker rooms, which are designed and intended primarily for the use of patrons of the principal recreational use.

RECREATION SERVICES, OUTDOOR.

Establishments engaged in providing outdoor recreation services such as public or private golf courses, country clubs, swimming pools, tennis courts, ball fields and ball courts which are not enclosed in buildings and are operated on a commercial or membership basis primarily for the use of persons who do not reside on the same lot as that on which the recreational use is located. Outdoor recreation may include any accessory uses, such as snack bars, pro shops, and clubhouses which are designed and intended primarily for the use of patrons of the principal recreational use.

RECREATIONAL VEHICLE.

A vehicle other than a manufactured home, designed as temporary accommodations for travel, vacation, or recreational purposes, which is propelled by its own motive power or is mounted on or drawn by another vehicle.

RECREATIONAL VEHICLE (RV).

(Applies only to the Floodplain Overlay District). A vehicle, which is:

- a) built on a single chassis;
- b) 400 square feet or less when measured at the largest horizontal projection;
- c) designed to be self-propelled or permanently towable by a light duty truck; and
- d) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel, or seasonal use.
- e) Is fully licensed and ready for highway use.

For the purpose of this ordinance, "Tiny Homes/Houses" and Park Models that do not meet the items listed above are not considered Recreational Vehicles and should meet the standards of and be permitted as Residential Structures.)

RECREATIONAL VEHICLE PARK AND CAMPGROUND.

Any lot or parcel of land used or intended to be used for the accommodation of two or more recreational vehicles or non-vehicle campers for transient dwelling purposes.

RECYCLING CENTER.

A facility where recovered resources, such as newspapers, glassware, and metal and aluminum cans, are collected, stored, flattened, crushed, or bundled within a completely enclosed building. This use does not include Motor Vehicle Parts (Used), which is listed as a separate use.

REDEVELOPMENT.

Demolition and reconstruction of a building or a portion of a building.

REFERENCE LEVEL.

(Applies only to the Floodplain Overlay District.) Top of the lowest floor for structures within Special Flood Hazard Areas designated as Zone A1-A30, AE, A, A99, or AO.

REGULATORY FLOOD PROTECTION ELEVATION.

(Applies only to the Floodplain Overlay District.) "Base Flood Elevation" plus the "Freeboard". In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be

the BFE plus one (1) foot of freeboard. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two (2) feet above the highest adjacent grade.

REMEDY A VIOLATION.

(Applies only to the Floodplain Overlay District.). To bring the structure or other development into compliance with State and community floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing Federal financial exposure with regard to the structure or other development.

RESERVATION.

A reservation of land does not involve any transfer of property rights. It simply constitutes an obligation to keep property free from development for a stated period of time.

RESIDENTIAL BUILDING, MULTI-FAMILY.

A building which contains four (4) or more dwelling units. This definition includes condominiums and apartment complexes.

RESIDENTIAL BUILDING, SINGLE FAMILY.

A building which contains one dwelling unit and which occupies its own zoning lot. This term includes modular housing units.

RESIDENTIAL BUILDING, TOWNHOUSE.

A building which contains three or more dwelling units where each unit occupies a separate lot of record.

RESIDENTIAL BUILDING.

A building that contains one or more dwelling units.

RESIDENTIAL BUILDING, DUPLEX, TRIPLEX, QUADPLEX.

A building which contains between two (2) and four (4) dwelling units and which occupies one zoning lot.

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, GROUND-FLOOR.

Dwelling units constructed within commercial districts on the ground story of a building with the ground story being established from the primary street frontage of the building.

RESIDENTIAL, UPPER-STORY.

Dwelling units constructed within commercial districts on stories above the ground story of a building with the ground story being established from the primary street frontage of the building.

RESORT.

A use of property that includes three or more recreational amenities that require significant acreage for operation. A Resort may also include lodging for the users and visitors and may require membership to utilize the property and amenities. Recreational amenities may include, but are not limited to: event

space, pro shop, clubhouse including alcohol sales, tiny homes/cabins, dog training, clay target shooting, archery, axe throwing, glamping, primitive camping, restaurant, trails for motorized or unmotorized vehicles, aquatic recreation activities including swimming pools and spas, tennis courts, basketball courts, multipurpose fields, pickleball courts, fishing, kayaking, game lands, horse and equestrian trails, agrotourism and other associated activities and events.

RESTAURANT (WITH DRIVE-THROUGH SERVICE).

An establishment which delivers prepared food and/or beverages to customers in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption either on or off the premises.

RESTAURANT (WITHOUT DRIVE-THROUGH SERVICE).

An establishment that serves prepared food and beverages primarily to customers seated at tables or counters located within the building or designated outdoor seating areas. This includes cafes, tea rooms, and outdoor cafes.

RETAIL, GENERAL.

An establishment primarily engaged in selling goods to the public.

RETAIL, NONSTORE.

Establishment that retails merchandise using non-store methods, such as the broadcasting and publishing of direct-response advertising, direct solicitation, and electronic shopping.

RETAIL STORE, LARGE.

A single retail or wholesale use which occupies more than 25,000 square feet of gross floor area, typically requires high parking to building area ratios, and has a regional sales market. Such stores include but are not limited to membership warehouse clubs that emphasize bulk sales, discount stores, and department stores.

RETAIL STORE, SMALL.

A single retail or wholesale use which occupies less than 15,000 square feet of gross floor area, typically requires low parking to building area ratios, and has a local or neighborhood sales market.

REVERSE-FRONTAGE LOT.

A continuous (through) lot which is accessible from only one of the parallel streets upon which it fronts.

RIDING STABLES.

An establishment where horses are boarded and cared for, where instruction in riding, jumping, and showing is offered, or where horses maybe hired for riding.

RIGHT-OF-WAY.

The legal right of public passage.

RIVERINE.

(Applies only to the Floodplain Overlay District.). Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

ROOF LINE.

Highest point of a flat roof or mansard roof, and the lowest point of a pitched roof, excluding any minor projections or ornamentation.

ROOF PITCH.

A comparison of the vertical rise to the horizontal run of a roof structure above a building.

RUNWAY.

(Applies only to the Airport Overlay District.). A defined area on an airport prepared for landing and takeoff of aircraft along its length.

SATELLITE DISH.

A type of receive-only antenna that is dish-shaped and is used to receive satellite signals, primarily television transmissions.

SCHOOL, ELEMENTARY AND SECONDARY.

A public or private institution providing instruction to students in kindergarten through grade twelve.

SCHOOL, PRIVATE.

A structure used primarily by and for educating any two or more age or grade levels not operated by the public school system, but registered with the North Carolina Department of Public Instruction. Any school for children age six or under not meeting these requirements shall be considered a day care facility for purposes of this ordinance.

SCHOOL, PUBLIC.

A structure used primarily by and for educating any two or more age or grade levels in grades kindergarten through twelve and operated by the public school system or approved by the North Carolina Department of Public Instruction as meeting the requirements of state law. Any school for children age six or under not meeting these requirements shall be considered a day care facility for purposes of this ordinance.

SCHOOL, VOCATIONAL OR PROFESSIONAL.

A structure used to provide education or training in business, commerce, language, or other similar activity or occupational pursuit, and not otherwise defined as a home occupation, college or university, or elementary or secondary school.

SCREENING.

A fence, wall, hedge, landscaping, buffer area or any combination of these provided to visually shield or obscure one abutting or nearby structure or use from another.

SEDIMENTATION AND EROSION CONTROL PLAN.

As regulated by NCDEQ. Plan that shows the measures, structures, or devices that control the soil material within the land area under responsible control of the person conducting the land disturbing activity.

SEDIMENTATION.

Solid particulate matter, both mineral and organic, that has been or is being transported off the site where land disturbing activity is taking place or into a lake or natural watercourse.

SENSITIVE AREA.

An area not suitable for development which includes the occupancy of animal and plant habitats that are rare and valuable due to their special role in an ecosystem, which could be disturbed by human activities and development. These areas are known to include wetlands, floodplains, and geologically hazardous sites.

SERVICE ROAD.

A local street or road that is parallel to a full or partial access-controlled facility and functions to provide access to adjacent land.

SERVICE STATION.

See "Gasoline Station, Large" or "Gasoline Station, Neighborhood".

SETBACK, ESTABLISHED.

The required horizontal distance between a structure and the lot line or street centerline established by existing structures along a block front.

SETBACK, REQUIRED.

The minimum required horizontal distance between a structure and the lot line or street centerline as required by this ordinance.

SHRUB.

A woody, branching plant of relatively low height; may be evergreen or deciduous.

SETBACK.

Minimum required horizontal distance between a structure and the lot line or street centerline.

SHOOTING RANGE, INDOOR.

A completely enclosed structure used for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

SHOOTING RANGE, OUTDOOR.

Land used for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.

SHOPPING CENTER, SMALL.

A shopping center totaling 25,000 square feet or less of gross floor area.

SHOPPING CENTER.

A building or group of buildings with two or more uses, either connected or freestanding, which is designed with common parking, pedestrian movement, ingress and egress, and used for the sale of merchandise or services to the public. Shopping centers shall be construed to include all outparcels, whether or not developed, and shall allow any permitted uses within the zoning district in which it is located except for those uses that require outdoor storage.

SHOPPING CENTER, LARGE.

A shopping center totaling 25,000 square feet or more of gross floor area.

SIGHT DISTANCE TRIANGLE.

Triangular area formed by the point of intersection of two street right-of-way lines and a point located along each right-of-way line at a distance of thirty-five feet from the point of intersection.

SIGHT EASEMENT.

See "Easement, Sight".

SIGN AREA.

Area of a sign face.

SIGN FACE.

Portion of the sign that is or can be used to identify, advertise, or communicate information or that is used to attract the attention of the public for any purpose. This definition includes any frame, structural member, or other part of the sign when such is designed or used, including the use of color or lighting, to attract the attention of the public.

SIGN HEIGHT.

Distance from the base of the sign at normal grade to the top of the highest attached component of the sign.

SIGN STRUCTURE.

Frame supporting a freestanding sign, wall sign, projecting sign, suspended sign, portable sign, marquee sign, or roof sign and poles or supports used to elevate or support the frame.

SIGN, ANIMATED.

Sign that uses movement or change of lighting to depict action or create a special effect or scene.

SIGN, BANNER .

Sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentalions applied to plastic or fabric of any kind, excluding flags and emblems of political, professional, religious, educational, or corporate organizations.

SIGN, BEACON.

Sign with one or more beams directed into the atmosphere or directed at one or more points not on the same zoning lot as the light source; also, any light with one or more beams that rotate or move.

SIGN, BILLBOARD.

Off-premises sign, generally but not always consisting of a rigidly assembled sign, display, or device that is affixed to the ground or to a building, the primary purpose of which is to display advertising posters.

SIGN, CAMPAIGN OR ELECTION.

Sign that advertises a candidate or issue to be voted upon on a definite election day.

SIGN, CANOPY (AWNING).

Sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area, excluding a marquee (see "Sign, Marquee").

SIGN, CHANGEABLE COPY.

Sign or portion thereof with characters, letters, or illustrations that can be manually changed or rearranged without altering the remaining face or the surface of the sign.

SIGN, CONSTRUCTION.

Sign placed at a construction site identifying or announcing the project or the name of the architect, engineer, contractor, financier, or others involved in the development of the project.

SIGN, COPY.

Words, letters, numbers, figures, characters, symbols, logos, or insignia that are used on a sign face.

SIGN, DIRECTIONAL OR INCIDENTAL.

On-premises sign designed to guide vehicular and/or pedestrian traffic by using such words as "entrance", "exit", "parking", "one-way", "warning", "no trespassing", or similar direction or instruction, but not including any advertising message. The name or logo of the business or use to which the sign is giving direction may also be included on the sign.

SIGN, DIRECTORY.

Sign other than an identification sign, listing the names, uses, or locations of the various businesses or activities conducted within a building or group of buildings that is centrally located and intended to provide direction.

SIGN, FLAG.

Fabric, banner, or bunting containing distinctive colors, patterns, or symbols for the purpose of advertising a business.

SIGN, FLASHING.

Sign that uses an intermittent or flashing light source to attract attention.

SIGN, FREESTANDING.

Sign supported by structures or supports that are placed on, or anchored in the ground and that are independent from any building or other structure.

SIGN, GOVERNMENTAL.

Sign, symbol, or device erected and maintained by a federal, state, county, or municipal government, or any such governmental agency, in the performance of their duties such as regulatory signs, wayfinding/identification/directional signs, welcome signs, school informational signs, legal notice signs and traffic control signs.

SIGN, GROUND MOUNTED.

Sign which extends from the ground or which has a support which places the bottom thereof less than three feet from the ground.

SIGN, IDENTIFICATION.

Sign which displays only the name, address, and/or crest, insignia, trademark, occupation or profession of an occupant, or the name of any building on the premises.

SIGN, INCIDENTAL.

Sign, generally informational, that has a purpose secondary to the use of the zoning lot on which it is to be located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives which are free of any commercial, advertising, or similarly unrelated message.

SIGN, KIOSK.

Freestanding sign consisting of three to five sides that lists names of businesses located on a property, in a building, or within the immediate area.

SIGN, MARQUEE.

Sign attached to, in any manner, a marquee. A marquee is a permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

SIGN, MEMORIAL OR PLAQUE.

Sign designating the name of a building and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, engraved into or attached to a building surface.

SIGN, MONUMENT.

Freestanding sign supported primarily by an internal structural framework or integrated into landscaping or solid structural features other than support poles where the base of the sign is on the ground or no more than twelve inches above the adjacent grade.

SIGN, OFF-PREMISES.

Sign that directs attention to a business, commodity, or service, conducted, sold, or offered at a location other than the premises on which the sign is erected.

SIGN, ON-PREMISES.

Sign that directs attention to a business, commodity, or service, that is conducted, sold, or offered on the premises on which the sign is erected.

SIGN, PENNANT.

Lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

SIGN, PERMANENT BANNER.

Banner constructed of lightweight fabric or similar material that is permanently mounted to a building by a permanent frame, excluding flags.

SIGN, PLANNED DEVELOPMENT.

Sign for two or more uses planned, developed, and managed as a unit and related in location, size, and type. This includes outparcels included within the development.

SIGN, PORTABLE.

Sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including but not limited to signs converted to A or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

SIGN, PROJECTING.

Wall sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

SIGN, REAL ESTATE.

Sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

SIGN, RESIDENTIAL.

Sign located in a district zoned for residential uses.

SIGN, ROOF.

Sign erected and constructed wholly or partially on or over the roof or parapet of a building.

SIGN, SUSPENDED.

Sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

SIGN, TEMPORARY.

Sign that is not permanently installed in the ground or affixed to any structure or building.

SIGN, WALL.

Sign attached to a wall, painted on the wall surface, or erected and confined within the limits of an outside wall of any building or structure, and that is supported by such wall.

SIGN, WINDOW.

Sign, pictures, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale, or service that is placed inside a window or upon the window panes of glass and is visible from the exterior of the window.

SITE PLAN.

A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review.

SIGN.

Form of publicity, visible from off the premises where the sign is located, directing attention to an individual activity, business, service, commodity, or product and conveyed by means of words, figures, numerals, lettering, emblems, devices, designs, trademarks or trade names or other pictorial matter designed to convey such information and displayed by means of bills, panels, posters, paints, or other devices erected on an open framework or attached or otherwise applied to- posts, stakes, poles, trees, buildings or other structures or supports, provided, however, that the following shall not be included in the application of the regulations herein:

- a) Signs not exceeding one square foot in area and bearing only property numbers, post box numbers, or names of occupants of premises.
- b) Flags and insignia of any government except when displayed in connection with commercial promotion.
- c) Legal notice, identification information, or directional signs erected by governmental bodies.
- d) Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.
- e) Signs directing and guiding traffic and parking on private property, but bearing no advertising matter.
- f) Signs not exceeding two square feet providing directional information to places of worship.

SINGLE FAMILY DWELLING.

See "Residential Building, Single Family".

SLEEPING UNIT:

A room or space in which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

SOLAR COLLECTOR.

A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. The device may be roof-mounted or ground-mounted as an accessory use. In order to qualify as an accessory use the solar collector(s) shall be designed to produce no more than 150 percent of the on- site use's energy consumption.

SOLAR FARMS.

Nonresidential solar collection applications designed to facilitate the capture and conversion of solar energy for the purpose of supplying it to utility companies rather than for personal use on the property in which it is collected. For the purposes of this definition, the amount of energy being produced by the solar collectors is for an area greater than the principal use on the site.

SOLID WASTE DISPOSAL FACILITY.

Facility involved in the disposal of solid waste as defined in NCGS 130A-290(a) (35).

SOLID WASTE DISPOSAL SITE.

Place at which solid wastes are disposed of by incineration, sanitary landfill, or any other method as defined in NCGS 130A-290(a)(36).

SPECIAL FLOOD HAZARD AREA (SFHA).

(Applies only to the Floodplain Overlay District). Land in the floodplain subject to a one percent or greater chance of being flooded in any given year.

SOLID WASTE.

Hazardous or non-hazardous garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, institutional, commercial, agricultural, and land clearing operations. This term does not include the following:

- a) Fowl and animal fecal waste;
- b) Solid or dissolved material in any of the following:
 - 1) Domestic sewage, and sludge generated by the treatment thereof, in sanitary sewage disposal systems which have a design capacity of more than three thousand gallons or which discharge effluents to the surface waters;
 - 2) Irrigation returns flows; or
 - 3) Wastewater discharges, and the sludge incidental thereto and generated by the treatment thereof, which are point sources subject to permits granted under Section 402 of the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 et seq.) and permits granted under G.S. 143-215.1 by the Environmental Management Commission;
- c) Oils and other liquid hydrocarbons controlled under Article 21A of Chapter 143 of the North Carolina General Statutes;
- d) Radioactive material as defined by the North Carolina Radiation Protection Act (G.S. 104E); or Mining refuse covered by the North Carolina Mining Act (G.S. 74), and regulated by the North Carolina Mining Commission (as defined under G.S. 143 B-290).

SPECIAL USE PERMIT.

A permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as conditional use permits or special exceptions.

START OF CONSTRUCTION.

(Applies only to the Floodplain Overlay District.). 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.

STORAGE AND SALVAGE YARD.

Land for outdoor storage of machinery, construction equipment, construction supplies, used building materials, scrap metal, and similar items. This definition does not include motor vehicle storage yard, motor vehicle dismantling operations, or junkyards.

STORAGE TANK, WATER.

A standpipe or elevated tank used to store a supply of water or to maintain equal pressure on a water system.

STORAGE TANKS, ABOVE GROUND.

Storage tanks located above ground which are accessory to industries or businesses in their operations and are used to store chemicals, fuels, water, and other liquids and materials.

STORY.

Part of a building or structure above ground level between a floor and the floor or roof next above. A mezzanine shall be considered a story if it exceeds one-third of the area of the floor immediately below. A penthouse shall be considered a story if it exceeds one-third of the area of the roof.

STREAM 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 stream buffer is measured landward from the normal pool elevation of impounded structures and from the bank of each side of streams or rivers. Need more language throughout of this buffer.

STREAM, PERENNIAL.

A stream or creek containing a continuous natural flow of water throughout the year except possibly under exceptionally dry conditions and identified on United States Geological Survey Quadrangle Maps by solid blue lines.

STREET LINE.

The outer boundary of a street right-of-way.

STREET ORIENTATION.

The direction of the architectural front facade of a building in relation to the street.

STREET PLANTING YARD.

The Area of land along the front property line parallel to a right-of-way reserved for tree planting and landscaping.

STREET RIGHT-OF-WAY.

Public right-of-way set aside for public travel which is accepted or eligible to be accepted for maintenance by the State of North Carolina or the Town of North Wilkesboro or Wilkes County, if so authorized; or has been dedicated for public travel by the recording of a plat or a subdivision which has been approved or is subsequently approved by the Town of North Wilkesboro; or has otherwise been established as a public street prior to the adoption of this ordinance.

STREET VISTA.

A view framed by buildings at the termination of the axis of a thoroughfare or large neighborhood street.

STREET, ARTERIAL. "ARTERIAL STREET".

a federal and/or state highway designed primarily for the movement of large volumes of vehicular traffic from one area or region to another; a thoroughfare. Also referred to as a major thoroughfare.

STREET, COLLECTOR. "COLLECTOR STREET".

A public way designed primarily to connect minor streets with arterial streets and/or to provide direct connection between two or more arterial streets and which may be designed to carry significant volumes of vehicular traffic having neither origin nor destination on the street. Major and minor collectors are identified on the Town's online GIS map, hereby incorporated by reference.

STREET, CUL-DE-SAC. "CUL-DE-SAC STREET".

A short minor street having one end open to traffic and the other permanently terminated by a vehicular turnaround.

STREET, MINOR NONRESIDENTIAL. "MINOR NONRESIDENTIAL STREET".

Those streets whose primary function is to provide direct access to commercial/industrial property.

Street, minor residential. "Minor residential street" those streets whose primary function is to provide direct access to residential property.

STREET, MINOR RESIDENTIAL.

A street whose primary function is to provide direct access to residential property.

STREET, PARALLEL FRONTAGE ROAD.

A public or private street adjoining or parallel to an arterial street designed to provide access to abutting property in place of the arterial.

STREET, PRIVATE. "PRIVATE STREET".

An interior circulation road designed and constructed to carry vehicular traffic from public streets within or adjoining a site to parking and service areas; it is not maintained nor it is intended to be maintained by the public.

STREET, PUBLIC. "PUBLIC STREET".

A right-of-way or fee simple tract of land which has been set aside for public travel, dedicated to the public by the recording of a subdivision plat, built to public street standards, and eligible for maintenance by either the Town of North Wilkesboro or the State of North Carolina.

STREET, RURAL. "RURAL STREET".

A street designed for and located in non-urban and non-urbanizing areas as classified by the town.

STREET, URBAN. "URBAN STREET".

A street designed for and located in urban or urbanizing areas as classified by the town.

STREET.

A public right-of-way or private easement which affords traffic circulation and a means of access to abutting property. The term street includes road, avenue, place, way, drive, lane, boulevard, highway, and any facility principally designed for motor vehicle traffic, except an alley or an easement solely for utilities or pedestrians.

STRUCTURE.

Anything constructed, installed, or portable, the use of which requires a location on a parcel of land. This includes a fixed or movable building which can be used for residential, business, commercial, agricultural, or office purposes, either temporarily or permanently. "Structure" also includes, but is not limited to, swimming pools, tennis courts, signs, cisterns, sewage treatment plants, sheds, and similar accessory construction; however, it does not include landscape features such as ornamental pools, planting boxes, sculpture, birdbaths, open terraces, at-grade bridges and walkways, at-grade slab patios, driveways, small non-permanent shelters for pets, playhouses, open stairs, recreational equipment, flagpoles, underground fallout shelters, air-conditioning compressors, pump houses, wells, mailboxes, outdoor fireplaces, burial vaults, or cemetery marker monuments.

STRUCTURE.

(Applies only to the Floodplain Overlay District). A walled and roofed building, a manufactured home, or a gas, liquid, or liquefied gas storage tank that is principally above ground.

STRUCTURE, DETACHED.

Structure, which is separated from an adjacent structure by at least ten feet, as measured from any part of the structure.

SUBDIVIDER.

Any person who subdivides or develops any land deemed to be a subdivision as herein defined.

SUBDIVISION ADMINISTRATOR.

The Planning Director or his/her appointee shall serve to administer the subdivision ordinance.

SUBDIVISION, MAJOR. "MAJOR SUBDIVISION".

A subdivision not otherwise exempt from these regulations that involves any of the following:

1. The creation of any new public street or street right-of-way, or improvements to an existing street.
2. A future public school, park, greenway, or open space site shown in any adopted plan or policy document.
3. The extension of any needed right-of-way or easement for the water or sewer system operated by the Town of North Wilkesboro.
4. The installation of drainage improvements through one or more lots to serve one or more other lots.
5. The installation of a private wastewater treatment plant or a private water supply system for more than one lot or building site.

SUBDIVISION, MINOR. "MINOR SUBDIVISION".

A subdivision that is not otherwise exempt from the provisions of this chapter and that does not meet the criteria for the definition of a major subdivision. "Technical review committee (TRC)" an ad hoc committee appointed by the planning director and composed of the fire chief, police chief, public services director, and any administrative staff deemed necessary by the planning director to serve as a review body that will insure conformance to all town standards for development.

SUBDIVISION.

Pursuant to G.S. 160D-802, all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions when any one or more of those divisions is created for the purpose of sale or building development, whether immediate or future, and shall include all divisions of land involving the dedication of a new street or a change in existing streets; but the following shall not be included within this definition nor be subject to the regulations authorized by this ordinance:

- (1) The combination or recombination of portions of previously subdivided and recorded lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the Town's Ordinance.
- (2) The division of land into parcels greater than 10 acres where no street right-of-way dedication is involved.
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets or for public transportation system corridors.
- (4) The division of a tract in single ownership whose entire area is no greater than 2 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 the local government, as shown in its subdivision regulations.
- (5) 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 General Statutes.
- (6) The division of land into plots or lots for use as a cemetery

SUBSTANTIAL DAMAGE.

(Applies only to the Floodplain Overlay District.). Damage of any origin sustained by a structure during any one-year period whereby the cost of restoring the structure to its undamaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. See definition of "SUBSTANTIAL IMPROVEMENT".

SUBSTANTIAL IMPROVEMENT.

(Applies only to the Floodplain Overlay District.). Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- a) any correction of existing violations of state or community health, sanitary, or safety code specifications which have been identified by the community code enforcement official and which are the minimum necessary to assure safe living conditions; or,
- b) any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

SURVEYOR.

A person licensed to practice land surveying in the State of North Carolina. **SWIMMING**

SWIMMING POOL, PRIVATE.

A swimming pool intended for the private, noncommercial use of a single-family residence.

SWIMMING POOL, PUBLIC.

Any other pool that does not fall into the category of a private pool. These can include, but are not be limited to, homeowners' association, residential developments, or private clubs.

TECHNICAL BULLETIN AND TECHNICAL FACT SHEET.

(Only applies to the Floodplain Overlay District) a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations.

It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

TECHNICAL REVIEW COMMITTEE (TRC).

An ad hoc committee headed by the Planning Director and composed of the Fire Chief, Police Chief, Public Works Director, Public Utilities Director, and any administrative staff deemed necessary by the Planning Director to serve as a review body that will ensure conformance to all Town standards for development.

TELECOMMUNICATIONS.

Personal wireless services as defined in the Telecommunications Act of 1996, which includes FCC licensed commercial wireless telecommunications services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio, paging, and similar services that currently exist.

TEMPERATURE CONTROLLED.

(Only applies to the Floodplain Overlay District). Having the temperature regulated by a heating and/or cooling system, built-in or appliance.

TEMPORARY STORAGE UNIT.

Type of portable storage trailer or similar structure placed on the property of a residence or business for the sole purpose of temporarily storing household or business goods. Temporary storage units may be no larger than 16 feet in length, eight feet in width, and eight feet in height.

TEMPORARY STRUCTURE.

A building placed on a lot for a specific purpose which is to be removed within a specified time period. Examples of temporary structures are monitoring stations, mobile classrooms, construction trailers, guardhouses, and produce stands.

TERMINAL, BUS OR TAXI.

A facility for the storage, maintenance, and dispatch of buses or taxis, and associated customer ticketing and waiting areas

TERMINAL, FREIGHT.

Facility for handling freight, with or without storage and maintenance facilities.

TESTING AND RESEARCH LABORATORY.

An establishment primarily engaged in commercial research and providing testing services such as calibration and certification of instruments, food testing services, forensic laboratories, metallurgical testing, and industrial X-ray inspection services, etc.

THEATER, DRIVE-IN.

An establishment for the outdoor viewing of motion pictures by patrons while in motor vehicles.

THEATER, INDOOR.

An establishment for the indoor viewing of motion pictures by patrons.

THOROUGHFARE PLAN.

Most recent map adopted by the Town Board which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation.

THOROUGHFARE PLAN.

The most recent map adopted by the town board which indicates the system of roads expected to serve major access and travel needs with regard to auto, truck, and transit transportation.

THOROUGHFARE.

See Street, Arterial.

TOWN BOARD.

The Board of Commissioners of the Town of North Wilkesboro.

TOWN MANAGER.

The Town Manager of the Town of North Wilkesboro.

TRACT.

Contiguous land and bodies of water being used or disturbed or to be used or disturbed as a unit, regardless of ownership.

TRADITIONAL NEIGHBORHOOD.

Neighborhood that incorporates design principles that produce compact, mixed use, pedestrian scaled communities designed to:

- a) Promote independence of movement for all residents bringing many activities of daily living within walking distance.
- b) Reduce traffic congestion and road construction costs by reducing the number and length of car trips.
- c) Use or allow for future use of alternative forms of transportation by organizing appropriate building densities.
- d) Improve security of public spaces organized to stimulate informal surveillance by residents and business operators.

- e) Enhance the sense of community and improve security through the provision of a range of housing types and workplaces in proximity to one another.
- f) Provide accessible places for public assembly and civic engagement by identification of suitable sites for civic buildings.

TRANSITIONAL SURFACES.

(Applies only to the Airport Overlay District.). Surfaces extending outward at ninety-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each 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 five thousand feet measured horizontally from the edge of the approach surface and at ninety- degree angles to the extended runway centerline.

TRANSITIONAL USE.

A permitted use or structure that, by nature, level of activity, or physical scale, acts as a transition or intermediate use between two or more incompatible uses.

TREE. A large, woody plant having one or more self-supporting stems or trunks and numerous branches. May be classified as deciduous or evergreen.

TREE, CANOPY

A species of tree which normally grows to a mature height of thirty- five feet or more with a minimum mature crown width of thirty feet and meets the specifications of the American Nursery Stock Standards published by the American Horticultural Society. (capitalize on these definitions in landscaping ordinance section)

TREE, UNDERSTORY

A species of tree which normally grows to a mature height of fifteen to thirty- five feet in height and meets the specifications of the American Standards published by American Horticultural Society. (capitalize on these definitions in landscaping ordinance section)

UNIVERSITY, COLLEGE AND JUNIOR COLLEGE.

A use, whether privately owned or publicly- owned, providing academic education beyond the high school level.

USE, ACCESSORY.

A use or activity which is customarily incidental to a specific principal use, and which is located on the same zoning lot as the associated principal use.

USE, PRINCIPAL.

Primary or predominant use of any lot or parcel.

USE, TEMPORARY.

A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

USGS.

United States Geological Survey.

UTILITIES SERVICE AREA.

An area which contains any surface-mounted heating, ventilation, or air conditioning equipment or freestanding above-ground devices, such as utility boxes, booster boxes, switch gear, and transformers, which are part of an underground utilities system.

UTILITIES.

Facilities of any agency that provide the general public with electricity, gas, oil, water, sewage, electronic sign, or rail transportation. The term "utility" shall not be construed to include the following: corporate or general offices; storage or service buildings or yards; gas or oil processing, manufacturing or storage facilities; transmission towers; or postal facilities.

UTILITY SERVICE AREA, PRIVATE.

An area, on private property, which contains privately owned utility structures for the exclusive service of the premises where they are installed; or

UTILITY SERVICE AREA, PUBLIC.

An area, on either private or public property, which contains utility structures owned by a utility for the service of one or more premises, but excluding utility substations.

VARIANCE.

Relief from the requirements of this ordinance granted by the Board of Adjustment.

VESTED RIGHT (ZONING).

A right established pursuant to the provisions of this ordinance to undertake and complete the development and use of property.

VETERINARY SERVICES.

Facility used for the purpose of giving licensed medical treatment to animals or pets and any other customarily incidental treatment of the animals, such as grooming, indoor boarding, or selling of pet supplies. This does not include kennel services.

VIOLATION.

(Applies only to the Floodplain Overlay District). Failure of a structure or other development to be fully compliant with the Town's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Article XX.

VISUAL RUNWAY.

(Applies only to the Airport Overlay District.). A runway intended solely for the operation of aircraft using visual approach procedures.

WAREHOUSING, SELF STORAGE.

Establishments primarily engaged in the rental or leasing of mini- warehouses and self-storage units.

WAREHOUSING.

Establishments primarily engaged in the warehousing and storage of general merchandise, refrigerated goods, and farm products.

WASTE.

Surplus materials resulting from on-site construction or processing activities and disposed of at other locations.

WHOLESALE TRADE

An establishment primarily engaged in wholesaling merchandise, generally without transformation, and rendering services incidental to the sale of merchandise in accordance with NAICS standards..

WATER DEPENDENT STRUCTURE.

Structures for which the use requires access or proximity to or sitting within surface waters to fulfill its basic purpose, such as boat ramps, boat houses, docks, piers, bulkheads and similar structures. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.

WATER SUPPLY WATERSHED.

An area from which water drains to a point of impoundment, and the water is then used principally as a source for a public water supply.

WATER SURFACE ELEVATION (WSE).

(Applies only to the Floodplain Overlay District.). Height, in relation to NAVD 1988, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

WATERCOURSE.

(Applies only to the Floodplain Overlay District.). A lake, river, creek, stream, wash, channel or other topographic feature on or over which waters flow at least periodically. Watercourse includes specifically designated areas in which substantial flood damage may occur.

WATERSHED BUFFER.

(Applies only to the Watershed Overlay District.). A natural or vegetated area through which storm water 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.

WATERSHED CRITICAL AREA.

(Applies only to the Watershed Overlay District.).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).

WATERSHED PROTECTED AREA.

(Applies only to the Watershed Overlay District.).The area adjoining and upstream of the critical area of WS-IV watersheds. The boundaries of the protected area are defined as within five miles of and draining to the normal pool elevation of the reservoir or to the ridgeline of the watershed; or within 10 miles upstream and draining to the intake located directly in the stream or river or to the ridgeline of the watershed.

WATERSHED.

(Applies only to the Watershed Overlay District.). Entire land area contributing surface drainage into a specific stream, creek, lake, or other body of water.

WETLANDS.

Areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support and, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

WINERY.

This industry comprises establishments primarily engaged in one or more of the following:

- (1) growing grapes and manufacturing wine and brandies;
- (2) manufacturing wine and brandies from grapes and other fruits grown elsewhere; and
- (3) blending wines and brandies. Areas for demonstration, education or tasting are included in this definition and are incidental to the primary use of producing beverages in accordance with state ABC permits.

Additionally this can include a manufacturing facility engaged in the production and sale of wine or wine-like beverages.

WORKING DAY.

A day on which the offices of the Town are officially open, not including Saturdays, Sundays, and other holidays designated by the Town Board.

YARD, FRONT.

Yard extending across the full width of the lot and lying between the front lot line and the front setback line as required in this ordinance.

YARD, INTERIOR SIDE.

Yard extending along the length of the lot between the required front yard and the required rear yard, and between the side lot line and the side building setback line, as required in this ordinance, provided that the side lot line is not adjacent to a public street right-of-way.

YARD, REAR.

Yard extending across the full width of the lot and lying between the rear lot line and the rear building setback line as required in this ordinance.

YARD, STREET SIDE.

Yard extending along the length of the lot between the required front yard and the required rear yard adjacent to a public right-of-way or private access easement, and between the side lot line and the side building setback line as required in this ordinance.

YARD.

Area of land located between a lot line and a required setback line. The minimum depth of a yard shall be determined by horizontal measurement at a right angle from the applicable lot line.

ZERO LOT LINE.

Location of a building on a lot in such a manner that one of the building's sides rests directly on a lot line.

ZONING PERMIT.

A permit issued by the Administrator or designee which authorizes the recipient to use or occupy a tract of land or a structure; or to erect, alter or install a structure or sign which fully meets the requirements of this Ordinance.

DRAFT

Appendix A. Certifications

1. Certificate of ownership and dedication.

I hereby certify that I am (we are) the owner(s) of the property shown and described hereon, and that I (we) hereby adopt this plan of subdivision with my (our) free consent, establish minimum building setback lines, and dedicate all streets, alleys, walks, parks, and other sites and easements to public or private use as noted.

Date

Owner(s)

2. Certificate of survey and accuracy.

State of North Carolina, Wilkes County

I, _____, certify that this plat was (drawn by me) (drawn under my supervision) from (an actual survey made by me) (and actual survey made under my supervision) (Deed description recorded in Book _____, Page _____, etc.) (other); that the precision of the survey before adjusting was one part in _____ as calculated by latitudes and departures; that the boundaries not surveyed are shown as broken lines plotted from information found in Book _____, Page _____; and that this map was prepared in accordance with G.S. 47.30, as amended. Witness my original signature, registration number and seal this ___ day of _____, A.D. 20___.

Professional Land Surveyor
Official Seal
Registration Number

3. Certificate of Notary.

I, _____, a Notary Public of the County and State aforesaid, certify that (name of r surveyor) personally appeared before me this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal this the ___ day of ___ (year).

Notary Public
Official Seal
My Commission Expires

4. Certification of the approval of the installation and construction of streets, utilities, and other required improvements, if applicable.

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

Public Services Director
Date
Town Clerk

5. Certificate of Subdivision Administrator for all major and minor subdivision plats.

Approved for recording by the Town of North Wilkesboro, N.C. Subdivision Administrator pursuant to Chapter 16 of the Town of North Wilkesboro Code of Ordinances. This plat shall be recorded within thirty days of this date.

Subdivision Administrator

Date

6. Certificate of approval of recording plat and acceptance of dedications.

I, _____, the Town Clerk of the Town of North Wilkesboro, North Carolina, do hereby certify that on the ___ day of ___, 20 ___, the Planning Board/Board of Commissioners of the Town of North Wilkesboro approved this plat for recording and that the Town Board of the Town of North Wilkesboro accepted the dedication of the streets, easements, rights-of-way and public parks and other sites for public purposes as shown hereon, but assume no responsibility to open or maintain same until, in the opinion of the Town Board of the Town of North Wilkesboro, it is in the public interest to do so.

Date

Town Clerk

(Seal)

7. Certificate of approval by plat review officer.

I, _____, Review Officer for Wilkes County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer for Wilkes County

Date

8. NCDOT construction standards certification.

NCDOT Construction Standards Certification for all plats outside the town limits involving new street right-of-way and any plat inside Town Limits which changes a State system street:

I, (District Engineer), do certify that the streets as indicated herein, are approved by the North Carolina Division of Highways and will be accepted to the State system at such time as density warrants.

District Engineer

Date

9. Certificate of approval within the Water Supply Watershed

I certify that the plat shown hereon complies with the Watershed Protection Ordinance and is approved by the Watershed Review Board for recording in the Register of Deeds office.

Watershed Administrator

Date

Appendix B. Required Information on Preliminary and Final Plats

Information	Preliminary Plat	Final Plat
Title Block:		
Property Designation	X	X
Name and address of owner of record	X	X
Name of Subdivision	X	X
Location (township, country, state)	X	X
Date(s) of survey	X	X
Graphic scale and written scale	X	X
Name, address, registration number, and seal of registered land surveyor	X	X
Wilkes County property identification number (PIN)	X	
Streets:		
Proposed streets	X	X
Existing and platted streets on adjoining properties and in the proposed subdivision	X	X
Rights-of-way, location and dimensions	X	X
Grades	X	
Street Names	X	X
Utilities:		
Utility and other easements of record on and adjacent to the subdivision	X	X
Sanitary sewers, location and size	X	X
Storm sewers, culverts, and other drainage facilities, drainage easements, if any	X	X
Water lines, location and size	X	X
Fire hydrants	X	
Street lights	X	
Plans for individual water supply and sewage disposal systems, if any	X	
Site Calculations:		
Acreage in total tract to be subdivided	X	X
Total number of lots	X	X
Linear feet in streets	X	X
Area of each lot in square feet	X	X
Lot lines, with approximate bearings and distances, and lot and block numbers	X	
Sufficient data to determine readily and reproduce on the ground the location, bearing and length of every street line, lot line, boundary line, whether curved or straight, and including north point. This should include the radius, central angle, and arcs or chords of all curved streets, and curved property lines. All dimensions should be to the nearest 1/100 of a foot and angles to the nearest minute.		X
Other Details:		

Vicinity map showing the relationship between the proposed subdivision and surrounding area	X	X
Exact boundaries of the tract to be subdivided, shown with bearings and distances as required by G.S. 47-30, as amended	X	X
Names of owners of record of all adjoining land and all existing property boundaries which intersect the perimeter of the tract being subdivided	X	X
Topographic map, if requested	X	
North Arrow	X	X
The zoning classifications of the tract to be subdivided and all adjoining property	X	
The zoning classifications of the tract to be subdivided and all adjoining property	X	
The location of the flood hazard (100- and 500-year), floodway and floodway fringe areas	X	X
The location of sidewalks	X	X
The calculated built-upon area permitted for each building lot, taking into account permanently preserved open space (WATERSHED LOTS ONLY).	X	X
Existing buildings or other structures, railroads, and bridges on the land to be subdivided and land immediately adjoining	X	
Minimum building setback lines	X	X
Proposed parks, school sites, or other public open spaces	X	X
City limits, if applicable	X	X
Location of control corners	X	X
The accurate location and description of all monuments, reference markers and property and lot corners		X
A copy of the proposed erosion control plan.	X	
Any other information considered by the subdivider, the Planning Board, and/or the Town Board to be pertinent to the review of the plat	X	X
All certifications required in Appendix A		X

Appendix C. Wireless Communication Ordinance

C.1 General

A. Short Title.

This chapter shall be known and may be cited as the "Cellular Tower Regulations."

B. Authority

1. This Ordinance is adopted under the authority of the Federal Telecommunications Act of 1996 and 47 U.S.C. § 332, as amended, section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012, 47 U.S.C. § 1455(a), and in accordance with the rules promulgated by the Federal Communications Commission, State of North Carolina (NCGS) 160A-174 et seq., G.S. 160D-930 et seq., and the Unified Development Ordinance of the Town of North Wilkesboro.
2. The Board of Adjustment is vested with the authority to review, approve, approve with additional standards, and disapprove applications for wireless communication facilities, including sketch, preliminary, and final plans.

C. Usage

1. For the purpose of these regulations, certain abbreviations, terms, and words shall be used, interpreted, and defined as set forth in this Article.
2. Unless the context clearly indicates to the contrary, words used in the present tense include the future tense and words used in the plural shall also indicate the singular.

D. Definitions

ACT

The Federal Communications Act of 1934, as it has been amended from time to time, including but not limited to the Federal Telecommunications Act of 1996, and shall include by reference all future amendments to the Federal Communications Act of 1934.

AFFILIATE

When used in relation to an operator, another person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or common control with the operator, or an operator's principal partners, shareholders, or owners of some other ownership interest; and when used in relation to the municipality, any agency, board, authority or political subdivision affiliated with the municipality or other person in which the municipality has legal or financial interest.

ALTERNATIVE TOWER STRUCTURE

Man-made structures including but not limited to those resembling trees, clock towers, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ANALOG TECHNOLOGY

Replicates and amplifies voice messages as they are carried from the transmitting antenna to the receiving antenna.

ANTENNA OR ANTENNA ARRAY

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

ANTENNA HEIGHT:

The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

ANTENNA SUPPORT STRUCTURE

Any pole, telescoping mast, tower tripod, or any other structure which supports a device used in the transmitting and/or receiving of electromagnetic waves.

APPLICANT

A person who applies for a wireless facility siting. An applicant can be the owner, of the property or someone who is representing the owner, such as a tenant, licensee, operator, builder, developer, optional purchaser, consultant, or architect.

BROADCAST

To transmit information over the airwaves to two or more receiving devices simultaneously. Information can be transmitted over local television or radio stations, satellite systems or wireless data communications networks.

CELL SITE

A tract or parcel of land or structure that contains a wireless communication facility and, if applicable, its support structure, accessory building(s), and parking, and may include other uses associated with an ancillary to wireless communications transmission.

CELLULAR SERVICE

A telecommunications service that permits customers to use wireless, mobile telephones to connect, via low-power radio transmission cell sites, either to the public switched network or to other mobile phones.

CELLULAR COMMUNICATIONS

A commercial Low Power Mobile Radio Service licensed by the Federal Communications Commission (FCC) to providers in a specific geographical area in which the radio frequency spectrum is divided into discrete channels which are assigned in groups to geographic cells within a service area and which are capable of being reused in different cells within the service area. *Cellular Communications Facility*: The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service.

CIVIC USE FACILITY

Any building or structure (non-profit or government) used to promote the common good and general welfare of the town.

CO-LOCATION

The placement, installation, maintenance, modification, operation, or replacement of wireless facilities on, under, within, or on the surface of the earth adjacent to existing structures, including utility poles, town utility poles, water towers, buildings, and other structures capable of structurally supporting the attachment of wireless facilities in compliance with applicable codes. The term does not include the installation of new utility poles, town utility poles, or wireless support structures.

COMMON CARRIER

An entity licensed by the FCC or a state agency to supply local and/or long distance telecommunications services to the general public at established and stated prices.

COMMUNICATION TOWER

A guyed or un-guyed, monopole, lattice or other self-supporting tower, constructed as a free standing structure or in association with a permanent structure or equipment, containing one or more antennas intended for transmitting and/or receiving television, AM/FM radio, digital, microwave, cellular, telephone, paging, wireless internet, data, or similar forms of electronic communication.

COMMUNICATIONS FACILITY

The set of equipment and network components, including wires and cables and associated facilities used by a communications service provider to provide communications service. Communications facilities include structures, towers and accessory buildings.

COMMUNICATIONS TRANSMISSION SYSTEM OR COMMUNICATIONS SYSTEM

A wired communication transmission system, open video system, or wireless communications transmission system governed by these regulations.

DIGITAL TECHNOLOGY:

Branch of knowledge that converts voice and data messages into digits that represent sound intensities at specific points of time and data content.

DIRECTIONAL ANTENNA

An antenna or array of antennas designed to concentrate a radio signal in a particular area.

DISH ANTENNA

A dish-like antenna used to link communications sites together by wireless transmission of voice or data. Also called microwave antenna or microwave dish antenna.

FAA

Federal Aviation Administration.

FALL ZONE

An area of land surrounding a tower structure, as certified by the manufacturer or an independent structural engineer, in which the structure would fall in the event of collapse or other structural failure.

FCC

Federal Communications Commission.

FREQUENCY

The number of cycles completed each second by a sound wave; measured in hertz (Hz). *Guyed Tower*: A communication tower that is supported, in whole or in part, by guy wires and ground anchors.

HEIGHT

The vertical measurement from a point on the ground at the mean finished grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the structure, to the highest point of the building or structure.

LATTICE TOWER

A guyed or self-supporting three or four sided, open, steel frame structure used to support communications equipment.

LICENSE

The rights and obligations extended by the FCC to an operator to own, construct, maintain, and operate its wireless facility within the specified boundaries which may include the Town of North Wilkesboro in whole or in part.

LINE OF SIGHT

The direct view of an object from a designated location.

MICROWAVE

Electromagnetic radiation with frequencies higher than 1,000 MHz; highly directional signal used to transmit radio frequencies from point-to-point at a relatively low power level.

MICROWAVE ANTENNA

A dish-like antenna manufactured in many sizes and shapes used to link communication sites together by wireless transmission of voice or data.

MONOPOLE TOWER

A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

OMNI-DIRECTIONAL ANTENNA

An antenna that is equally effective in all directions and whose size varies with the frequency and gain for which it was designed.

OPERATOR

A person or entity that owns or operates a wireless communications facility.

OWNER

The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records of the Town of North Wilkesboro. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the municipality a copy of a deed or contract of sale showing date, book, and page of recording.

PARABOLIC ANTENNA

Also commonly known as a satellite dish antenna. A bowl shaped antenna designed for the reception or transmission of radio frequency communication signals in a specific directional pattern.

PERSONAL COMMUNICATIONS SERVICES OR PCS

Digital wireless technology such as portable phones, pagers, faxes, and computers. Such mobile technology promises to allow each consumer the same telephone number wherever he or she goes. Also known as Personal Communication Network (PCN).

PUBLIC PROPERTY

Any real property, easement, air-space, or other interest in real estate, including a street, owned by or controlled by this municipality or any other governmental unit.

ROOF, EXISTING STRUCTURE, AND/OR BUILDING MOUNT FACILITY

A communications facility in which antennas are mounted to an existing structure, such as a building, silo, utility pole, water tower, existing telecommunications tower, and which may be on the roof (including rooftop appurtenances), building face, side or elsewhere on the existing structure.

SELF-SUPPORTED TOWER

A communication tower that is constructed without guide wires and ground anchors.

SMALL WIRELESS FACILITY

A wireless facility that meets the following qualifications:

- Each antenna is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements, if enclosed, could fit within an enclosure of no more than 6 cubic feet.
- All other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet. For the purposes of this sub-subdivision, the following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or other support structures.

SPECTRUM

Relating to any transmissions or reception of electromagnetic waves.

STEALTH FACILITY

Any communications facility which is designed to blend into the surrounding environment. Examples of stealth facilities may include architecturally screened roof-mounted antennas, building-mounted antennas painted to match the existing structure, tree concealments, and antennas integrated into architectural elements.

SYSTEM

The communications transmission system operated by an operator.

TELECOMMUNICATIONS

The transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

TOWER

Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

WIRELESS COMMUNICATION FACILITY

Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including equipment associated with wireless communications and radio transceivers, antennas, wires, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. The term includes small wireless facilities. The term does not include any of the following:

- The structure or improvements on, under, within, or adjacent to which the equipment is collocated.
- Wireline backhaul facilities.
- Coaxial or fiber-optic cable that is between wireless structures or utility poles or Town utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

WHIP ANTENNA

An antenna that transmits signals in 360 degrees. Whip antennas are typically cylindrical in shape and are less than 6 inches in diameter and measure up to 18 inches in height. Also called Omni-directional, stick or pipe antennas.

WIRELESS INFRASTRUCTURE PROVIDER

Any person with a certificate to provide telecommunications service in the State who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures for small wireless facilities but that does not provide wireless services.

WIRELESS PROVIDER

A wireless infrastructure provider or a wireless services provider.

WIRELESS SERVICES

Any services, using licensed or unlicensed wireless spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public using wireless facilities.

WIRELESS SERVICES PROVIDER

A person who provides wireless services.

WIRELESS SUPPORT STRUCTURE

A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole or a Town utility pole is not a wireless support structure.

E. Authority for Appendix

This chapter is enacted by the Board of Commissioners pursuant to authority contained in Chapter 160D. Local Planning and Development Regulation. Article 9. Regulation of Particular Uses and Areas. Part 3 Wireless Telecommunications Facilities of 160D- 930 through 160D-939, of the North Carolina General Statutes of North Carolina.

F. Territorial Applicability of Appendix

These regulations apply to all Wireless Communications Facilities, as defined in Article I, Section 4 of this Ordinance, located within the corporate limits of the Town and the Extra-Territorial Jurisdiction (ETJ). No wireless communications facility may be constructed without a Building Site and Operations Plan and a Special Use permit approved by the Board of Adjustment.

G. Purpose of Appendix.

The purpose of these regulations is protect the public health, safety, and general welfare of the community, while accommodating the communication needs of residents and business these regulations are necessary to; facilitate the provision of wireless telecommunication services to the residents and businesses of the municipality; minimize adverse visual effects of towers through careful design and siting standards; encourage the location of towers in non-residential areas through performance standards and incentives; avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; provide mechanisms for the mitigation of tower proliferation through tower sharing requirements for all new tower applicants and those existing towers that are physically capable of sharing; allow competition in wireless communications services; encourage the provision of advanced communications services to the community; enable the Town of North Wilkesboro to discharge its public trust consistent with the rapidly changing Federal and State regulatory environment, industry competition, and technological development.

H. Enactment

In order that wireless communications facilities may be constructed in accordance to these purposes and policies, these regulations are hereby adopted by the Town of North Wilkesboro Board of Commissioners, and made effective as of the date of its adoption and any amendments by the Board of Commissioners of the Town of North Wilkesboro.

I. Interpretation

In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the protection of public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted.

As of the effective date of this Ordinance, any moratorium then in effect on the construction of wireless communication towers within the jurisdiction of said Ordinance shall be deemed repealed and of no further force or effect.

J. Conflict

These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law except as authorized by applicable federal or state law and as provided in these regulations. Except to the extent that the Town of North Wilkesboro is not authorized or is prohibited by applicable federal or state law from imposing higher or more restrictive standards, where any provision of these regulations imposes restrictions different from

any other ordinance, rule or regulation, statute, or other provision of law, the provision which is more restrictive or imposes higher standards shall govern.

K. Severability

If any part or provision of these regulations or the application of these regulations to any service provider or circumstances is adjudged invalid by any court of competent jurisdiction, the judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which the judgment shall be rendered and it shall not affect or impair the validity of the remainder of these regulations or the application of them to other service providers or circumstances. The Town Board of Commissioners of the Town of North Wilkesboro hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application which is judged to be invalid.

C.2 Administration and Enforcement

A. Administration and Enforcement Officer

1. Planning Director Designated: The Planning Director is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance. For such duties he/she may be provided with the assistance of such additional persons as the Town Board of Commissioners may direct.
2. Duties: In the enforcement of said Ordinance the Planning Director shall perform the following duties:
 - a. Issue the necessary Zoning Permits and/or Special Use Permit applications required by the provisions of this ordinance and provided its provisions and those of the building code have been complied with.
 - b. Keep an accurate record of all permits, numbered in the order of issuance.
 - c. In case of any finding of a violation of a provision of this ordinance, notify in writing of the actual violator where known, owner of the property on which the violation has taken place and indicating the nature of the violation and the action necessary to correct it by personal delivery, electronic delivery, or first class mail.
 - d. Carry out such additional responsibilities as are hereinafter set forth by the provisions of this ordinance.

B. Authority:

In the enforcement of said Ordinance, the Planning Director shall have the power and authority for the following:

1. Permission to enter the premises during reasonable hours and upon presenting credentials; additionally must have consent of premises owner or an administrative search warrant to inspect areas not open to the public.
2. Upon reasonable cause or question as to proper compliance, to notify of violations and initiate penalty actions as described in the Town's Zoning Ordinance, Article IV. Enforcement and Penalties requiring the cessation of any building, moving, alteration or use which is in violation of the provisions of this ordinance, such revocation to be in effect until reinstated by the Planning Director or the Board of Adjustment; or take any other action as directed by the Board of Commissioners to insure compliance with or to prevent violation of its provisions.
3. In the name of the Town and with authorization of the Town Board of Commissioners commence any legal proceedings necessary to enforce the provisions of this Ordinance or the building code including the collection of forfeitures provided for herein. If the property resides in the ETJ, Wilkes County will enforce the building code only.

C. Permits

1. Permit Required: No wireless communications facility shall be erected, structurally

- altered, or relocated within the Town of North Wilkesboro and its Extra-Territorial Jurisdiction (ETJ) until a Building Site and Operation Plan has been submitted to the Planning Director, a Special Use permit has been issued by the Board of Adjustment, a tower fee has been received by the Planning Director, and a building permit has been issued by the Building Inspector certifying that such building or structure as proposed would be in compliance with the provisions of this ordinance and with the Building Code of the Town or Wilkes County.
2. The zoning permit for the Town of North Wilkesboro must be accompanied by payment of a non-refundable tower fee in the amount established by the current fee schedule of the Town of North Wilkesboro. This fee applies to all new, individual towers and individual co-locations.
 3. Permitting Procedure: An application for a Building Site and Operation Plan and Special Use Permit where applicable, shall be made in conformity with the Zoning Ordinance and this Ordinance. An application for a Building Permit shall be accompanied by the applicant's approved Building Site and Operation Plan and Special Use Permit if applicable, and shall be made in conformity with the requirements of the Building Code of the Town of North Wilkesboro or Wilkes County.
 4. Permit Expiration: If within two years of the date of application no work per the permits have substantially commenced, any Building Permit and Zoning Permit related thereto shall lapse and the Planning Director shall make immediate investigation to ascertain that no use or occupancy has in fact commenced without proper authority. Upon showing of valid cause, the Planning Director will recommend the property owner to petition the Board of Adjustment for a one-time, two- year extension of the vested right not to exceed a total vested period of five years. Additional requirements for vested rights are outlined in the Town's Zoning Ordinance, Article II Applicability of Ordinance, 2.2 Vested Development Rights.
 5. Temporary Occupancy and Use Permit: Pending the issuance of the Special Use permit, a temporary permit may be issued by the Board of Adjustment upon recommendation of the Planning Director, Town Building Inspector or Wilkes County Building Codes Administrator and the Town Public Services Director. Staff may have support of a contracted engineering agent for a period not exceeding 6 months during the completion of alterations or during partial occupancy of a building pending its permanent occupations. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants. A temporary permit shall be voided if the building fails to conform to the provisions of this ordinance to such a degree as to render it unsafe for the occupancy proposed. The temporary permit shall have a specified timeframe.
 6. Non-commercial, individual use towers that are twenty feet in height or less from ground level or, if roof-mounted, are less than ten feet shall only require a standard Zoning Permit issued by the Planning Director in lieu of the additional standards set forth in this ordinance.
 7. A permit shall not be required for routine maintenance, replacement of small wireless facilities that are the same size or smaller or the installation and placement of micro wireless facilities that are suspended on cables strung between utility poles in compliance with applicable codes by or for communications service provider authorized to occupy in the rights of way.

D. Relation to Official Zoning Map

1. Districts Mapped: The Town of North Wilkesboro is divided into zoning districts as shown upon a map designated as the Zoning Map of the Town of North Wilkesboro and made part of the Town's Zoning Ordinance, and all the notations, references and other information shown thereon shall be as much a part of this Ordinance as if the matters and information set forth by said map were all fully described herein.

2. Performance Standards: All wireless communications facilities shall adhere to the zoning standards described in Zoning Ordinance of the Town Code and to Section IV of this Ordinance.
3. Exemptions
 - a. The following are exempt from the provisions of this Ordinance:
 - (1) Emergency wireless communications facilities used for emergency communications by public officials.
 - (2) Amateur (ham) radio stations licensed by the Federal Communications Commission.
 - (3) Parabolic antennas less than three (3) feet in diameter.
 - (4) Small wireless facility located in an interior structure or upon the site of any privately owned stadium or athletic facility.

E. Amendments

For the purpose of protecting the public health safety, and general welfare, the Planning Board or Town Board of Commissioners may from time to time propose amendments to these regulations which may be acted on by the Town Board of Commissioners at a public meeting following any public notice as required by North Carolina Statutes for an amendment to a zoning ordinance, in a manner similar to a zoning ordinance. Realizing that communication technologies are evolving and changing quickly, future innovations may reduce the impacts of individual facilities and render portions of these regulations obsolete. Therefore, periodic review and revision of these regulations will be necessary.

F. Violations and Penalties

1. The Planning Director may pursue one or more of the following remedies per Town's Zoning Ordinance, Article IV. Enforcement and Penalties. Those include stop work order, civil citation and penalties, and criminal penalties which is noted below.
2. Any person, firm or corporation who violates the provisions of this Ordinance or fails to comply with any of its requirements shall, upon conviction, be guilty of a Class 1 misdemeanor and shall be fined not more than a maximum of five hundred dollars (\$500.00), for each violation, as provided in North Carolina General Statute 14-4.
3. Each day's continuing violation of this Ordinance, where applicable, shall constitute a separate and distinct offense.
4. This ordinance may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction, or by an order of abatement, as provided under G.S. 160 A- 175
5. The remedies and penalties for violation of this Ordinance shall be cumulative, and the election of remedy or enforcement of a penalty hereunder shall not preclude the election of any other remedy or enforcement of any other penalty which may be provided under this Ordinance or by law.

G. Appeals

Petitioners requesting approval of a wireless communications facility who are aggrieved by a decision of the Planning Director may appeal said decision to the Board of Adjustment. Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-14-2. A petition for review shall be filed with the clerk of superior court by the later of 30 days after the decision is effective or after a written copy thereof is given. When first-class mail is used to deliver notice, three days shall be added to the time to file the petition. The Board of Adjustment shall hear said cases in accordance with Town's, Zoning Ordinance Article III. Administration.

C.3 General Performance Standards

A. Co-Location

1. A proposal for a new wireless communication tower shall not be considered unless the Planning Director finds that the communications equipment planned for the proposed tower

cannot be accommodated on an existing or approved tower or structure within a one mile search radius of the proposed tower due to one or more of the following reasons:

- a. The planned equipment would exceed the structural capacity of the existing or approved tower or structure, as documented by a qualified and licensed professional engineer, and the existing or approved tower or structure cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 - b. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - c. Existing or approved towers and structures within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - d. The owner of the existing wireless support structure is unwilling to enter into a contract for such use at fair market value.
2. The antennae owner must provide the Planning Director with proof of general liability insurance in the minimum amount of One Million Dollars (\$1,000,000).
 3. The Planning Director shall issue a written decision approving an eligible facilities request application within 45 days of such application being deemed complete. For a collocation application that is not an eligible facilities request, the Planning Director shall issue its written decision to approve or deny the application within 45 days of the application being deemed complete.
 4. The Town may impose fees to hire technical consultation and the review of a collocation or eligible facilities application but the fees shall not exceed \$1,000. The fees shall not be used for travel expenses or reimbursement for the consultant based on contingent fee basis or results based arrangement.

B. Tower and Antenna Design Requirements

1. Proposed or modified wireless communications towers and antennas shall meet the following design requirements:
 - a. All wireless communications facilities proposed to be located within the incorporated town limits or Extraterritorial Jurisdiction (ETJ) of the Town of North Wilkesboro shall be permitted in all zoning districts and must be Stealth Facilities or an Alternative Tower Structure as described in Article I, Section 4 or be co-located. (b) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and other camouflaging architectural treatments, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
 - b. Towers shall be designed structurally, electrically, and in all other respects to accommodate both the applicant's antennas and comparable antennas for at least three additional users if the tower is over 150 feet in height; at least two additional users if the tower is between 100 feet and 150 feet in height; or at least one additional user if the tower is between 60 and 99 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
 - c. Wireless communication service towers shall be of an un-guyed, monopole design. Lattice towers and guyed monopole towers shall be prohibited unless the Board of Adjustment determines that such alternative designs would better blend in to the surrounding environment.
 - d. The tower and/or antennae owner(s) must provide the Planning Director with proof of general liability insurance in the minimum amount of One Million Dollars (\$1,000,000).

- e. The tower owner(s) must provide a surety bond in the amount of \$25,000 for the removal of the structure in the case of abandonment. Towers must have a fall zone at least equal to 100% of the height of the tower in which no structures other than ones associated with the tower would be affected.

C. Accessory Uses and Accessory Structures

All accessory uses and structures associated with Wireless Communications Facilities shall comply with the following:

1. Ground mounted equipment including but not limited to equipment cabinets and generators shall be enclosed in a structure which is architecturally designed to be of residential character and screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood. Only one such structure shall be permitted per site; all co-locators must be housed within a common structure.
2. All utility buildings and structures accessory to a wireless communications tower shall be architecturally designed to be of residential character and shall meet the minimum setback requirements of the underlying zoning
3. district.
4. No outdoor storage shall be permitted at any wireless communications tower site, unless specifically identified and approved in a Building Site and Operation Plan.

D. Zoning and Use

1. Wireless communications facilities or antennae which are to be roof-mounted, regardless of zoning district, must comply with the following specifications and with Section 20 and 21 of this ordinance:

Building Height	Maximum Antennae Height
Over 150 feet	12 percent of building height
75 to 149 feet	15 percent of building height
Less than 75	18 percent of building height

2. Co-locations, stealth facilities, and roof mounted antennae shall be permitted to exist in and/or on public buildings, public structures, and civic use facilities located in residential districts when incorporated into the architectural design of such buildings (such as church steeples). Roof-mounting on such said buildings and structures located in residential zones shall be permitted, but must comply with the requirements as specified in Section 19, 20, 21 and 22(a) of this ordinance.

E. Lighting

Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. The applicant must provide documentation that lighting required by the FAA is necessary.

F. Interference with Public Safety Communications

No new or existing telecommunications service shall interfere with public safety telecommunications. All applications for new service shall be accompanied by an intermodulation study which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems. Before the introduction of new service or changes in existing service, telecommunication providers shall notify the municipality at least ten calendar days in advance of such changes and allow the municipality to monitor

interference levels during the testing process.

G. Use and Occupancy of Public Rights-of-Way

The overhead, underground, or surface use and occupancy of public streets, alleys, rights-of-way, parks or other public spaces by wireless communications service providers is prohibited without a valid right-of-way easement. Requests for such easements by wireless communications service providers shall be processed in accordance with the requirements of the Town Board of Commissioners' policies or the North Carolina Department of Transportation (NCDOT) whichever is applicable.

H. Signs and Advertising

The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

I. Noise

All noises emanating from Wireless Communications Facilities located in town, including their accessory structures and uses, shall be prohibited as described by Chapter 12, Section 12-21 of the North Wilkesboro Town Code.

C.4 Abandoned Facilities

A. Abandoned or Unused Towers or Tower Facilities

1. Non-Use of facilities: A wireless communications tower that is not operated for a continuous period of six (6) months shall be considered abandoned unless a Building Site and Operation Plan or Special Use Permit has been approved by the Board of Adjustment within the past two years, and said facility is yet to be constructed.
2. Abandoned towers shall be removed as follows:
 - a. The Town shall notify the owner of an abandoned wireless communications tower in writing and order the removal of the facility within ninety (90) days of the receipt of the written notice.
 - b. The owner of the facility shall have thirty (30) days from the receipt of the written notice to demonstrate to the Town that the facility has not been abandoned.
 - c. In the event that a tower is not removed within 90 days of the receipt of written notice, the wireless communications tower and associated facilities may be removed by the Town and the costs of removal seized from the surety, if applicable. Costs for removal may include all reclamation costs deemed necessary by the Town to return the site to its pre-construction condition, including but not limited to road removal and establishment of vegetation. Costs for removal which are in excess of sureties provided in accordance with Section 20 (f) of this Code shall be assessed against the property.

C.5 Application & Approval

A. General Procedure

The submission of applications for wireless communications facilities shall follow the same application procedure as detailed in the Town of North Wilkesboro Zoning Ordinance for Building Site and Operation Plan and / or Special Use Permit and as detailed in this Ordinance.

B. General Approval Standards

Generally, approval of a wireless communications facility can be obtained if the following items are met:

1. The location of proposed tower is compatible with the Zoning Ordinance
2. All efforts to locate on an existing tower have not been successful or legally/physically possible.
3. The submitted site plan complies with the performance criteria set in these regulations.

4. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or major view corridor.
5. The lowest six (6) feet of the facility/tower be visually screened by trees, large shrubs, solid walls, or
6. fences and/or nearby buildings.
7. The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.
8. It is strongly encouraged that the owner of the wireless communication facility agrees to permit other persons/cellular providers to attach cellular antenna or other communications apparatus which do not interfere with the primary purpose of the facility. Written documentation shall be included in the final permit paperwork.
9. The proposed site presents fewer or less severe impacts than any feasible alternative site.
10. There exists no other existing facility/tower that can reasonably serve the needs of the owner of the proposed new facility/tower.
11. The proposed facility/tower is not constructed in such a manner as to result in needless height, mass, and guy- wire supports.
12. The color of the proposed facility/tower will be of a light tone or color (except where required otherwise by the FAA) as to minimize the visual impact and that the tower will have a security fence around the tower base or the lot where the tower is located.
13. The facility/tower is in compliance with any other applicable local, state, or federal regulations.
14. For new tower facilities, that all equipment for the petitioner and all potential co-locators is housed in one building, to be designed and built by the petitioner.

C. Building Site and Operation Plan Supplemental Requirements

1. In addition to the requirements found elsewhere in the Town of North Wilkesboro Zoning Ordinance for Building Site and Operation Plan submittal, site plans for wireless communications facilities shall include the following supplemental information:
2. Plat of Survey at a scale of 1" = 50'.
3. Site plan of entire development, indicating all improvements including landscaping and screening, and illustrating the location and approximate size and height of all buildings and structures within five hundred (500) feet adjacent to the proposed wireless communication facility.
4. Elevations showing all facades, indicating exterior materials and color of the structure(s) on the proposed site.
5. Documentation of the petitioner's right, title, or interest in the property where the facility is proposed to be sited, including name and address of the property owner and applicant. If the applicant differs from the property owner, the property owner shall give them written permission to represent them on the application.
6. Color photo simulations of the proposed facility taken from perspectives determined by the Planning Director or his/her designee during a pre-application conference. Each photo shall be labeled with the line of sight, elevation, and date. The photos shall also illustrate the color of the facility and proposed screening.
7. Fees and developers deposits in amounts stated in this ordinance.
8. Provisions for off-street parking for service and maintenance vehicles.
9. Provisions for site security, which may include fencing and anti-climb appurtenances.
10. A form of surety to pay for the cost of removing the facility if it is abandoned.
11. A form indicating attainment of required general liability insurance in the amount stated in this ordinance.
12. A list of all property owners within three hundred (300) feet of the property on which the facility is proposed.
13. A report from a qualified and licensed professional engineer which:
 - a. describes the tower or structure height and design including a cross section and elevation,

- b. documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas;
 - c. describes the tower or structure capacity, including the number and type of antennas that it can accommodate;
 - d. documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - e. includes an engineer's stamp and registration number who is certified to work in the United States;
 - f. includes safety considerations;
 - g. includes other information necessary to evaluate the request.
 - h. includes a master plan for all related facilities applicable to the proposed site within the community and within one (1) mile of the proposed location illustrated in a USGS 7.5 minute topographic map. Such plan shall also illustrate the location of all structures and wireless communications facilities which are 80 feet or more in height above ground level which are within five (5) miles of the proposed facility.
 - i. includes an alternatives analysis which identifies all reasonable, technically feasible, alternative locations and / or facilities which would provide the proposed wireless communications service. The intention of the alternatives analysis is to present different strategies which minimize the number, size, and adverse impact of facilities which are necessary to provide the service to the residents. The analysis shall address the potential for co-location and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Additionally the Town's infrastructure such as water tanks or existing towers should be explored as an option for co-location, but is not required. The Town may require independent verification of the petitioner's analysis at the petitioner's expense.
14. Before the issuance of a zoning permit the following supplemental information shall be submitted:
- a. Proof of compliance with applicable Federal Communications Commission regulations; and
 - b. A report from a qualified and licensed professional engineer who is certified to work in the
 - c. United States which demonstrates compliance with the municipality's structural and electrical standards.
 - d. Approval of the Department of Commerce.
 - e. Proof of the issuance of access permits as may be required from other government jurisdictions.

D. Special Use Permit Supplemental Requirements

In addition to the requirements found in this Ordinance and elsewhere in the Town of North Wilkesboro Zoning Ordinance for Building Site and Operation Plan submittal, Special Use Permit applications for wireless communications facilities shall include the following supplemental information:

1. An Agreement in a form acceptable to the Town Attorney committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use. All such Agreements shall be in a recordable format, and upon approval of the Special Use Permit shall be recorded with the Wilkes County Register of Deeds as part of the Special Use Permit application process.
2. Where co-location is found to be an alternative in the engineer's analysis, evidence that the petitioner has made diligent good faith efforts to negotiate co-location on an existing facility, building, or structure, and has been denied access.

3. Identification of districts, buildings, sites, structures or objects of historical significance that are listed or are eligible to be listed in the National Register of Historic Places.
4. A form of surety approved by the Finance Director and Town Board of Commissioners to pay for the cost of removing the facility if it is abandoned.
5. A list of all property owners within three hundred (300) feet of the property on which the facility is proposed.
6. A report from the tower manufacturer or a qualified and licensed professional structural engineer which includes an analysis of the fall zone of the proposed tower.
7. Before the issuance of a building permit, the following supplemental information shall be submitted:
 - a. A copy of the FAA's response to the submitted "Notice of Proposed Construction or Alteration" (FAA Form 7460-1) shall be submitted to the Planning Director.
 - b. Proof of compliance with applicable Federal Communications Commission regulations; and,
 - c. A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the municipality's structural and electrical standards.
 - d. Approval of the Department of Commerce.
 - e. Proof of the issuance of access permits as may be required from other government jurisdictions.
8. Additional information on Special Use Permits and the process of securing one can be referenced in the Town's Zoning Ordinance under Article III Administration.