



**Pineville**  
**ZONING ORDINANCE**

**Town of Pineville, North Carolina**  
*Adopted June 28, 2021*

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## **CHAPTER 1 AUTHORITY & PURPOSE**

### **1.1 TITLE**

These Regulations shall be officially known as the “Pineville Zoning Ordinance,” and may be referred to as the “Zoning Ordinance,” or “this Ordinance.”

### **1.2 AUTHORITY AND ENACTMENT CLAUSE**

#### **1.2.1 General**

This Ordinance is in part carried forward by re-enactment of some of the provisions of the Zoning Ordinance of the Town of Pineville (adopted by the Town Council on **December 21, 1970**, as amended), (second amendment was **March 15, 1988**), and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued hereunder are preserved and may be enforced. All provisions of the Zoning Ordinance of the Town of Pineville enacted in 1970, as amended, which are not re-enacted herein are hereby repealed.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 Zoning Ordinance heretofore in effect, which are now pending in any of the courts 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 Zoning Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted. Nothing in this Ordinance shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

Pursuant to authority conferred by the North Carolina General Statutes including; **but not limited to**, Chapter 160D and subsections as amended, and for the purpose of promoting the health, safety, morals or general welfare of the inhabitants of the Town of Pineville the Pineville Town Council hereby enacts this Zoning Ordinance.

#### **1.2.2 Jurisdiction**

The provisions of this Ordinance shall apply within the corporate limits of the Town of Pineville and any property thereto annexed in the future. The boundaries of the zones are shown upon the map accompanying this Ordinance and made a part thereof and said map **or maps** shall be known as the "Official Zoning Map" of Pineville, North Carolina. All notations, references and all amendments thereto, and other information shown thereon are hereby made a part of this Ordinance the same as if such information set forth on the map was all fully described and set out herein. The zoning map properly attested is on file in the Town Hall and is available for inspection by the public.

### **1.3 PURPOSE**

#### **1.3.1 General**

These zoning regulations have been designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the overcrowding of land, to avoid undue

concentration of population, and to facilitate the adequate and economic provision of transportation, water sewerage, schools, parks and other public facilities and services. Maintaining and enhancing property value and community character through design guidelines.

### 1.3.2 **Specific**

This Ordinance is adopted for the following particular purposes:

#### **Implement Policies of the Land Use Plan, and Overlay Districts**

To implement the goals and policies of the Pineville Land Use Plan and Overlay Districts, as well as other goals and policies adopted by the Town Council related to growth and development.

#### **Protect Small-Town Character**

To preserve and enhance the established small-town character of Pineville and the social and economic stability of the existing residential, commercial and other land uses within the Town.

#### **Promote Good Planning Practice**

To promote good planning practice including **walkability, high quality development**, and to provide a regulatory mechanism, which includes appropriate performance standards for development within the Town.

#### **Hazard Mitigation**

To prevent and safeguard the Town against adverse impacts of development and mitigate flooding, fire, undue congestion and other hazards and to enhance water quality, infrastructure, and transportation network options.

#### **Efficient Use of Land and Public Services**

To encourage a more efficient use of land and public services **along major transportation routes**.

#### **Discourage Sprawl**

To discourage sprawling **isolated or limited access** development patterns **prioritizing the person and minimizing the automobile dominance in land development patterns**.

#### **Encourage Well Planned Transportation Access and Development Interconnectivity**

To encourage mixed-use development and interconnectivity between developments.

## 1.4

### **APPLICABILITY AND JURISDICTION**

- 1.4.1 **These regulations apply to the development and use of all land and structures within the corporate limits of the Town of Pineville, North Carolina, now or hereafter amended, and as indicated on the Pineville Official Zoning Map. Bona Fide farms as specified in North Carolina General Statutes 106D-903 are exempt.**

**1.4.2** This Ordinance is in part carried forward by re-enactment of some of the provisions of the Zoning Ordinance of the Town of Pineville (adopted by the Town Council on **December 21, 1970**, as amended), (second amendment was **March 15, 1988**), and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued hereunder are preserved and may be enforced. All provisions of the Zoning Ordinance of the Town of Pineville enacted in 1970, as amended, 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 Zoning Ordinance heretofore in effect, which are now pending in any of the courts 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 Zoning Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted. Nothing in this Ordinance shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

**1.4.3 No Development Until Compliance with this Ordinance**  
No **activity, land development, or** structure, **nor** part thereof shall hereafter be **occupied**, located, **constructed**, moved, reconstructed, extended, converted, or structurally altered without full compliance with the provisions of this Ordinance and all other applicable Town, State, and Federal regulations. **Including; but not limited to, the Pineville Comprehensive Plan, Pineville Overlay Districts, and Pineville Land Development Standards Manual.** For the purposes of this section, development or use of land shall include land disturbance activities such as clearing and grading, or otherwise disturbing the existing vegetative cover.

## **1.4 OFFICIAL ZONING MAP**

**1.5.1 Official Zoning Map**  
The **Pineville** Official Zoning Map **as adopted by the Pineville Town Council**, designates the incorporated limits of the Town of Pineville and the location and a boundary of the various zoning districts established in this Ordinance. **This map and its boundaries shall be incorporated and made part of this ordinance.** The Official Zoning Map shall be determined and kept on file in the office of the Planning Director and is available for public inspection.

**1.5.2 Incorporated by Reference**  
The Official Zoning Map, Overlay District Maps, **Pineville Land Development Standards**, adopted Stormwater ordinances, **local, state, and federal flood maps, and similar adopted hazard mitigation maps and policy** and all the notations thereon are hereby incorporated by reference and made part of this Ordinance.

**1.5.3 Interpretation and Boundaries**  
The following rules shall apply in the interpretation of boundaries and where uncertainty exists with respect to the boundaries of any zoning, overlay, or district map. The Planning Director shall use the rules set forth below:

**A. Boundaries corresponding to streets, highways, or alleys within the Town of Pineville corporate limits shall follow the centerlines of such features.**

- B. Boundaries corresponding to lot lines shall follow such lot lines.
- C. Boundaries corresponding to Town of Pineville's corporate limits shall follow such corporate limits.
- D. Boundaries corresponding to railroad lines shall be located midway between the main tracks.
- E. Boundaries shown as parallel to or extensions of features indicated in this section shall be construed as such.
- F. Distances not specifically indicated on the Planning Ordinance Map shall be determined by the scale of the map.
- G. Where the actual location of existing physical or natural features vary with those shown on the Planning Ordinance Map, or in other circumstances not covered by this section, the Planning Director shall have the authority to interpret the district boundaries.
- H. Appeal of the Planning Director's decision related to boundaries shall follow rezoning hearing procedures and heard by the Pineville Planning Board for recommendation and decided by the Pineville Town Council.

**1.5.4 Changes to the Official Zoning Map**

Changes made in zoning district boundaries or other matters related to the Official Zoning Map shall be made in accordance with the provisions of this Ordinance. Changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Town Council with an entry on the Official Zoning Map. No amendment shall become effective until after such change entries are made on the Official Zoning Map by the Planning Director.

**1.5.5 Mapping Disputes and Disparities**

The Planning Director shall have the authority to interpret the Official Zoning Map and determine the zoning designation and boundaries of the different zoning districts if in question.

**1.6 RELATIONSHIP TO OTHER REGULATIONS, CONFLICTING TEXT, AND INTERPRETATION**

**1.6.1 Conflict with Ordinances, Regulations, Permits, or Other Public Laws**

This Ordinance is not intended to revoke or repeal any other public law, ordinance, regulation, permit, easement, covenant, or deed restriction.

**1.6.2 Meaning and Intent**

All provisions, terms, phrases, and expressions contained in this Ordinance shall be construed according to both context within the Ordinance-and Ordinance intent as administered by the Planning Director.

**1.6.3 Text Controls**

In case of any difference of meaning or implication between the text of this Ordinance and any heading, drawing, table, or figure, the text shall control.

**1.6.4 Authority for Interpretation**

The Planning Director is responsible for interpreting the text of this Ordinance in accordance with the standards set forth in this Section and applicable Ordinance standards and

requirements. Interpretations of the Planning Director may be appealed to the **Pineville Town Council** unless otherwise stated.

### **1.6.5 Statutory References**

This Ordinance hereafter may reference North Carolina State Statutes as 'state law' or by specific cited section of said State Statutes. Whenever any provision of this Ordinance refers to or cites a section of the North Carolina General Statutes and that section is later amended or superseded, this Ordinance shall be deemed amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

### **Computation of Time**

Periods of time defined by a number of days shall mean a number of consecutive calendar days as, or except as below:

- (A) exclude the day of the event that triggers the period;
- (B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and
- (C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

### **1.6.6 Delegation of Authority**

Whenever a provision appears requiring the head of the department or another officer or employee of the Town to perform an act or duty, that provision shall be construed as authorizing the department head or officer to delegate the responsibility to subordinates, unless the terms of the provision specify otherwise.

### **1.6.7 Technical and Non-Technical Words**

Words and phrases not otherwise defined in this Ordinance shall be construed according to the common and relevant use of the language as interpreted by the Planning Director.

### **1.6.8 Mandatory and Discretionary Terms**

The words "shall" and "must" are always mandatory, and the words "may" or "should" are always permissive.

### **1.6.9 Conjunctions**

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows:

- A) "And"  
And indicates that all connected items, conditions, provisions, or events shall apply; and
- B) "Or"  
Or indicates that one or more of the connected items, conditions, provisions, or events shall apply.

### **1.6.10 Tense and Usage**

Words used in one tense (past, present, or future) include other tenses, unless the context



clearly indicates the contrary. The singular shall include the plural and the plural shall include the singular.

**1.6.11 Repeal of Inconsistent or Conflicting Provisions Related to Other Town Ordinances.**

All other ordinances or parts of ordinance of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed or modified.

**1.6.12 Relationship to North Carolina General Statutes**

It is the direct intent of this ordinance to follow with and as provided by North Carolina General Statutes. This Ordinance specifically recognizes NCGS 160D and subsequent sections as amended. As North Carolina General Statutes are amended so shall this Ordinance be considered amended to the minimum required for consistency and compliance. For any inconsistent or conflicting component of this Ordinance; to the extent of the inconsistency only, are hereby repealed or modified.

**1.7 OTHER REGULATIONS AND PRIVATE AGREEMENTS**

**1.7.1 Relationship with Private-Party Easements, Covenants or Agreements**

In developing land, private parties are free to exceed the mandatory standards provided in this Ordinance through easements, agreements, or otherwise. However, the Town shall not enforce private agreements.

**1.7.2 Land development standards and traffic control.** Pineville Land Development Standards shall be Used. Where a Pineville Land Development standard does not exist, the more strict of Charlotte/Mecklenburg Land Development Standards or NCDOT standards shall be used.

**1.7.3 Subdivision Ordinance.** Subdivisions of land shall be governed by the this ordinance and as extended into the Pineville Subdivision Ordinance and hereby referenced and incorporated.

**1.8 LIABILITY FOR DAMAGES**

This Ordinance shall not be construed to hold the Town or its authorized representatives responsible for any damage to persons or property by reason of the inspection or reinspection authorized in this Ordinance, or for any actions taken by landowners of developers to comply with the procedures or standards of this Ordinance.

**1.9 SEVERABILITY**

If any section or specific provision of this ordinance, or any regulating district boundary established herein, is found by a court of competent jurisdiction to be unconstitutional, invalid or otherwise unenforceable for any reason, such decision shall not affect the validity or enforceability of the ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional, invalid or otherwise unenforceable. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

## **1.10 EFFECTIVE DATE / TRANSITIONAL PROVISIONS**

### **1.10.1 Effective Date**

This Ordinance shall be effective upon enactment.

### **1.10.2 Final Approval**

#### **A) Permits**

Any building, structure, or development which has prior town approval where a valid legal permit was issued and had not expired prior to the effective date of this Ordinance may, at the applicant's option, be completed only in conformance with the issued permit including size, density, location, dimensional standards in addition to any conditions specified on the approved plans. The permits may be completed even if such building, structure, or development does not fully comply with provisions of this Ordinance so long as all conditions and requirements from the date of approval are met. If a valid building permit is not obtained within the time allowed under the original ordinance, then the building, structure, or development may be constructed, completed, or occupied only in compliance with this Ordinance.

#### **B) Subdivision**

##### **1) General**

Any subdivision for which a master subdivision plan or minor subdivision was approved prior to the effective date of this Ordinance may, at the applicant's option, be completed according to the subdivision approval, except when Sec. 1.10.2 (B-2) applies, even if the subdivision does not fully comply with the provisions of this Ordinance. If the subdivision is not completed within the time requirements established by prior ordinance or within any schedule included in the approval of the subdivision approval, the Town Council may grant one extension of not more than one year for the completion of the subdivision under the terms of the previous ordinance(s) if good cause is shown. If the subdivision is not completed within the time required under the original approval or any extension granted, then the subdivision may be completed only in compliance with this Ordinance.

##### **2) Expiration**

Any major subdivision plan that was approved prior to the effective date of this Ordinance that does not have an expiration date under the prior ordinance or the specific subdivision approval shall expire two years after the effective date of this Ordinance unless required improvements are built and completed for at least one phase of the subdivision within two years of the effective date of this Ordinance. (For the purposes of this subsection, required improvements are the streets, potable water facilities, wastewater treatment facilities and sidewalks identified in the subdivision approval for the relevant phase.) If such a major subdivision plan expires, then development of the subdivision must comply with this Ordinance.

### **1.10.3 Complete Applications**

All projects for which a complete application for site plan or subdivision was submitted and accepted by the Town on or before March 15, 2008 shall be exempt from complying with all site plan and subdivision provisions of this Ordinance if the application is approved and development occurs in conformity with the permit terms and the requirements of the previously applicable site plan or subdivision ordinance(s). Such site plans are subject to Section 1.10.2 (A) and such subdivision plans are subject to Section 1.10.2 (B-2).

### **1.10.4 Violations Continue**

Any violation under previous ordinances repealed by this Ordinance shall continue to be a violation under this Ordinance and be subject to penalties and enforcement under this Ordinance, unless the use, development, construction, or other activity complies with the provisions of this Ordinance.

### **1.10.5 Legal Nonconformities Under Previous Ordinance**

Any legal nonconformity under any previous ordinances repealed by this Ordinance is also a legal nonconformity under this Ordinance, as long as the situation that resulted in the nonconforming status under the previous ordinances continues to exist.

## **CHAPTER 2 ADMINISTRATION**

### **2.1 REVIEW AND DECISION-MAKING BODIES**

The following review and decision-making bodies shall have the following duties and responsibilities in the administration of this Ordinance, and shall be governed by the following:

#### **2.1.1 Town Council**

##### **A) Powers and Duties**

In addition to any authority granted the Town Council by general or special State law, the Town Council shall have the following powers and duties:

##### **1) Review and Approve, Approve with Conditions, or Disapprove:**

- a) The adoption of an ordinance to amend the Official Zoning Map (Rezoning).
- b) Amendments the text of any Town Ordinance (Text amendment).
- c) Conditionally approved site-specific plan requests (Conditional Zoning)
- d) Adoption or abandonment of any Town roadway, street, or similar.
- e) Adoption of any Town resolution

##### **3) Appointments**

To designate and appoint individuals to other boards or representative groups including, but not limited to: Planning Board, Board of Adjustment, Charlotte Regional Transportation Planning Organization (CRTPO), county advisory groups and similar on behalf of the Town.

##### **4) Other**

To take any other action not delegated to the Planning Board; Board of Adjustment; the Parks, Recreation, and Cultural Advisory Committee; the Planning Director; or heads of Town departments, as the Town Council may deem desirable and necessary to implement the provisions of this Ordinance.

#### **2.1.2 Planning Board**

##### **A) Powers and Duties**

The Planning Board shall have the following powers and duties

##### **1) Review and Make Recommendations to Approve or Disapprove**

To review, hear, consider and make recommendations to the Town Council to

approve or disapprove:

- a) The adoption of an ordinance to amend the Official Zoning Map (Rezoning).
- b) The adoption of an ordinance to amend the text of this Ordinance (Text amendment).

2) **Review and Make Recommendations to Approve, Approve with Conditions or Disapprove**

To hear, review, consider and make recommendations to the Town Council to approve, approve with conditions or disapprove:

- a) The adoption of an ordinance to amend the Official Zoning Map, with conditions.
- b) The adoption of an ordinance approving a zoning district designation.

3) **Amendments to the Official Zoning Map and Text**

To consider and make recommendations to the Town Council to adopt an ordinance amending the Official Zoning Map or text of this Ordinance.

B) **Membership**

1) **Number**

The Planning Board shall consist of five members.

2) **No Elected Official or Town employees**

No member of the Town Council or an employee of the Town shall serve on the Planning Board. To the greatest extent possible, a majority of the membership on the Planning Board should consist of persons with special training or experience in planning, real estate and development, architecture, landscape architecture and the law.

3) **Appointment**

Members shall be appointed by Town Council.

4) **Initial establishment**

At the initial establishment of the Planning Board, two members shall be appointed for a three year term, and two members shall be appointed to a two year term. Thereafter, new appointments for terms of three years shall be made.

5) **Removal**

Any member of the Planning Board shall be removed for cause (neglect of duty, malfeasance, misconduct or failure to faithfully attend meetings) by the Town Council upon written charge.

6) **Filling of Vacancy**

Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term by the same method as the original appointment.

C) **Officers**

1) **Chair and vice-chair**

The chair and vice-chair of the Planning Board shall be elected by the members of the Board. The term of the chair and vice-chair shall be one year. A past chair or vice-chair may be re-appointed. Vacancies within a term shall be filled by the same method as the original appointment. The chair shall decide all points of order on procedure, and shall take such action as shall be necessary to preserve the order and integrity of all proceedings before the Planning Board. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both the chair and vice-chair, an acting chair shall be selected for that meeting by a simple majority of those members present. The acting chair shall have the authority and responsibilities of the chair for that meeting.

2) **Secretary**

The Town Clerk or their designee shall serve as Secretary of the Planning Board and shall keep minutes of all proceedings. These minutes shall be a summary of all proceedings before the Planning Board, which shall include the vote of all members upon every consideration, and be attested to by the Secretary. The minutes shall be approved by a majority of the Planning Board members voting. In addition, the Secretary shall maintain all records of the Planning Board meetings, hearings, proceedings, and correspondence.

D) **Quorum**

No meeting of the Planning Board shall be called to order, nor may any business be transacted by the Planning Board, without a quorum consisting of the majority of the Planning Board's membership excluding vacant seats being present.

E) **Staff**

The Planning Department shall be the professional staff to the Planning Board.

F) **Rules of Procedure**

The Planning Board shall, by a majority vote of the entire membership, adopt rules and regulations governing its procedure as it may consider necessary or advisable.

G) **Meetings**

Meetings of the Planning Board shall be held monthly **or** as needed. Additional meetings may be called by the Chair or in writing by a majority of the Board. All meetings and public hearings shall be held in the Town and in a place accessible and open to the public.

H) **Compensation**

The members of the Planning Board shall serve with minor compensation as determined by Town Council.

**2.1.3 Board of Adjustment**

A) **Powers and Duties**

The Board of Adjustment shall have all the powers and duties as authorized by the General Statutes of North Carolina and as otherwise provided for in this Ordinance. Generally, such powers and duties shall include, but not be restricted to the following:

- 1) Hearing and deciding all appeals from decisions made by the Planning Director.
- 2) Hearing and deciding appeals from the Planning Director, which require interpretation of this Zoning Ordinance.
- 3) Hearing and granting variances from the provisions of this Ordinance.
- 4) Hearing and granting appeals relating to nonconformities.

B) **Establishment of Board of Adjustment**

1) **Members**

The Board of Adjustment shall consist of five (5) regular members. In addition, the Town Council may appoint two (2) alternate members to serve on the Board in the absence of any regular member. Initial appointment of the regular members appointed by Town Council under this composition shall be as follows: two (2) members appointed for a term of three (3) years and two (2) members appointed for a term of two (2) years.

Each alternate member shall be appointed for an initial two (2) year term. Thereafter, all members and alternate members appointed by the Town Council for terms of three (3) years each. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment. Such alternate members while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member shall have and exercise all the powers and duties of such regular members.

2) **Jurisdiction**

Each regular member or an alternate member acting on behalf of a regular member of the Board of Adjustment shall have equal rights, privileges and duties in all matters coming under its purview. Alternate members who are replacing regular members for any action for which a public hearing is necessary shall be considered regular members with regard to that action.

C) **Officers**

1) **Chair and vice-chair**

The chair and vice-chair of the Board of Adjustment shall be appointed by the Mayor from the members of the Board. The term of the chair and vice-chair shall be one year. A past chair or vice-chair may be re-appointed. Vacancies within a term shall be filled by the same method as the original appointment. The chair shall decide all points of order on procedure, and shall take such action as shall be necessary to preserve the order and integrity of all proceedings before the Board of Adjustment.

The chair, on behalf of the Board of Adjustment, is authorized to subpoena witnesses and compel the production of evidence, and to administer oaths to witnesses before the Board. In the absence of the chair, the vice-chair shall act as chair and shall have all powers of the chair. In the absence of both the chair and vice-chair, an acting chair shall be selected for that meeting by a simple majority of those members present. The acting chair shall have the authority and responsibilities of the chair for that meeting.

2) **Secretary**

The Town Clerk or their designee shall serve as Secretary of the Board of Adjustment and shall keep minutes of all the Board of Adjustment, and a record of all resolutions, findings of fact and determinations of the Board of Adjustment. These minutes shall be a summary of all proceedings before the Board of Adjustment, which shall include the vote of all members upon every consideration, and be attested to by the Secretary, and the final disposition of all appeals indicating the vote of the Board of Adjustment and the reasons for the vote. The minutes shall also indicate whether a member is absent or disqualified from voting. The minutes shall be approved by a majority of the Board of Adjustment members voting. In addition, the Secretary shall maintain all records of the Board of Adjustment meetings, hearings, proceedings, and correspondence

D) **Quorum**

No meeting of the Board of Adjustment shall be called to order, nor may any business be transacted by the Board of Adjustment, without a quorum consisting of at least three members (either regular or alternate) being present. A decision to reverse a decision, action, or interpretation of the Planning Director or any approval of a variance permit shall be disallowed, unless the concurring vote of four-fifths of the members of the Board of Adjustment shall favor reversal of the decision or interpretation, or approval of the variance permit. Vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

E) **Rules of Procedure**

The Board of Adjustment shall, by a majority vote of its entire membership, adopt rules and regulations governing its procedure, as it may consider necessary or advisable.



F) **Meetings**

Meetings of the Board of Adjustment shall be held once a month, or on an as needed basis. All meetings and public hearings shall be held in the Town in a place accessible and open to the public.

G) **Compensation**

The members of the Board of Adjustment shall serve with minor compensation as determined by Town Council.

H) **Administration**

1) **Administrative Review**

The Board of Adjustment shall hear and decide in a quasi-judicial format appeals relating to any standard order, requirement, decision, or determination made by Town Staff charged with the enforcement of this Ordinance unless where specified otherwise in this Ordinance. Appeals regarding administration or decision regarding conditional approvals shall be made before Town Council in the same manner they were conditionally approved.

2) **Appeal**

A written appeal may be taken by any person who has first requested and received a ruling from the Planning Director. An appeal to the Board of Adjustment shall be made within ten (10) days of the decision made by the Planning Director.

3) **Reverse or Affirm**

The Board of Adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination that in its opinion ought to be made in the premises. To this end, the board shall have all the powers from whom the appeal is taken.

4) **Variances**

When practical difficulties, special conditions, or unnecessary hardships would result from carrying out the strict letter of this Ordinance, the Board of Adjustment shall have the power to vary or modify any of the regulations or provisions of this Ordinance relating to the, among other things, construction or alteration of buildings or structures, in order that the spirit of the Ordinance is observed, public safety and welfare secured and substantial justice done.

The Board of Adjustment, after having held a public hearing, may only grant a variance after having determined the following findings of fact are TRUE:

- a) The hardship is unique and peculiar to the applicant's property.
- b) The hardship is not the result of the applicant's own action.
- c) The variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit.

- d) That the reasons set forth in the application justify the granting of a variance, and that the variance is a minimum one that will make possible the reasonable use of land or structures.
- e) If the property owner complies with the provisions of this ordinance, they can secure no reasonable return from or make no reasonable use of the property.
- f) In the granting of the variance public safety and welfare have been assured and substantial justice has been done.

Use variances. Zoning use variances prohibited. Under no circumstances shall the Board of Adjustment grant a variance to allow a use of land, activity, or structure not permitted under the terms of this Ordinance.

**Approval Conditions**

The Board of Adjustment, in granting a variance, may prescribe appropriate conditions and safeguards in conformity with this Ordinance

Violation of such conditions and safeguards, when made a part of the terms under which a variance is granted, shall be deemed a violation and punishable under general penalty section of this Ordinance.

**I) Expiration**

Any order of the Board of Adjustment in granting a variance shall expire, if a building permit, Certificate of Occupancy, or similar earnest majority completion has not been obtained, within one (1) year from the date of the decision.

**I) Nonconformities**

The Board of Adjustment shall hear and decide appeals from any land owner to consider replacing or rebuilding a nonconforming use or structure which has been destroyed other than to bring into compliance or as prescribed in this ordinance or as requested.

**J) Board of Adjustment Procedure:**

The following regulations apply to all applications submitted to the Board of Adjustment:

- 1) Before a petition for an interpretation, appeal, or variance shall be considered, a completed application on a form provided by the Town of Pineville accompanied by a fee (as established by the Town Council) shall be submitted to the Town Clerk. The fee shall be waived for any petition initiated by the Planning Director.

The application shall contain the name, address, and telephone number of the applicant(s), and property owner if different from the applicant(s), description of subject property with reference to deed book and page. The application shall also contain a list of names and addresses of adjoining and contiguous property owners on all sides and across any street and public right-of-way from subject property. This information shall be based upon the current year Mecklenburg County tax records.

The application shall be accompanied by a map clearly showing the subject property and all contiguous property on either side and all property across any street or public right-of-way from the subject property.

- 2) The filing of any application stays all enforcement proceedings unless the Planning Director certifies that a stay in his opinion will cause imminent peril to life or property, or, that because the violation charged is transitory in nature, a stay would seriously interfere with enforcement of the Ordinance. In that event, proceedings shall not be stayed except by a restraining order, which may be granted by the Board of Adjustment, or by a court of record.
  - 3) The Board of Adjustment shall hold a public hearing on an application at the next available scheduled meeting for which there is a quorum of members available after the completed application has been filed with the Town Clerk. The Board of Adjustment shall decide on the matter, which was presented at the public hearing within thirty-one (31) days of the close of the public hearing
  - 4) The Board of Adjustment shall give notice of hearings as prescribed by North Carolina General Statutes.
  - 5) The concurrent vote of four-fifths (4/5) of the members of the Board of Adjustment shall be necessary approve any petition or request. For the purposes of this subsection, vacant positions on the board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members. In all matters before the Board of Adjustment, the applicant shall have the burden of providing clear, competent and material evidence in support of the application.
  - 6) Any member(s) of the Board who declares that a potential conflict of interest may exist with respect to any petition or application before the Board may be excused and replaced by an alternate. Impermissible conflicts 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. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.
- L) Appeals from the Board of Adjustment**  
Every decision of the Board of Adjustment shall be subject to review by the Superior Court Division of the General Courts of Justice of the State of North Carolina by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be duly verified and filed with the Clerk of Superior Court within thirty (30) days after the decision of the Board of Adjustment is filed with the Town Clerk.

## 2.1.4 Planning Director

### **Powers and Duties**

In addition to the jurisdiction, authority and duties that may be conferred upon the Planning Director by general or special law, the Planning Director shall have the following jurisdiction, powers and duties **including but not limited to:**

#### **A) Consider and Approve, Approve with Conditions or Disapprove**

To consider and approve, approve with conditions, or disapprove:

- 1) Applications for construction plans for subdivision, site plans, and other related construction plans.
- 2) Applications for final plats for subdivision.
- 3) Applications for minor subdivision and administrative subdivision.
- 4) Applications for administrative adjustments.
- 5) Applications for temporary use permits.
- 6) Applications for certificates of zoning compliance.

#### **B) Text Amendments**

To consider and make recommendations to the Town Council to adopt ordinances to amend the text of this Ordinance and the Official Zoning Map.

#### **C) Interpretations**

To render interpretations of all provisions of this Ordinance, including interpretations of the text of this Ordinance; interpretation of the zoning district boundaries; and determinations of whether an unspecified use falls within a use classification or use group allowed in a zoning district.

#### **D) Administer Ordinance**

To establish applications requirements and schedules for review of applications and appeals, to review and make recommendations to the Planning Board, Board of Adjustment and/or Town Council on all applications for development considered by those boards, and take any other actions necessary to administer the provisions of this Ordinance.

#### **E) Provide Expertise and Technical Assistance**

To provide expertise and technical assistance to the Town Council, Planning Board, and Board of Adjustment upon request.

## 2.2

### CONFLICTS OF INTERESTS

Per NCGS 160D-109

- A) **Governing Board.** - A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
  
- B) **Appointed Boards.** - Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.
  
- C) **Administrative Staff.** - No staff member shall make a final decision on an administrative decision required by this Chapter if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the development regulation or other ordinance.  
No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Chapter unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the local government, as determined by the local government.
  
- D) **Quasi-Judicial Decisions.** - A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
  
- E) **Resolution of Objection.** - If an objection is raised to a board member's participation at or prior to the hearing or vote on a particular matter and that member does not recuse himself or herself, the remaining members of the board shall by majority vote rule on the objection.

- F) **Familial Relationship.** - For purposes of this section, a "close familial relationship" means a spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

## 2.3 COMMON REVIEW PROCEDURES

The provisions of this Ordinance shall apply to all development and redevelopment applications and procedures under this Ordinance, unless otherwise stated or as specified by state law.

### 2.3.1 Authority to File Applications

Applications within this Ordinance shall be submitted to the Planning Director by the owner, authorized agent, or other as permitted in this ordinance and state law.

- A) Unless otherwise specified in this ordinance, applicants shall be the property owner(s); owner(s) authorized agent; contracted purchaser of land with owner(s) consent; other applicants such as a leasee with owner(s) consent; or any authorized representative acting on behalf of the Town, such as The Planning Director, Pineville Town Council, or Pineville Planning Board.
- B) When an authorized property owner agent files an application under this chapter on behalf of a property owner, the agent shall provide written documentation of owner consent.
- C) Third party down zonings are prohibited. A third party; such as an adjacent neighbor, is prohibited from submitting applications to decrease the density and/or by reducing the number of uses permitted for property without written consent from the property owner(s).

### 2.3.2 Planning Director Authorized to Establish Application Submission Schedule

The schedule for the submission of applications shall be established by the Planning Director and made available to the public.

### 2.3.3 Form of Application

All requests where an application is required under this Ordinance shall be submitted in a form established by the Planning Director and made available to the public. Applications and forms shall not be required for Town initiated proposals.

### 2.3.4 Fees

#### A) Determination of Fees

The Town Council shall determine the fees to accompany all applications submitted under this Ordinance. The Council may adjust fee amounts from time to time. The fee amount shall defray the cost of processing the application.

**B) Fees to be Paid**

No application shall be processed until the established fee has been paid.

**C) Refund of Fees**

Application fees are not refundable except where the Planning Director determines that an application was accepted in error, or the fee paid exceeded the amount due, in which case the amount of the overpayment will be refunded to the applicant.

**D) Town Initiated Proposals**

Town fees are waived for Town sponsored proposals.

**2.3.5 Pre-Submittal Meeting**

**A) Required**

A pre-submittal meeting required for applicants; other than the Town, seeking a text amendment, text interpretation, rezoning, conditional zoning developments and similar where approval is required from any Town board. The purpose of a pre-submittal meeting is to familiarize the applicant and the Town staff with the proposal, information needed, and process.

**B) Initiation and Information Provided**

Any potential applicant shall provide to the Planning Director a description of the character, location, and magnitude of the proposed development and any other supporting documents such as maps, drawings, models, and the type of development permit sought

**C) Pre-Submittal Meeting**

The Planning Director shall schedule a pre-application meeting after receipt of the written request from the applicant or after deciding for a conference. At the pre-application conference, the applicant, the Planning Director, and any other Town staff and/or County and/or State and/or Federal representatives the Planning Director deems is appropriate to attend the pre-application meeting, shall discuss the proposed development, and based upon the information provided by the applicant and the provisions of this Ordinance, discuss in general what provisions of this Ordinance apply to the proposed development.

**2.3.6 Quorum**

Quorum of members must be present to hold any board meeting. A quorum shall be simple majority such as Town Council and Planning Board except for Board of Adjustment that shall require a super majority of 4/5ths.

**2.3.7 Re-Submission of Petition**

**A) Denial of Application**

If the Town Council has denied any application that has come before them after a public hearing, The Town Council and/or Planning Board shall not review any applications for the same or substantially same proposal until the expiration of one (1)

year from the date of such previous Town Council denial except as provided in Section 2.3.7(B) below:

**B) Re-submission**

The Planning Director may allow re-submission of such application within said one (1) year period if he determines that, since the date of action on the prior application:

- 1) The Town Council has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed;
- 2) Construction or expansion of a road, water line, sewer line, or other such facilities has occurred to serve the property and can adequately accommodate the intensity of development allowed under the proposed classification; or
- 3) There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.
- 4) The information proposed from a Town sponsored application has changed or the members of the Town Council have changed.

**2.3.8 Revocation**

In addition to initiation of enforcement actions under G.S. 160D-404, development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process required for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval. Development approvals shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked. The revocation of a development approval by a staff member may be appealed pursuant to G.S. 160D-405. If an appeal is filed regarding a development regulation adopted by a local government pursuant to this Chapter, the provisions of G.S. 160D-405(e) regarding stays apply.



## **2.4 TEXT AMENDMENTS**

### **2.4.1 Amendments to Text**

Zoning regulations and **text** as contained in this Ordinance may from time to time be amended, supplemented, changed, modified or repealed.

### **2.4.2 Text Amendment Application Requirements**

Each application shall be signed by the applicant and contain the following information:

- A) On a Town adopted form as per §2.3.3, a completed application for rezoning must be submitted to the Planning Director. The application and information provided must be deemed complete by the Planning Director in order to proceed.
- B) Requests for a change in the Zoning Ordinance text may be instituted by the Town Council, Planning Board, Town staff, resident of the Town or other interested parties.
- C) Applicant's accurate and legible name, mailing address, email address and telephone number
- D) Reference to a specific section, subsection and paragraph or item of text of interest as it currently is listed in the Ordinance.
- E) Reference to a specific section, subsection and paragraph or item of text as proposed.

### **2.4.3 Procedure**

- A) Pre-Submittal meeting (Town sponsored requests excluded)
- B) A completed application and fee submitted by the applicant (Town sponsored requests excluded)
- C) An informational workshop meeting is held with the Planning Board
- D) A recommendation or comment from Planning Board is forwarded by staff to Town Council
- E) An informational workshop meeting is held with the Pineville Town Council
- F) A public hearing(s) is/are held
- G) A vote from Town Council

### **2.4.4 Procedure Detail**

- A) Pre-submittal meeting per §2.3.5

- B) A complete application must be submitted to the Planning Director at least 30 days prior to any public hearing.
- C) A quorum of voting members must be present for any meeting
- D) At the close of the Planning Board informational workshop meeting any recommendation shall be forwarded to Town Council for consideration.
- E) Informational workshop meetings may be continued.
- F) Revised proposals following any board meeting must be deemed complete with any additional or clarified information submitted to the Planning Director with enough time for required advertising and planning staff to prepare a summary report to the board(s) ahead of the next scheduled meeting date. If these requirements are not met, the petitioner's case will be deferred.
- G) Public Hearing to be held with the Town Council. Notification of the public hearing shall be made in the following manner:

Hearing with Published Notice. - Before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the governing board shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.
- H) Additional Meeting.

The Town Council shall have the authority to call for additional or extend public hearings on any proposal brought before them.
- I) Council Vote.

#### **2.4.5 Consistency with Adopted Plans**

Prior to adopting or rejecting any zoning text amendment, the Town Council shall consider adopted plans including overlay districts and comprehensive plan as part of any proposal. Consistency with adopted plans or lack thereof shall be a factor in council's decision.

- (A) Plan Consistency. - When adopting or rejecting any zoning text amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall

have the effect of also amending adopted plans. No additional request or application for a plan amendment shall be required.

**2.4.6 Burden of Proof**

The applicant has the burden of producing competent, accurate, and complete material needed for any text amendment submitted.

**2.4.7 Decision of Town Council**

- A) Once the public hearing has been conducted and officially closed, the Town Council shall render a decision by simple majority vote concerning the proposal after discussion amongst Council members has been concluded.
  
- B) Once Town Council has made a decision, a written copy is available via the approved meeting minutes or similar summary of the decision.

## **2.5 REZONING**

**2.5.1** Zoning classifications, districts, overlays, and similar as shown on any adopted an/or Official Town map or maps may from time to time be amended, supplemented, changed, modified or repealed.

### **2.5.2 Rezoning Application Requirements**

Each application shall be signed by the applicant and contain the following information:

- A) On a Town adopted form as per §2.3.3, a completed application for rezoning must be submitted to the Planning Director. The application and information provided must be deemed complete by the Planning Director in order to proceed.
- B) Requests for a change in the Zoning Ordinance text may be instituted by the Town Council, Planning Board, Town staff, resident of the Town or other interested parties.
- F) Applicant's accurate and legible name, mailing address, email address and telephone number
- C) All relevant information related to the location of property or properties being considered for rezoning such as property address, property survey, existing zoning, proposed zoning, and reason for the request.
- D) The names and addresses of all adjoining property owners as shown on the current land records of the Mecklenburg County Tax Office. Adjoining property shall be construed to mean and include property bounded by the opposite side of any street, stream, railroad, road or highway from the property sought to be rezoned.

### **2.5.3 Procedure**

- A) Pre-Submittal meeting (Town sponsored requests excluded)
- B) A completed application and fee submitted by the applicant (Town sponsored requests excluded)
- C) An informational workshop meeting is held with the Planning Board
- D) A recommendation or comment from Planning Board is forwarded by staff to Town Council
- E) An informational workshop meeting is held with the Pineville Town Council
- F) A public hearing(s) is/are held
- G) A vote from Town Council

#### 2.5.4 Procedure Detail

- A) Pre-submittal meeting per §2.3.5
- B) A complete application must be submitted to the Planning Director at least 30 days prior to any public hearing.
- C) A quorum of voting members must be present for any meeting
- D) At the close of the Planning Board informational workshop meeting any recommendation shall be forwarded to Town Council for consideration.
- E) Informational workshop meetings may be continued.
- F) Revised proposals following any board meeting must be deemed complete with any additional or clarified information submitted to the Planning Director with enough time for required advertising and planning staff to prepare a summary report to the board(s) ahead of the next scheduled meeting date. If these requirements are not met, the petitioner's case will be deferred.
- G) Public Hearing to be held with the Town Council. Notification of the public hearing shall be made in the following manner:

Hearing with Published Notice. - Before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the governing board shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Mailed Notice. - This ordinance shall provide for the manner in which zoning regulations and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed, in accordance with the provisions of this Chapter. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax records. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-202, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

Optional Notice for Large-Scale Zoning Map Amendments. - The first-class mail notice required under this ordinance shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the local government elects to use the expanded published notice provided for in this subsection. In this instance, a local government may elect to make the mailed notice provided for in this section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of this ordinance.

Posted Notice. - When a zoning map amendment is proposed, the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the local government shall post sufficient notices to provide reasonable notice to interested persons.

Actual Notice. - Except for a government-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the local government that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the local government that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

Optional Communication Requirements. - When a zoning map amendment is proposed, a zoning regulation may require communication by the person proposing the map amendment to neighboring property owners and residents and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents.

H) Additional Meeting.

The Town Council shall have the authority to call for additional or extend public hearings on any proposal brought before them.

I) Council Vote.

### **2.5.5 Consistency with Adopted Plans**

Prior to adopting or rejecting any zoning amendment, the Town Council shall consider all adopted plans including overlay districts as part of any proposal. Consistency with adopted plans or lack thereof shall be a factor in council's decision.

(A) Plan Consistency. - When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted 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. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing 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 action taken.

(B) Additional Reasonableness Statement for Rezoning. - 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 governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) 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; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

(C) Single Statement Permissible. - The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

### **2.5.6 Burden of Proof**

The applicant has the burden of producing competent, accurate, and complete material needed for any rezoning submitted.

### **2.5.7 Decision of Town Council**

A) Once the public hearing has been conducted and officially closed, the Town Council shall render a decision after discussion amongst Council members has been concluded.

B) Once Town Council has made a decision, a written copy is available via the approved meeting minutes or similar summary of the decision.

**2.5.8 Zoning District Restrictiveness**

The list of all zoning districts in descending degrees of restrictiveness is:

- |    |                         |     |                         |
|----|-------------------------|-----|-------------------------|
| 1. | R-44 (Most Restrictive) | 7.  | RMX                     |
| 2. | R-12                    | 8.  | DC                      |
| 3. | R-7                     | 9.  | B-3                     |
| 4. | R-MF                    | 10. | B-4                     |
| 5. | O-I                     | 11. | B-P                     |
| 6. | O-C                     | 12. | G-I (Least Restrictive) |



## **2.6 CONDITIONAL ZONING AND CONDITIONAL REZONING**

### **2.6.1 General**

Conditional zoning uses and developments are established voluntarily by the property owner and/or their authorized applicant. Approved proposals shall be mutually agreed by the owner/authorized applicant and the Town. Written consent is required from owner/authorized applicant by way of a signed zoning application or similar. Conditional zoning developments may be located in any zoning designation or district of this Ordinance. Plans shall be binding upon approval of the owner/authorized applicant and Town Council following a public hearing and standard legislative zoning approval process. Conditional approved plans shall thereafter apply to the property regardless of changes in ownership.

### **2.6.2 Benefits**

The conditional zoning process allows for specific development plans and individualized site considerations such as road access points, traffic, public safety, buffer standards and dimensions, building placement, building features, and related development considerations.

Conditional zoning development proposals are intended to consider exact site-specific development proposals where required in this Ordinance or where requested by the property owner or authorized agent. This process is not for securing early zoning for tentative proposals.

### **2.6.3 Designations**

Zoning uses shown in Table 6-1 of this Ordinance as “conditional” (C), “conditional with special regulations” (CS), or where otherwise noted in this Ordinance requiring conditional zoning approval. Any property may be conditionally zoned as mutually agreed upon by the property owner/authorized agent and Pineville Town Council in keeping with the procedures of this Ordinance.

### **2.6.4 Application**

In addition to §2.3.3, an application that has deemed complete from the Planning Director for a conditional zoning request shall at a minimum, also include the following minimum items:

- 1) Applicant's accurate and legible name, mailing address, and email address.
- 2) Written property owner(s) consent.
- 3) A scaled boundary survey showing the total acreage, date, and north arrow.
- 4) All existing easements, reservations, rights-of-way or similar that would affect the proposal.
- 5) Relevant information. Proposed size, location, layout and setbacks of all proposed structures. This shall include, but not limited to: Number of units for housing, gross square

feet for commercial/industrial, building height, any required or proposed buffers, trash facilities, initial stormwater concept, sidewalks, any related information for noise generating businesses or manufacturing, and any site-specific requests.

- 6) Parking Count, traffic study if required, and circulation plans, showing the proposed locations and arrangement of roads, parking spaces and access points to adjacent streets, with dimensions.
- 7) Landscape plans showing proposed screening and landscaping, including walls, fences or planted areas as well as treatment of any existing natural features within the site.
- 8) Floodplain as designated on the most current FEMA or similar Mecklenburg County flood maps.

### 2.6.5 General Procedure

Conditional zoning proposals must be approval by the Town Council prior to the issuance of any zoning **land development** permit **approval** by the Planning Director. Procedures for securing a conditional approval shall be observed in accordance with this Ordinance. **The general steps shall be as follows:**

- A) Pre-Submittal meeting (Town sponsored requests are excluded)
- B) A completed application and fee submitted by the applicant (Town sponsored requests are excluded)
- C) Council workshop meeting(s) are held
- D) A public hearing is held
- E) A vote from Town Council

Conditional zoning shall follow legislative process. Pineville Town Council alone shall vote on all conditional zoning or conditional rezoning proposals. In approving a conditional zoning proposal, Town Council and the applicant shall mutually agree on the proposal details and conditions for the agreement to be binding. Any such conditions should relate to the relationship of the proposed use to both within the property and to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, design standards, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Town Council may find appropriate. Excluding zoning use classifications, Town Council may approve development details and conditions that are more or less restrictive than requirements found in any Town Ordinance.

If a petition for conditional zoning is approved, the development and use of the property shall be governed by this zoning ordinance, requirements by Mecklenburg County, and any additional approved rules, regulations, and conditions, all of which shall constitute the

zoning regulations for the approved conditional plan and are binding on the property as an amendment to these regulations and to the zoning maps.

#### **2.6.6 Procedure Detail**

- A) Pre-submittal meeting per §2.3.5
- B) A complete application must be submitted to the Planning Director at least 30 days prior to any public hearing.
- C) A quorum of voting members must be present for any meeting
- D) Informational workshop meeting is held and may be continued to additional meetings.
- E) Revised proposals following any meeting must be deemed complete with any additional or clarified information submitted to the Planning Director with enough time for required advertising and planning staff to prepare a summary report to Town Council ahead of the next scheduled meeting date. If these requirements are not met, the petitioner's case will be deferred.
- F) Public Hearing to be held with the Town Council. Notification of the public hearing shall be made in the following manner:

Hearing with Published Notice. - Before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the governing board shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Mailed Notice. - This ordinance shall provide for the manner in which zoning regulations and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed, in accordance with the provisions of this Chapter. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax records. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-202, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

Optional Notice for Large-Scale Zoning Map Amendments. - The first-class mail notice required under this ordinance shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the local government elects to use the expanded published notice provided for in this subsection. In this instance, a local government may elect to make the mailed notice provided for in this section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of this ordinance.

Posted Notice. - When a zoning map amendment is proposed, the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the local government shall post sufficient notices to provide reasonable notice to interested persons.

Actual Notice. - Except for a government-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the local government that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the local government that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

Optional Communication Requirements. - When a zoning map amendment is proposed, a zoning regulation may require communication by the person proposing the map amendment to neighboring property owners and residents and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents.

G) Additional Meeting.

The Town Council shall have the authority to call for additional or extend public hearings on any proposal brought before them.

H) Council Vote.

### **2.6.7 Consistency with Adopted Plans**

Prior to adopting or rejecting any zoning amendment, the Town Council shall consider all adopted plans including overlay districts as part of any proposal. Consistency with adopted plans or lack thereof shall be a factor in council's decision.

(A) Plan Consistency. - When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted 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. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing 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 action taken.

(B) Additional Reasonableness Statement for Rezonings. - 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 governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) 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; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.

(C) Single Statement Permissible. - The statement of reasonableness and the plan consistency statement required by this section may be approved as a single statement.

### **2.6.8 Decision of Town Council**

A) Once the public hearing has been conducted and officially closed, the Town Council may render a decision after discussion amongst Council members has been concluded.

B) Once Town Council has made a decision, a written copy is available via the approved meeting minutes or similar summary of the decision.

### **2.6.9 Burden of Proof**

The applicant has the burden of producing competent, **accurate**, and **complete** material needed for any conditional use zoning submitted.

### **2.6.10 Amendments**

Any conditional approval so authorized by **Town Council** shall be binding to the property as permitted by North Carolina General Statutes unless subsequently changed or amended by the Town Council.

However, minor administrative staff approved changes or clarification to the detail of the approved plan are permitted provided that:

- A) will not alter or **degrade** the design intent **within** the proposed development nor to adjacent property, and
- B) will not alter the uses permitted or increase the density or intensity of development, and
- C) will not decrease the parking ratio, reduce yard size, or buffers.
- D) Will maintain the conditions as specified by Town Council from any public hearing and preserve its intent.

Any applicant may appeal the decision of the Planning Director as to conditional plan modifications before the Town Council using the same procedure the plan was approved.

### **2.6.11 Certificate of Occupancy**

No certificate of occupancy shall be issued for any building or land use on a piece of property which has received conditional approval unless the building or structure is constructed or used, or the land is developed, in conformity with said conditional approval. In the event that only a segment of a proposed development has been approved, the certificate of occupancy shall be issued only for that portion of the development as approved.

### **2.6.12 Repeat Submissions**

- A) If a conditional zoning proposal is denied by the Town Council, a similar application for the same property shall not be filed until the expiration of a twelve (12) month period from the date of the most recent denial by the Town Council.

### **2.6.13 Implementation of Conditional Approvals**

Unless otherwise noted by Town Council and/or North Carolina General Statutes a conditional approval shall expire or be rescinded if, after two (2) years after approval if substantial and sustained effort toward the realization of the plan has not taken place. The Town Council, after having conducted a public hearing before any expiration date may vote to extend the life of any conditional approval for another two (2) years or as permitted under North Carolina General Statutes.

## **2.7 CONFLICT WITH OTHER LAWS**

### **2.7.1 Conflict with Other Laws and Ordinances**

Whenever the provisions of any other regulation, statute, or agreement require more restrictive standards than are required by this Ordinance, that provision shall govern.

This Ordinance is in part carried forward by re-enactment of some of the provisions of the Zoning Ordinance of the Town of Pineville (adopted by the Town Council on December 21, 1970, as amended) and it is not the intention to repeal but rather to re-enact and continue in force such existing provisions so that all rights and liabilities that have accrued hereunder are preserved and may be enforced. All provisions of the Zoning Ordinance of the Town of Pineville enacted in 1970, as amended, 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 Zoning Ordinance heretofore in effect, which are now pending in any of the courts 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 Zoning Ordinance, prosecutions for which have not yet been instituted, may be hereafter filed and prosecuted. Nothing in this Ordinance shall be construed as to abandon, abate or dismiss any litigation or prosecution now pending, and/or which may heretofore have been instituted or prosecuted.

### **2.7.2 Separability**

If any section or specific provision of this ordinance, or any regulating district boundary established herein, is found by a court of competent jurisdiction to be unconstitutional, invalid or otherwise unenforceable for any reason, such decision shall not affect the validity or enforceability of the ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional, invalid or otherwise unenforceable. The other portions of these regulations not affected by the decision of the court shall remain in full force and effect.

## **2.8 ZONING ADMINISTRATION**

### **2.8.1 Planning Director**

The provisions of this Ordinance shall be administered and enforced by the Planning Director or their designee.

### **2.8.2 Zoning Inspection: Duties Specified**

Inspections. - Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured. NCGS 160-D-403(e)

If the Planning Director **or designee** shall find that any of the provisions of the Ordinance are being violated, they shall notify, in writing, the responsible person for such violations, indicating the nature of the violation and ~~order that~~ **the necessary corrective action(s)**.

They shall order discontinuances of illegal **activity and/or** uses of land, buildings, or structures, removal of illegal buildings or structures or of illegal additions, alterations or structural changes, discontinuance of any illegal work being done and shall take any other action authorized by this Ordinance **or other applicable law** to ensure compliance.

### **2.8.3 Zoning Approval and Confirmation**

**It is the responsibility of the applicant or responsible party to request and confirm zoning approval.**

It is illegal for any person to begin the construction or reconstruction of a structure or any part of a structure, or to **grade or excavate property**, or to make any structural repairs, alterations, or additions to any structure without obtaining a zoning **approval** from the Planning Director.

The Planning Director will not issue a zoning permit **or approval** unless the plans, specifications and intended use of the structure conform to the requirements of this Ordinance. The application for a zoning permit must be accompanied by information sufficient to allow the Planning Director to act on the request.

Any building permit shall be valid for as long as specified by Mecklenburg County.

**Any fee for processing each application for a zoning shall be in accordance with the fee schedule adopted by Pineville Town Council.**

### **2.8.4 Certificate of Occupancy**

No building hereafter erected, moved, structurally altered, changed, or similarly occupied after construction until a Certificate of Occupancy has been issued. The Certificate of Occupancy shall not be granted or valid until compliance with this ordinance has been verified by the Planning Director or their authorized agent.

### **2.8.5 Right of Appeal**

Any violation, denied permit, or questions about the interpretation of this ordinance may be appealed by an aggrieved party before the Board of Adjustment ~~in accordance with Section 2.4.4~~ unless it relates to any conditionally approved plan where the Town Council shall hear the request.

### **2.8.6 Violations of this Ordinance**

Whenever a violation of this Ordinance occurs the Planning Director **or designee** shall take action to address the violation as provided by this Ordinance such as:

A) **Issue a warning or notice letter to the responsible party; and/or**

B) **Issue one or more fines or citations; and/or**



C) Other corrective measures or appeals.

### 2.8.7 Penalties and Enforcement

The Planning Director or their designee are designated as enforcement agent(s) for this ordinance. Penalties and/or remedies are as follows:

#### A) Civil Penalty

In addition to the other remedies cited in this ordinance for the enforcement of its provisions, and pursuant to NC General Statute 160D-404, the regulations and standards of this ordinance may be enforced through the issuance of civil penalties.

The following penalties are hereby established:

Warning Citation Correct Violation Within 10 Days unless otherwise stated

First Citation \$50.00

Second Citation for Same Offense up to \$200.00

Third and Subsequent Citations for Same Offense up to \$500.00

If the offender fails to pay the civil penalties within **thirty (30)** days after having been cited, the Town may recover the penalties in a civil action in the nature of debt.

#### B) Separate Violations

**Each violation may constitute a separate citation and/or penalty.** Subsequent citations for the same violation or violations may be issued if the offender does not fully correct the violation (except as otherwise provided in a warning situation) after it has been issued unless the offender has sought and completed an appeal application to through the Board of Adjustment within ~~ten~~ **thirty (30)** days of the **date issued on the** original violation.

#### C) Appeals

**Appeals to any citation must have a fully complete valid application including any applicable fee turned in within thirty (30) days of the date issued on the original violation for an appeal. Once the thirty (30) day period has expired the right to appeal shall be forfeited.**

**A completed valid appeal application shall halt monetary penalties pursuant to 2.8.7(A) until the Board of Adjustment hears the appeal so long as no cited violation is completed, increased, expanded, or added. If the Board of Adjustment upholds the citation, enforcement including prior fines and additional penalties shall continue. If the Board of Adjustment does not uphold the citation prior citations shall be waived.**

#### C) Equitable Remedy

The Planning Director may apply to a court of competent jurisdiction for any appropriate equitable remedy to enforce the provisions of this ordinance.

#### D) Injunction

Enforcement of the provisions of this ordinance may also be achieved by injunction. When a violation occurs, the Planning Director may, either before or after the institution of other authorized action, apply to the appropriate division of the General Court for a mandatory or prohibitory injunction commanding the defendant to correct the unlawful condition or cease the unlawful use of the property.

**E) Order of Abatement**

In addition to an injunction, the Planning Director may apply for and the court may enter into an order of abatement as part of the judgment in the case. An order of abatement may direct any of the following actions:

- 1) Buildings or other structures on the property be closed, demolished, or removed;
- 2) Fixtures, furniture or other moveable property be moved or removed entirely;
- 3) Improvements, alterations, modifications or repairs be made; or
- 4) Any other action be taken that is necessary to bring the property into compliance with this ordinance.

**F) Execution of Court Decisions**

If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he or she may be cited for contempt. The Planning Director may execute the order of abatement and will have a lien on the property in the nature of a mechanic or materialman's lien for the cost of executing the order. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and by posting a bond for compliance with the order. The bond must be given with sureties approved by the Clerk of Superior Court in an amount approved by the judge before whom the matter was heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within the time fixed by the judge. Cancellation of an order of abatement does not suspend or cancel an injunction issued in conjunction with the order.

**G) Stop Work Order Issuance and Revocation of Permits**

Whenever a building, structure or part thereof is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of this ordinance, the Planning Director may order the specific part of the work that is in violation, or would be when the work is completed, to be immediately stopped. The stop work order shall be in writing, and shall state the specific work to be stopped, the specific reasons for cessation and the action(s) necessary to lawfully resume work. **Violation of a stop work order shall constitute a Class 1 misdemeanor NGGS 160D-404(b).**

The Planning Director may revoke any permit (e.g., building, certificate of occupancy) by written notification to the permit holder when violations of this ordinance have occurred. Permits may be revoked when false statements or misrepresentations were made in securing the permit, work is being or has been done in substantial departure from the approved application or plan, there has been a failure to comply with the requirements of this ordinance, or a permit has been mistakenly issued in violation of this ordinance.

### **2.8.8 Repeat Violations**

If an owner or occupant repeats the same violation within a one (1) calendar year it shall be considered to be a continuation of the initial violation and shall be subject to additional penalties and remedies.

### **2.8.9 Flexibility in Administration Authorized**

For site plan specific conditional zoning or similar plan approval; minor plan amendments may be approved by the Planning Director. Minor plan amendments shall be in keeping with the original approval numerical parameters including minimum parking, maximum units, dimensional standards, driveway and road connections, and deemed by the Planning Director to be in conformity and consistent with the intent of original conditional plan approval.

Major conditional zoning plan amendments shall be amended in the same way they were originally approved. Major plan shall be any change to a conditional zoning plan not deemed a minor plan amendment as stated above and/or deemed not consistent or not in conformity with original conditional plan as determined by the Planning Director. Major plan amendments consist of not meeting original minimum parking, exceeding unit counts, elimination of access points or other invalidation of any related traffic study, and building arrangement and material changes not within the parameters of original approval intent.

## **2.9 NONCONFORMITIES**

### **2.9.1 General Intent**

The purpose of this section is to regulate and limit the continued existence of non-conforming uses and structures legally existing prior to the effective date of this Ordinance or any amendment subsequent thereto, but not to encourage its survival. Such nonconformities shall not be expanded or extended or changed in any manner, except as provided for in this section.

### **2.9.2 Nonconforming Zoning Uses**

- A) Nonconforming zoning uses or activities may continue only in accordance with the provisions of this section.
- B) No structural changes shall be made in any structure occupied by a nonconforming use except as follows:
  - 1) Structural changes ordered by an authorized governmental official in order to ensure the safety of the structure.
  - 2) Maintenance and repairs to keep a structure in sound condition or to bring the property into zoning compliance.
  - 3) The structural changes necessary to convert the nonconforming use to a conforming use.

- 4) An existing nonconforming residential use located in any non-residential district such as Business (B) or Industrial (G-I) may however, be resumed if vacated, enlarged, or altered, provided that no additional dwelling units result there from. Any such enlargement or alteration shall be in compliance with all applicable zoning regulations such as yard requirements as required in the R-7 District and Residential Overlay District.
- C) When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- D) **Discontinued uses.** If a nonconforming use is discontinued, ceased, closed, or similar for ninety (90) days or more, the use shall not be allowed to re-establish. All new uses established thereafter shall be conforming.
- E) If a nonconforming use is removed or destroyed (i.e., receives damage to an extent of more than fifty (50) percent of its tax value, it may not be allowed to reestablish. If a nonconforming use is thereafter a use conditionally permitted in that zoning district, a petition may be filed to the Town Council following normal conditional site plan approval process as specified in this Ordinance.
- F) Nonconforming single-family uses are excluded from D and E above.

### 2.9.3 Nonconforming Structures

- A) A nonconforming structure is a structure the size, dimensions, location, or similar of which was lawful prior to the adoption, revision, or amendment to this Ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the present requirements of the zoning district in which it is located.
  - 1) In no instance shall a nonconforming structure that poses a health or safety hazard (such as structures in flood prone areas) be altered or expanded in a way that increases the nonconformity.
  - 2) Unless otherwise prohibited; a nonconforming structure is permitted a onetime expansion of up to twenty five percent (25%) of the existing heated gross square feet of the **individual structure, store, or similar** provided the entire property meets all zoning, sidewalk, landscape, and architectural requirements. Under no other circumstances may a nonconforming structure be enlarged or altered except as to bring the ~~structure and~~ property more into zoning compliance.
  - 3) A nonconforming structure may also request alterations meeting the intent of this ordinance following the conditional zoning site plan approval process
- B) Natural Disaster or Destruction
 

Unless otherwise specified below, if a nonconforming structure or nonconforming portion of a structure is destroyed to an extent of more than fifty (50) percent of its tax value at the time of destruction, it may not be replaced or repaired except in accordance with current zoning requirements as approved by the Planning Director.

  - 1) In no instance shall a nonconforming structure that poses a health or safety hazard (such as structures in flood prone areas) be rebuilt if destroyed to an extent of more than fifty (50) percent of its tax value at the time of destruction

- 2) Unless otherwise prohibited; If the nonconforming structure is part of a multifamily (i.e. apartment) development, the structure may be rebuilt to the size and location before destruction provided the architectural and streetscape requirements are met.
  - 3) Unless otherwise prohibited; If the nonconforming structure is occupied by an approved conditional zoning plan, the structure can be rebuilt to the allowances of the approved plan or brought before the Town Council for modification.
- C) Vacancy  
If a nonconforming structure is vacant or not actively utilized for three hundred and sixty-five (365) days or more, the parcel on which the structure is located will be required to conform to all current zoning requirements such as: landscape, streetscape, and signage before the nonconforming structure is reoccupied.
- D) Relocation of Nonconforming Structures  
Should a nonconforming structure be moved for any distance, it shall thereafter be made to conform with all applicable provisions of this Ordinance

#### **2.9.4 Nonconforming Lots of Record**

- A) In any district where a lot of record has been legally recorded on a plat filed with the Mecklenburg County Office of the Register of Deeds and is nonconforming with current zoning requirements, that lot, use or structure, shall not be developed or expanded until that lot is made conforming.
- B) In any district where a lot of record has been illegally recorded on a plat filed with the Mecklenburg County Office of the Register of Deeds that lot shall not be developed, redeveloped, or expanded until that lot is made conforming.

#### **2.9.5 Discontinuance of Non-Conforming Adult Oriented Businesses**

Notwithstanding the provisions of this Article as listed above, Adult Oriented Businesses shall be governed by the following:

- A) Any Adult Oriented Business that fails to comply with the use and location requirements of this Ordinance but which was lawfully operating before the effective date of this Ordinance shall not be deemed to be in violation of this Ordinance but shall be a nonconformity. Any such business, which ceases active operation for a period of thirty (30) days regardless of the purpose or reason, shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for conforming uses.
- B) Any Adult Oriented Business lawfully operating as of the effective date of this Ordinance but which subsequently fails to comply with the use and location requirements of this Ordinance as the result of changes within the vicinity or amendment to this Ordinance, shall not be deemed to be in violation of this Ordinance but shall be a non-conformity. Any such business, which ceases active operation for a period of thirty (30) days regardless of purpose or reason, shall be subject to all the requirements of this Ordinance and the property may thereafter be used only for

conforming uses.

### 2.9.6 Replacement of Non-Conforming Manufactured Homes

- A) Manufactured Homes may be placed and replaced in nonconforming manufactured home parks so long as the manufactured home park retains its non-conforming status and so long as the space was designed and arranged as a manufactured home space prior to the adoption of this Ordinance.
- B) Individually established non-conforming manufactured homes may be replaced provided that the new manufactured home meets the standards set forth in this Ordinance.

### 2.9.7 Non-Conforming Signs

Any sign existing prior to the adoption of this Ordinance, which does not conform to the provisions set forth in this Ordinance, shall be considered legally nonconforming. Such signs shall not be altered, enlarged, or extended.

- A) **Alterations Prohibited**  
Whenever any nonconforming sign or part thereof (including the copy) is altered, replaced, converted or changed, the entire sign must immediately comply with the provisions of this Chapter.
- B) **Maintenance of Non-Conforming Signs Permitted**  
Ordinary maintenance and repair of a nonconforming sign or replacement of a broken part of a nonconforming sign is permitted **in keeping with original condition. This includes replacing internal lighting elements, paint of the sign support, and exact replacement of original graphics for damaged or faded sign copies.**
- C) **Maintenance Limitation**  
**Broken or missing sign copies, panels, letters, and similar must be repaired to the original condition within ninety (90) days after destruction, damage, or sign copy removal.**
- D) **Shopping Center Signs**  
Existing nonconforming shopping center signs with five (5) or more tenant panels may maintain and update tenant sign panels in harmony with the original condition so long as no changes to the existing condition such as height, size, style, or structure are made.

## 2.10

### VESTED RIGHTS

- A) **Site-Specific Vesting Plan.** - A site-specific vesting plan consists of any conditional zoning plan submitted by a property owner or authorized agent and approved by The Town of Pineville or any other plan zoning plan with formal approval by The Town of Pineville and Mecklenburg County in the Electronic Plan Management System (EPM) or equivalent. This can include approved conditional zoning approvals, approved subdivisions, and approved land development plans. Vested plans shall exclude sketch or general concept plans, plans submitted by an applicant but not approved, falsified plans, and plans where requirements are not met.

Unless otherwise expressly stated elsewhere, the vested plan shall include a signed land surveyors survey including boundaries of the site; significant topographical and other natural features affecting development of the site; the approximate location on the site; number of the proposed housing units or square footage of buildings, structures, and other improvements; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways.

A variance does not constitute a site-specific vesting plan, and approval of a site-specific vesting plan with the condition that a variance be obtained does not confer a vested right unless and until the necessary variance is obtained. Any proposal, sketch plan, or other document that fails to describe with certainty the type and intensity of use for a specified parcel or parcels of property, it may not constitute a site-specific vesting plan.

- B) **Establishment of Vested Right.** - A vested right is established with respect to any property upon the valid approval, or conditional approval, of a site-specific vesting plan as provided in this section. Such a vested right confers upon the landowner the right to undertake and complete the development and use of the property under the terms and conditions of the site-specific vesting plan, including any amendments thereto.
- C) **Approval and Amendment of Plans.** - If a site-specific vesting plan is based on an approval required by the Town, the Town shall provide whatever notice and hearing is required for that underlying approval. A duration of the underlying approval that is less than two years does not affect the duration of the site-specific vesting plan established under this section. If the site-specific vesting plan is not based on such an approval, a legislative hearing with notice as required by G.S. 160D-602 shall be held.
- D) **Continuing Review.** - Following approval or conditional approval of a site-specific vesting plan, Town of Pineville and/or Mecklenburg County may make subsequent reviews and require subsequent approvals to ensure compliance with the terms and conditions of the original approval, provided that these reviews and approvals are not inconsistent with the original approval. Pursuant to G.S. 160D-403(f), a vested plan may be revoked for failure to comply with applicable terms and conditions of the original approval or the applicable local development regulations.

E) Duration and Termination of Vested Right. -

- (1) A vested right for a site-specific vesting plan remains vested for a period of two years. This vesting shall not be extended by any amendments or modifications to a site-specific vesting plan unless expressly provided by the Town of Pineville.
- (2) Notwithstanding the provisions of subdivision (1) of this subsection, The Town of Pineville may provide for rights to be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size and phasing of development, the level of investment, the need for the development, economic cycles, and market conditions or other considerations. These determinations are in the sound discretion of the local government and shall be made following the process specified for the particular form of a site-specific vesting plan involved in accordance with subsection (A) of this section.
- (3) Upon issuance of a building permit, the provisions of G.S. 160D-1111 and G.S. 160D-1115 apply, except that a permit does not expire and shall not be revoked because of the running of time while a vested right under this section is outstanding.
- (4) A right vested as provided in this section terminates at the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed.

F) Subsequent Changes Prohibited; Exceptions. -

- (1) A vested right, once established as provided for in this section, precludes any zoning action which would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in an approved site-specific vesting plan, except under one or more of the following conditions:
  - a. With the written consent of the affected landowner.
  - b. Upon findings, by ordinance after notice and an evidentiary hearing, that natural or man-made hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site-specific vesting plan.
  - c. To the extent that the affected landowner receives compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consulting fees incurred after approval by the local government, together with interest as provided under G.S. 160D-106. Compensation shall not include any diminution in the value of the property which is caused by the action.



- d. Upon findings, by ordinance after notice and an evidentiary hearing, that the landowner or the landowner's representative intentionally supplied inaccurate information or made material misrepresentations that made a difference in the approval by the local government of the site-specific vesting plan or the phased development plan.
  - e. Upon the enactment or promulgation of a State or federal law or regulation that precludes development as contemplated in the site-specific vesting plan or the phased development plan, in which case the local government may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the plan, by ordinance after notice and an evidentiary hearing.
- (2) The establishment of a vested right under this section does not preclude the application of overlay zoning or other development regulations which impose additional requirements but do not affect the allowable type or intensity of use, or ordinances or regulations which are general in nature and are applicable to all property subject to development regulation by a local government, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. Otherwise, applicable new regulations become effective with respect to property which is subject to a site-specific vesting plan upon the expiration or termination of the vesting rights period provided for in this section.
  - (3) Notwithstanding any provision of this section, the establishment of a vested right does not preclude, change, or impair the authority of a local government to adopt and enforce development regulations governing nonconforming situations or uses.
- G) Miscellaneous Provisions. -
- (1) A vested right obtained under this section is not a personal right, but attaches to and runs with the applicable property. After approval of a site-specific vesting plan, all successors to the original landowner are entitled to exercise these rights.
  - (2) Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

## **CHAPTER 3 DEFINITIONS**

### **3.1 PURPOSE AND INTENT**

For the purpose of interpreting this Ordinance, certain words or terms are herein defined. Except as defined herein, all other words used in this Ordinance shall have their customary dictionary definition.

### **3.2 INTERPRETATION OF TERMS AND WORDS**

- A) Words used in the present tense include the future tense.
- B) Words used in the singular number include the plural, and words used in the plural number include the singular.
- C) The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual.
- D) The word "lot" includes the word "plot" or "parcel".
- E) The word "building" includes the word "structure".
- F) The word "shall" is always mandatory and not merely directory.
- G) 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".
- H) The word "Map", or "Zoning Map", or "Pineville Zoning Map" shall mean the "Official Zoning Map of the Town of Pineville, North Carolina".
- I) Any word denoting gender includes the female and the male.
- J) The term "Town Council" shall mean the "Town Council of Pineville, North Carolina".
- H) The term "Planning Board" shall mean the "Planning Board of Pineville, North Carolina".
- L) The term "Board of Adjustment" shall mean the "Board of Adjustment of Pineville, North Carolina".
- M) The term "Pineville Land Development Plan" shall mean the Pineville Land Development Plan adopted by the Pineville Town Council on March 15, 1988, and any amendments thereto.
- N) The term "Planning Director" shall mean the Planning Director of Pineville, North Carolina.

## DEFINITIONS OF SPECIFIC TERMS AND WORDS

### **Abandoned Sign**

Any sign frame for which the copy has been removed and/or any sign that advertises any enterprise or activity, including but not limited to a business, service, commodity, accommodation, or attraction that is no longer operating or being offered or conducted and has been vacated for a period of more than 90 days of the enterprise or activity ceasing.

### **Accessory or Secondary Structures and Zoning Uses**

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. In no event shall "accessory use" or "accessory structure" be construed to authorize a principal use or structure not otherwise permitted in the district in which the use is located.

### **Addition (to an existing building)**

Any walled and roofed expansion to the perimeter of a building in which the addition is connected.

### **Adult Establishments**

Any structure or use of land, which meets the definition of adult establishment as outlined in North Carolina General Statute Sec. 14-202.10 as the same, may be amended from time to time. Also included are any establishments which receive a majority of its gross income during any calendar month from the sale or rental of films, motion pictures, video cassettes or video reproductions, slides, computer media, or other visual representations that depict or describe "specific sexual activities" or specific "anatomical areas" as defined in N.C.G.S. 14-202.10.

### **Alley**

A public or private vehicular way providing secondary service access along rear or side property lines of lots, which are also served by one of the previously listed higher order street types.

### **Alteration**

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

### **Amusement Park, Indoors**

Establishments that provide a variety of commercial recreation activities available to all age groups completely within an enclosed structure such as pinball arcades, rides, food, movie theaters, skating rinks, roller rinks, and bowling alleys.

### **Amusement Park, Outdoors**

Establishments that provide a variety of commercial recreation activities available to all age groups such as pinball arcades, rides, food, movie theaters, skating rinks, roller rinks, bowling alleys, or similar that have any open air or outdoor facilities.

**Animal Hospital (Indoor)**

A place where animals are given medical or surgical treatment and the boarding of animals is incidental to the hospital use. All facilities associated with an animal hospital shall be located indoors.

**Animal Kennel**

A commercial enterprise where more than six (6) dogs or other domesticated animals are bred or boarded.

**Animal Shelter**

A public, non-profit or not-for-profit facility at which dogs, cats, and other domesticated animals are kept (primarily outdoors) for purposes of distribution to the general public.

**Animal Supply Store**

A retail establishment whose business is limited to the sale of supplies (e.g., feeds and pharmaceuticals) and equipment (e.g., bridles, barbed wire) related to the keeping of horses and farm animals.

**Animated Sign or Attracting Device**

Any sign that uses movement or change of lighting to depict action or create a special effect, scene, or attract attention, including beacons, pennants, hand-held signs, streamers, balloons or other inflatables used as signs, spot lights and search lights, high-intensity illuminated signs, electronic or mechanical indications of time and temperature, or other moving or flashing signs.

**Arborist**

An individual trained **and certified** in arboriculture, forestry, landscape architecture, horticulture, or related fields and experienced in the conservation and preservation of native ornamental trees.

**Arborist, Consulting**

A consulting arborist is a registered member of the American Society of Consulting Arborists or a professional in the field of arboriculture, who, on a regular basis, provides expert advice for a fee about trees and other woody plants, their care, safety, preservation and value. The consultant does not have a vested economic interest in the delivery of the services recommended, nor does the consultant deliver any paid service in lieu of a consulting fee. The consultant must be able to demonstrate his proficiency and credibility through evidence of the following:

Documentation of substantial experience in arboricultural practice;

Documentation of degree acquisition and/or other forms of certified training.

Documentation of a referential record of practice in the field as a consultant through examples of arboricultural consultation problem-solving situations. Evidence of current membership in professional organizations within the field of arboriculture such as the National Arborist Association, International Society of

Arboriculture, American Society of Consulting Arborists, Council of Tree and Landscape Appraisers, Utility Arborists Association, and Society of Municipal Arborists.

**Art Gallery**

A commercial establishment where individual pieces of art are sold to the general public on a retail basis. Works of art may also be sold on an auction basis at such an establishment.

**Auction House**

A facility, which is used for the purpose of having auctions on a regularly established basis.

**Automobile Body and Repair**

A business involving the painting, exterior or interior modification, detailing, and/or repair of damaged vehicles including transmission and engine work.

**Automobile Parts Supply Store**

An establishment, which sells new and/or rebuilt automobile parts and accessories but does not include junk yards, used auto parts sales, or the installation of such parts.

**Automobile Servicing and Installation**

An establishment involving the general routine maintenance and physical installation or servicing of vehicles including but not limited to: oil changes, tires, car batteries, and sound systems.

**Automobile Salvage Yard**

See "Junk Yard and Automobile Salvage Yard".

**Automobile and Vehicle Storage**

Any location where vehicles are kept for sale, services; including awaiting repairs, pickup or delivery kept thirty (30) days or longer. This shall include car dealership inventory storage lots.

**Automotive Towing and Wrecker Service**

An establishment primarily engaged in the towing of motor vehicles and vehicular storage associated with vehicle accidents and violations. This shall not include vehicular salvaging operations or the sale of salvaged vehicular parts. This use is not to be construed as a junkyard or an automobile salvage yard.

**Awning**

A structure made of cloth, metal, or other material affixed and extending from a wall and is often for the purpose of shielding from rain and sun.

**Banner**

A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentations applied to generally flexible plastic or fabric of any kind, excluding flags and emblems of religious or governmental entities.

**Basement**

The lowest level(s) or story of a building that **that is a majority below grade**.

### **Bed and Breakfast Inn**

A use that (i) takes place within a building that prior to such establishment, was designed and used as a single-family residence, (ii) that consists of renting one or more dwelling rooms on a daily basis to tourists, vacationers and similar transients, and (iii) where the bed and breakfast operation is conducted primarily by persons who reside in the dwelling unit. The number of rooms for rent shall be between two (2) and five (5) with a maximum length of stay of fourteen (14) days.

### **Berm**

An **linear** mound of soil, designed to provide visual interest, screen undesirable views, and/or reduce noise. The berm must be replanted with sufficient vegetation to meet the opacity desired.

### **Billboard**

An off-premise outdoor advertising sign owned by a person, corporation, or other entity that engages in the business of selling the advertising or communicative space on that sign.

### **Book Store**

A commercial establishment where books are the primary item sold. An establishment, which sells books and meets the definition of "adult use", as herein defined, shall not be considered a "book store".

### **Buffer**

A combination of physical space and vertical elements such as plants, berms, fences, or walls, the purpose of which is to separate and screen land uses from each other.

### **Building**

Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of an individual, animal, process, equipment, goods or materials of any kind or nature.

### **Building, Façade**

The entire area of a building **face** extending from the ground up to the roof or parapet and **the entire building width** from one corner of the building to **the other**.

### **Building, Height**

The vertical distance from the finished grade along the front of the building to the highest point of a **parapet or pitched roof**.

### **Building, Principal**

A **The larger, primary, and predominate building on a premises** in which the principal use **takes place**.

**Building Wall**

The 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 (3) stories, or fifty (50) feet in height of a building, whichever is less.

**Bulletin Board**

A sign used to announce meetings or programs to be held on the premises of a church, school, auditorium, library, museum, community recreation center, or similar noncommercial places of public assembly.

**Built-upon area**

For the purposes of complying with the standards and requirements of the Watershed Protection Overlay Districts, calculation of the built-upon area within the proposed development shall include, but not be limited to, all existing public and private streets, proposed public streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABC and gravel within the development. Swimming pools and wooden decks shall not be included in the calculation of the built-upon area.

**Business Support Services**

These establishments provide any of the following document preparation, telephone answering, telemarketing, mailing (except direct mail advertising), court reporting, and steno typing. They may operate copy centers, which provide photocopying, duplicating, blueprinting, or other copying services besides printing. They may provide a range of support activities, including mailing services, document copying, facsimiles, word processing, on-site PC rental, and office product sales.

**Caliper**

Diameter of a tree trunk measured 4.5 feet from the ground.

**Campaign or Election Sign**

A sign that advertises a candidate or issue to be voted upon on a defined election day.

**Campus**

A large-scale institutional development often with internal private vehicular roadways such as schools, churches, and hospitals including one or more parcels that are under the same owner of record.

**Canopy**

A roof-like cover typically on support poles for the purpose of shielding areas from the elements. Canopies include the roof element above gas pumps, self-service car washes, bank drive throughs, automatic teller machines and similar.

**Canopy and Awning Signs**

A sign attached to or painted or printed onto a canopy or awning. For the purposes of this Ordinance, the permitted size of a canopy or awning sign will be calculated based on the size

of the building wall to which the canopy is attached. It will, for measuring purposes, be considered a wall sign.

**Car Wash, (self-service car wash)**

An establishment engaged in the typically outdoor, open air, and manual washing of automobiles, motorcycles, and pick-up and panel trucks. Secondary merchandise sales and vacuuming are permitted as accessory uses.

**Car Wash, (automatic car wash)**

An establishment engaged in the indoor automated washing of automobiles, motorcycles, and pick-up and panel trucks. Secondary merchandise sales and vacuuming are permitted as accessory uses.

**Catalogue Sales Store**

A store where a large variety of household items are sold to the general public on a retail basis primarily through the use of in-store catalogues.

**Cemetery**

Property used for the location of burial lots crypts, vaults cremated remains and similar.

**Change of occupancy or use**

A change of occupancy or use as defined by the North Carolina State Building Code.

**Changeable Copy**

A sign or portion of a sign with characters, letters or illustrations that is designed be changed or rearranged without altering the face or the surface of the sign.

**Check Cashing**

A establishment involved the cashing of checks, pay day advance loans and similar lending of money to individuals on a short-term basis.

**Childcare Operator/Primary Caregiver**

The person or entity that is granted permission by the State of North Carolina to operate a childcare facility and to be held legally responsible for the childcare business.

**Church or Place of Worship**

A building or structure, or group of buildings or structures, which by design and construction are primarily intended for conducting organized religious services and whose site may include an accessory area for the interment of the dead.

**Community Center**

A building used for recreational, social, educational and cultural activities, usually owned and operated by a public or non-profit group or agency.

**Community Service Organization**

A public or quasi-public establishment providing social and/or rehabilitation services, serving persons with social or personal problems requiring special services, the handicapped, and the



otherwise disadvantaged such as counseling centers, welfare offices, job counseling and training centers, vocational rehabilitation agencies, and community improvement and neighborhood redevelopment, but does not include any services providing on-site residential or accommodation services.

**Conditional Use**

Any use authorized by conditional zoning or similar procedure as permitted under North Carolina General Statutes and stated in this ordinance. A conditional use approval for a specific use and site-specific land development plan is subject and bound to any special restrictions of this ordinance such as location, size, unit count, extent, design, and character of use as determined or amended by the Pineville Town Council.

**Construction Sign**

A 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.

**Construction Trailer**

A temporary construction office used exclusively in association with a valid approved construction project for the duration of construction related activity prior to a final certificate of occupancy or project completion. A construction trailer shall be for office use only and exclude all residential uses.

**Convenience Store**

An establishment, which sells packaged and/or prepared foods and other conveniences (excluding gasoline) primarily for consumption and use off premises. Sales of items are highly dependent upon convenience of location, store hours, speed of service and highway accessibility and are less dependent on comparison shopping.

**Corner lot**

A lot that abuts the right-of-way of two public street intersections.

**Correctional Facility**

A facility operated by Mecklenburg County or the State of North Carolina (or a private contractor thereof) used primarily for the incarceration or housing of persons serving criminal sentences. State prisons, prison camps, and penitentiaries are examples of such a facility.

**Country Club**

A land area and buildings containing recreational facilities, clubhouses and usual accessory uses, open only to members and their guests for a membership fee.

**Critical Root Zone (CRZ)**

A circular region measured outward from a tree trunk representing the essential area of the roots that must be maintained in order for the tree's survival. The critical root zone is one foot of radial distance for each inch of tree diameter-at-breast-height, with a minimum of eight feet.

**Crosswalk**

A public pedestrian right-of-way **across streets, driveways, and similar to provide a designated safe pedestrian crossing.**

**Cul-de-sac**

A street having one end open to traffic and the other permanently terminated by a vehicular turn-around.

**Customary Home Occupation**

A **home business** conducted within a **residential property** by the resident occupants, which is clearly incidental and subordinate to its use for residential purposes and, when observed from beyond the property boundaries, does not give visual, audible, sensory, or physical evidence that the property is used for any nonresidential purpose.

**Deciduous**

Those plants that annually lose their leaves.

**Dedication**

**The official legal confirmation and recording of property for a specific use or purpose granted from the property owner.** Because a transfer of property rights is entailed, dedication must be made by written instrument, which transfer is completed with an acceptance. Acceptance by the town for land dedicated as a street does not obligate the town to open such street.

**Demolition**

The act of razing, dismantling, **destroying, or removing, any built structure such as a building wall, berm, buffer, parking lot,** or portion thereof.

**Density, Gross**

A ratio expressed as the number of dwelling units per gross acre. The ratio is derived by dividing the total number of dwelling units by the total land area (in acres) used or proposed to be used for purposes such as buildings, roads, public facilities, and open spaces.

**Development**

Any 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.

**Diameter at breast height (DBH)**

Diameter of a tree **trunk** measured 4.5 feet from the ground.

**Discontinuance of Use**

**For this ordinance** discontinuance **shall mean the ceasing, halting, or stopping of activity that constitutes the zoning use of a building, structure, property, or part thereof.** Any of the following shall constitute evidence of discontinuance or intent to discontinue:

- A) The use **and related activity** are discontinued for a consecutive period of 90 days; or

- B) Premises have been devoted to another use; or
- D) When characteristic equipment and furnishings of a nonconforming nonresidential use have been removed from the premises and have not been replaced by the same or similar equipment within 90 days.

### **Display Area**

An outdoor open area where merchandise is stored, sold or leased.

### **Drip Line**

An imaginary vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

### **Dry Cleaning and Laundry Plant**

A commercial facility at which clothes are brought to be dry cleaned and/or laundered from individual dry cleaning service outlets. Such a facility may be a free-standing use or may be combined with a dry-cleaning service outlet.

### **Dry Cleaning Retail Service Outlet**

An establishment engaged in providing laundry, dry cleaning, and other related services on a pick up and drop off basis to individual customers. The actual laundering and/or dry cleaning of clothes may take place at that facility. If laundering and/or dry cleaning of clothes from other service outlets takes place, it shall be considered a "dry cleaning and laundry plant".

### **Dwelling, Apartment**

A residential dwelling unit leased for an arranged upon amount of time from an organization or property owner where each housing unit does not have an individual deeded parcel of land beneath each dwelling unit-typically as part of a multi-story building where dwelling units share common walls, ceilings, floors and multiple buildings exist on a single parcel of land). There are some apartments called co-op's in which apartment dwellers own shares in the company or development in which they reside but typically do not directly own the property or building in which they reside.

### **Dwelling, Condominium**

A condominium is a residential multi-family structure development type where each unit is individually deeded and owned with common areas such as hallways and recreational facilities are jointly owned (usually as "tenants in common" or "common areas") by all the unit owners in the building.

### **Dwelling, Duplex**

A duplex is a two-unit residential dwelling, usually indistinguishable from a single family dwellings on the exterior located on a single tax parcel of land. Each of the two dwelling units share a separate individual entrance and common wall (for side-by-side units) or floor (for vertical stacked units) but share no interior building connection.

### **Dwelling, Live/Work Unit**

A dwelling unit same as a townhome with the addition of commercial space on the ground and/or basement floor only. Each live/work unit shall be under same ownership for the

commercial and residential component and both tied to the same individual deed and tax parcel of land beneath the structure.

**Dwelling, Multi-Family**

A building, property, or portion thereof housing three (3) or more attached dwelling units excluding townhomes.

**Dwelling, Secondary**

An accessory dwelling either attached or part of the principal residential use or separate from the principal use in the form of a guest house or garage apartment provided that such dwelling meets this ordinance and provided that no accessory building containing such use is constructed on a lot until the construction of the main building has commenced. Secondary dwellings shall be inseparable from the principal residential use for the purposes of subdivision or sale. The principal dwelling on the lot containing the private residential quarters shall be owner-occupied.

**Dwelling, Single-Family**

An individual detached or stand-alone dwelling unit tied and deeded to a parcel of land beneath; designed for, or occupied exclusively by one (1) family with the exception of approved secondary dwellings.

**Dwelling, Townhome**

An individual owned and deeded dwelling unit tied to an individual parcel of land beneath the dwelling unit sharing one (1) or more walls are shared with an adjacent townhome dwelling unit but no shared vertical space such as ceilings or floors.

**Dwelling Unit**

A building, or portion thereof, providing complete and permanent living facilities for one (1) family. The term "dwelling" shall not be deemed to include a motel, hotel, tourist home, mobile home, or other structure designed for transient residence.

**Essential Services**

Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam, or water; the collection and disposal of sewage or refuse; the transmission of communications; or similar functions necessary for the provision of public services. Essential Services are divided into the following three classes:

A) **Class 1**

Transmission lines-whether subterranean or overhead-including electrical, natural gas, and water distribution lines; sewer gravity lines and pressure mains; underground septic tanks and drain fields; cable television and telephone transmission lines; or similar utility lines.

B) **Class 2**

Booster stations, pumping stations, switching facilities, electric substations, sewer lift stations, or other similarly required facilities in connection with telephone, electric, steam, water, sewer, or other similar public health and safety utility distribution.

- C) **Class 3**  
Generation, production, or treatment facilities such as power plants, sewage treatment plants, or similar utilities **including** sanitary landfills.

**Evergreen**

Those plants that retain foliage throughout the year.

**Facade area**

The overall width times the overall height of a structure's front, side or rear facade or wall.

**Face, Sign**

The portion of the sign used for display of sign copy including all background area, pictures, and any other advertising devices shown in the sign. Excluded from this definition are the sign frame and supports.

**Family**

An individual, or two or more persons related by blood, marriage or adoption living together as a single housekeeping unit; or a group of not more than six persons who need not be related by blood, marriage, or adoption living together as a single housekeeping unit.

**Family Care Home**

A home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment for not more than six resident handicapped persons, six unwed mothers and their children, or six battered persons and their children, as defined by North Carolina General Statute 168-21(2).

**Family Childcare Home**

A facility run by an individual that resides in single family residence that provides supervision or care on a regular basis in the individual's home for (10) or fewer children who are not related by blood or marriage to, and are not the legal wards or foster children of, the supervising adult. Family Childcare homes must be licensed by the North Carolina Department of Health and Human Services.

**Farm Supply Store**

An establishment where feed, seed, animal and agricultural supplies are primarily sold in bulk quantities.

**Farmers' Market**

A market (normally conducted outdoors) on pre-established dates at which locally and regionally grown fruits and vegetables are sold on a retail basis. Baked good items, hand-made crafts, and produce items not native to this region may also be sold but may not constitute a majority of total sales.

**Fence**

A device made of chain links, posts, wires, or boards designed to serve as a barrier or otherwise to mark off the boundaries of a piece of property, or portion thereof.

**Financial Institution (Bank)**

A commercial bank, mortgage bank, savings and loan association, or credit union, any of which are licensed, insured, and chartered by the United States of America or the State of North Carolina.

**Fitness center, indoor sports, health club, spa, or gym**

A business located entirely indoors where customers participate in fitness, sports, health or therapeutic activities. Such facilities shall be no larger than 15,000 square feet. Facilities larger than 15,000 square feet shall be classified as a recreation center. Fitness and meeting facilities that are part of a home owners association for residents and their guests shall be permitted in residential districts as complimentary accessory uses only.

**Flag**

A piece of durable fabric of distinctive design attached **on one side** to a permanent pole, which is used **typically** as a symbol for civic or governmental organizations.

**Flag Lot**

An irregularly shaped lot where the build able portion (flag) of the lot is connected to a public street by a narrow non-build able strip (pole). The front setback line will be measured from that lot line more or less lying parallel to the public street.

**Flashing Sign**

A sign that uses an intermittent or flashing light source to attract attention.

**Flea Market**

An open-air market for new and/or second-hand articles and goods sold by one or more merchants, which is conducted on an open nonresidential lot. Yard sales conducted by individuals shall not be considered flea markets.

**Floor Area Ratio**

The gross floor area of all buildings on a lot divided by the lot area. When computing this figure, the gross floor area of all enclosed parking deck buildings shall be excluded.

**Flood or flooding**

- A) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters, or
- B) The unusual and rapid accumulation of runoff of surface waters from any source.

**Flood Insurance**

The insurance coverage provided under the National Flood Insurance Program.

**Flood Insurance Rate Map (FIRM)**

An official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

**Flood Prone Area**

See Floodplain.

**Floodplain**

Any land area susceptible to being inundated by water from any source.

**Floodplain Administrator**

The individual appointed to administer and enforce the floodplain management regulations.

**Floor**

The top surface of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood-frame construction. The term does not include the floor of a garage used solely for parking vehicles.

**Florist, Retail**

A retail commercial establishment where flowers or ornamental plants are sold indoors.

**Food Catering Facility**

A facility at which a pre-arranged amount and type of food is prepared for consumption off-premises or in a meeting room on-premises. A food catering facility differs from a restaurant in that food is not offered for sale to the general public on a retail basis.

**Fraternal and Service Organization Meeting Facility  
(Non-Profit and Not-For-Profit)**

A facility operated by an association of persons for activities which include, but are not limited to social, literary, political, educational, fraternal, charitable, or labor activities, but which are not operated for profit or to render a service, which is customarily conducted as a business.

**Free-Standing Sign**

Any sign that is not affixed or attached to a building and is securely and permanently mounted **not more than two (2) feet from the ground on any pole(s) or as otherwise monument style sign.**

**Frontage, Road**

A local street parallel and adjacent to a major thoroughfare or railroad, which provides access to abutting properties, protection from through traffic and control of access to the major thoroughfare.

**Funeral Home**

A facility used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

**Garden Supply and Seed Store**

A retail establishment at which animal feed, crop seeds and related products are sold. The milling and grinding of feed or flour at such establishments shall be prohibited, as shall the storage of milled products. The sale of agricultural chemicals shall be limited to general retail

use (as distinguished from an "animal supply store" where large quantities of agricultural chemicals are sold for agricultural purposes).

**Gasoline Sales Sign**

A Service Station sign advertising fuel prices in accordance with North Carolina General Statutes.

**Gas Station and Express Fuel**

A retail establishment primarily engaged in the sale of automotive fuels to the general public. Other products which may be sold on-premises include accessory automobile supplies including (but not limited to) vehicle lubricants, batteries, tires, and convenience items (e.g., sodas, candy, newspaper, tobacco products). Vehicle servicing and repair services shall be prohibited. Secondary automatic car wash may be provided on-site. Such use shall be distinguished from a "convenience store" or "mini-mart" given that the primary product for sale is automotive fuels.

**Golf Course**

A tract of land for playing golf, improved with tees, fairways, and hazards and may include clubhouses and shelters.

**Golf Course, Miniature and Golf Driving Range**

A commercial enterprise consisting of a golf course open to the general public where each hole is enclosed in a contained area.

**Government Sign**

Any temporary or permanent sign erected and maintained for any governmental purposes.

**Grade**

The height of the top of the curb, or if no curb exists, the height of the edge of pavement in the lane of travel adjacent to the sign.

**Greenhouse, Commercial**

An establishment whose primary business is the growing of plants through the use of one or more on-premises greenhouses.

**Gross Floor Area**

The sum of the gross horizontal areas of each floor of a building measured from the interior surfaces of exterior walls or from the center line of party walls, including the floor area of all accessory buildings. The term does not include any area used exclusively for the parking of motor vehicles or for building or equipment access such as stairs, escalators, elevator shafts, other shafts, utility rooms, mechanical rooms and maintenance crawlspaces. This term also excludes pedestrian corridor areas and malls within enclosed shopping areas.

**Ground Cover**

A prostrate plant growing less than 2 feet in height at maturity that is grown for ornamental purposes. Ground covers are used as an alternative to grasses. On slopes, ground covers



control erosion while eliminating the maintenance of mowing on hillsides. Many ground covers survive in poor soils, shade and other adverse conditions.

**Ground-Mounted Sign**

A sign which extends from the ground or which has a support which places the bottom thereof less than two (2) feet from the ground.

**Government Services**

Includes Federal, State, and Local government agencies that administer, oversee, and manage public programs and have executive, legislative, and judicial authority.

**Handicapped Person**

A person with a temporary or permanent physical, emotional, or mental disability including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments but not including mentally ill persons who are dangerous to others as defined in N.C.G.S 122C-3(11)b.

**Home Center (i.e., home improvement store)**

An establishment which sells various household goods, tools and building materials, durable household goods (e.g., refrigerators, lawn care machines, washing machines), electronic equipment, household animal supplies, nursery products, etc. Retail stock (e.g., nursery items, lumber goods,) may be kept outdoors. All such stock (except plant materials) shall be screened in accordance with Section 7.4. At least seventy-five (75%) of all indoor floor-good space shall be for retail sales. Likely examples of such uses include "Lowe's", "Home Depot", etc.

**Homeowners Association**

An incorporated, non- profit organization established by a developer or an association of property owners whose membership shall consist of individual property owners within a subdivision and operating under recorded legal agreements.

**Hospital**

An institution providing physical and mental health services primarily for human in-patient medical or surgical care for the sick or injured, including related facilities such as laboratories, out-patient services, training facilities, central service facilities, emergency services, nurses dormitories, and staff offices.

**Identification Sign**

A non-commercial sign identifying the street address for general and emergency service identification.

**Illegal Sign**

A sign erected, maintained, replaced, or altered without proper permits or otherwise in violation of this Ordinance.

**Illuminated Sign**

A sign either internally or externally illuminated.

**Impervious Surface**

Materials that allow little or no infiltration of precipitation into the soil. Impervious surfaces include, but are not limited to, public and private streets, sidewalks, driveways, rooftops, parking lots, patios, and all other impervious and partially impervious surfaces, including CABC and gravel within the development. Swimming pools and wooden decks shall not be considered impervious surfaces and shall not be included in the calculation of the built-upon area.

**Improved Surface**

(Related to parking) Improved surface shall mean surfaced with concrete, asphalt, or gravel only.

**Incidental Sign**

A sign used in normal conjunction with equipment or other functional elements of a use or operation. These shall include, but not be limited to drive-through window menu boards, and signs on gas pumps, automatic teller machines, vending machines, or newspaper delivery boxes.

**Interconnectivity**

Design and development patterns that connects residences, businesses, shopping and recreation uses in a pedestrian friendly way. Interconnectivity may occur through the use of sidewalks, pedestrian-ways, trails and other similar features that are designed to encourage pedestrian travel.

**Integrated Development, Multiple Use Development, Mixed Use Development**

A group of 2 or more uses allowed in a zoning district planned and developed in a jointly beneficial manner such as residential and commercial uses. This type of development is governed by a common business, tenant, homeowner or other association or by common conditions, covenants, and restrictions, regardless of whether such uses or entities are located on the same lot or parcel.

**Junk Yard and Automobile Salvage Yard**

The use of more than three-hundred (300) 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 or machinery or parts thereof.

**Landfill, Demolition**

A landfill that is limited to receiving stumps, limbs, leaves, concrete, brick, wood, uncontaminated earth or other solid wastes meeting the standards of the State of North Carolina. A clean fill operation which is conducted to improve or recontour land using only soil or a fill operation, as defined by N.C.G.S 130A-294(m), which consists of used asphalt or used asphalt mixed with dirt, sand, gravel, rock, concrete or similar nonhazardous materials shall not be construed to be such a landfill.

**Landscape Area**

A portion of a site or property containing vegetation to exist after construction is completed. Landscaped areas include, but are not limited to, natural areas, buffers, plantings, and streetscapes.

**Landscape Plan**

The portion of the development plan that is submitted to show existing vegetation and proposed location of plant material utilized to conform to site plan application requirements.

**Large Childcare Center**

An individual, agency or organization, licensed by the North Carolina Department of health and Human Services, providing supervision or care on a regular basis for eighty (80) or more children who are not related by blood or marriage to, and who are not the legal wards or foster children of, the supervising adult.

**Large Maturing Tree**

Any tree whose height exceeds 35 feet at maturity.

**Loading Space, Off-Street**

An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

**Logo**

The graphic or pictorial presentation of a message and shall include, but not be limited to, the use of shapes, designs, decorations, emblems, symbols or illustrations, or the superimposition of letters or numbers or other use of graphics or images other than the sequential use of letters and numbers.

**Long-Term Storage**

Storage lasting longer than thirty (30) days.

**Lot**

A parcel of land occupied or capable of being occupied by a building or group of buildings devoted to a common use or combination of uses, together with the customary accessories and open spaces belonging to the same. Easements located within the lot shall be construed to be a part of that lot.

**A) Lot Area**

The total area within the lot lines of a lot exclusive of any public street rights-of-way.

**B) Lot, Corner**

A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of more than forty-five (45) degrees and less than one-hundred and thirty-five (135) degrees with each other.

**C) Lot Depth**

The horizontal distance between the front and rear lot lines.

- D) **Lot, Interior**  
A lot other than a corner lot.
- E) **Lot Line**  
A line of record bounding a lot, which separates one lot from another lot or separates that lot from a public or private street or any other public space.
- F) **Lot Line, Front**  
The lot line separating a lot from a street right-of-way.
- G) **Lot Line, Interior**  
A lot line, which does not have road frontage.
  
- H) **Lot Line, Rear**  
The lot line opposite and most distant from the front lot line.
- I) **Lot Line, Side**  
Any lot line other than a front or rear lot line.
- J) **Lot of Record**  
A lot or combination of contiguous lots described pursuant to the most current plat or metes and bounds description or description recorded in the office of the Mecklenburg County Register of Deeds.
- K) **Lot, Through**  
A lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.
- L) **Lot Width**  
The distance between side lot lines measured at the **street facing** property line.

**Lounge**

An establishment (e.g., bar, tavern) used primarily for the serving of alcoholic beverages to patrons and where the sale of prepared food, if provided, is accessory to the primary use. Live entertainment and dancing facilities may be provided. Any lounge, which provides facilities or services, which satisfy any portion of the definition of "adult establishment" per G.S. 14.202.10, shall be considered an "adult establishment". Lounges located within restaurants or motels shall be considered as accessory uses to such uses and are allowed in a particular zoning district to the same extent that the restaurant or motel are allowed. Any lounge whether public or private, which serves alcoholic beverages shall be licensed to dispense such beverages by the State of North Carolina.

**Major Entrance**

The principal vehicular full access point from which to enter and exit.

**Manufactured Goods, Class 1**

Industrial, refining, processing, or assembly of goods or products subject to the following limitations (Note: The term "SIC" shall refer to the Standard Industrial Classification System as set forth in the SIC Manual published by the United States of America, Executive Office of the President, Office of Management and Budget and unless a use is defined in this Ordinance, the SIC Manual shall be used to define, clarify or more specifically identify the uses and groups of uses listed. While the SIC Manual uses the term "establishments primarily engaged in" in defining types of Industrial operations, this Ordinance shall be construed to mean that if the activity is conducted at all within the use and that activity is listed as being

conditional, then the entire use shall be deemed a "conditional use" as opposed to a "permitted use".)

All Industrial industries (i.e., those industries shown in the SIC Manual under Division D, and including Major Groups 20-39) except those listed herein as "Industrial Goods, Class 2", shall be considered a Class 1 Industrial Goods industry. All such uses shall be classified as a "Class 1" or "Class 2" use based on the primary use taking place at the site. For example, if a Class 2 use is taking place in an accessory capacity at a site having a Class 1 primary use, the use as a whole shall be classified as a Class 1 use.

### **Manufactured Goods, Class 2**

The following Industrial industries as identified by their SIC Group Number, Division or Industry Number(s):

- A) Meat packing plants and poultry dressing plants (SIC #2011, 2013, 2015)
- B) Pickled fruits and vegetables (SIC #2035)
- C) Flour and other grain mill products, sugar refining (SIC #2041, 2061, 2062, 2063)
- D) Animal feeds and pet foods (SIC #2047, 2048)
- E) Fats and oils (SIC Group #207)
- F) Beer/malt beverages (other than microbreweries), wines, brandy, distilled and blended liquor, roasted coffee (SIC #2082, 2083, 2084, 2085, 2095)
- G) Processing and packing of canned, cured, fresh, or frozen fish and seafood (SIC #2091, 2092)
- H) The following Industrial listed under SIC #2099:
  - 1)Yeast
  - 2)Molasses and sweetening syrups
  - 3)Vinegar
- I) Tobacco products (SIC Major Group #21)
- J) Reserved
- K) Coated fabrics, rubberized and not rubberized; canvas and related products (SIC #2295, 2394, 3069)
- L) Logging (SIC #2411)
- M) Sawmills and planing mills, general (SIC #2421)

- N) Wood building and mobile homes (SIC Group #245)
- O) Major Group 26: Paper and Allied Products:  
Wood preserving; reconstituted wood products; pulp mills; paper mills; paperboard mills  
(SIC #2491, 2493; SIC Group #261; SIC Group 262; SIC Group 263)
- P) Industrial inorganic chemicals; Plastic materials, synthetic resins and rubber, cellulosic  
and other manmade fibers, except glass (SIC Group #281; SIC Group #282)
- Q) Soaps, detergents and cleaning preparations; perfumes, cosmetics, and other toilet  
preparations (SIC Group #284)
- R) Paints, varnishes, lacquers, enamels and allied products (SIC Group #285)
- S) Industrial organic chemicals; agricultural chemicals (fertilizers, pesticides, etc.) (SIC  
Group #286; SIC Group #287)
- T) Miscellaneous chemical products (all products listed under SIC Group #289) (e.g.,  
adhesives, sealants, explosives, printing ink, carbon black, and "other chemical and  
chemical preparations" listed in SIC #2899)
- U) Major Group 29: Petroleum Refining And Related Industries
- V) Petroleum refining (SIC Group #291) Asphalt paving and roofing materials (SIC Group  
#295)
- W) Lubricating oils and greases (SIC #2992)
- X) Products of petroleum and coal classified under SIC #2999
- Y) Tires and inner tubes (SIC Group #301)
- Z) Plastic products found under SIC Group #308 when resins are made at the same  
facility
- AA) Leather tanning and finishing (SIC Group #311)
- BB) Flat glass; glass and glassware; (SIC Group #321; SIC Group #322)
- CC) Cement, hydraulic (SIC Group #324)
- DD) Structural clay products (SIC Group #325)
- EE) Pottery and related products (SIC Group #326) except handmade pottery and arts and  
crafts operations involving no more than 1,000 cubic feet of kiln space

- FF) Concrete gypsum plaster products; cut stone and stone products (SIC Group #327; SIC Group #328)
- GG) SIC Group #329 Abrasive, Asbestos, And Miscellaneous
- HH) Major Group 33: Primary Metal Industries
- II) Metal heat treating; metal forging-iron, steel and nonferrous; coating and engraving of metals and allied services (SIC #3398, SIC #3462 and #3463; SIC Group #347)
- JJ) Manufacture of ordnance (arms, ammunition, etc.) and accessories (SIC Group #348)
- KK) Electrical industrial carbon and graphic products (SIC #3624)
- LL) Storage batteries; primary batteries, dry and wet (SIC #3691; SIC #3692)
- MM) Under SIC #3861 - all photographic supplies but not photographic equipment
- NN) Under SIC #3952 all inks, paints, oils, enamels, and crayons
- OO) Carbon paper and inked ribbons (SIC #3955)
- PP) Linoleum, asphalt - felt-base, and other hard surface floor covering listed under SIC #3996)
- QQ) Mining (all of SIC Division B)

### **Manufactured Home**

Is a detached residential dwelling unit built on a chassis designed for transportation after fabrication on its own wheels or flatbeds, or other trailers, and arriving at the site where it is to be occupied as a dwelling unit complete and ready for occupancy except for minor and incidental unpacking and assembly operations. A manufactured home is further distinguished by The North Carolina Regulations for Manufactured Homes standards. A manufactured home may also be referred to as a "mobile home".

### **Manufactured Home, Class A**

A manufactured home constructed after July 1, 1976 that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies each of the following additional criteria:

- A) The pitch of the roof of the manufactured home has a minimum vertical rise of two and two-tenths (2.2) feet for each twelve (12) feet of horizontal run; the roof is finished with a type of shingle that is commonly used in standard residential construction and which does not exceed the reflectivity of flat/matt white paint; the roof has an overhang (eave) extending at least ten (10) inches from each vertical exterior wall

- B) The exterior siding consists of **horizontal clapboard** siding including; wood, hardboard, vinyl, brick or aluminum and shall be comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, and which does not exceed the reflectivity of **semi-gloss** white paint.
- C) A continuous, permanent masonry foundation or masonry curtain wall, unpierced except for required ventilation and access, shall be installed upon a poured concrete footer after placement on the lot, and before occupancy.
- D) The tongue, axles, transporting lights, and removable towing apparatus are removed after placement on the lot and before occupancy.
- E) The manufactured home is set up, **meets and maintains** North Carolina Regulations for Manufactured Homes.
- F) Stairs, porches, entrance platforms and other means of entrance and exit to the manufactured home shall be installed and constructed in accordance with the standards set by the Building Code.
- G) The manufactured home is oriented on the site in such a manner that the side having the main entrance, and by design intended to be the front of the manufactured home, is generally parallel to a public street abutting the site.

**Manufactured Home Park (Mobile Home Park)**

**Means any tract or parcel of land housing nine or more manufactured homes provided for sale or lease. Mobile home parks shall be developed and operated in compliance with all prevailing regulations of this ordinance and with all prevailing regulations as set forth by Mecklenburg County, and State of North Carolina.**

**Material Recovery Facility**

A facility or a lot used for the collection and processing of recyclable materials. "Processing" includes the preparation of materials for efficient shipment, or to an end-user's specifications, by such means as baling, brisquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding or cleaning. For the purpose of this ordinance, "recyclable materials" shall not include biodegradable wastes (excluding wood, wood pulp, and fiber), hazardous materials, industrial scrap metals, or used clothing, furniture, appliances, vehicles, or parts thereof.

**Meeting Facilities**

Meeting/ conference facilities that include room(s) or space(s) used for assembly purposes by 50 or more persons including fraternal halls (VFW lodges, etc.) and banquet facilities.

**Memorial Sign or Plaque**

A sign designating names of buildings and/or date of erection and other items such as architect, contractor, or others involved in the building's creation, cut into or attached to a building surface.



**Micro-Brewery**

A facility for the production, blending, fermentation, processing, and packaging of alcoholic beverages with a maximum yearly output of 25,000 barrels or as otherwise defined or amended by the State of North Carolina.

**Mini-Warehouse**

A structure containing separate storage spaces, which are used for storage purposes only and are rented or leased on an individual basis.

**Mobile Storage Container**

A pre-engineered metal container often rented for the use of temporary storage and/or moving needs.

**Modular Home**

A dwelling unit constructed in accordance with the standards set forth in the North Carolina Building Code (Uniform Residential Code for one and two-family dwellings) and composed of components substantially assembled in a Industrial plant and transported to the building site on a transport carrier (this includes all wheels, axles, and metal frame work used for support in transporting the home to the building site) that shall be removed from the building site when the structure is placed on a permanent foundation. A modular home shall be deemed to be a single-family dwelling as defined in this ordinance.

**Monument Sign**

A monolithic **detached free-standing** sign in which the bottom of the sign extends outward and downward flush with the ground as a slab rather than pole mounted.

**Motel/Hotel**

A building or buildings used to accommodate the traveling public for compensation, by supplying them with sleeping accommodation and accessory services such as restaurants, cooking facilities, and meeting space. Motels/hotels may include short-term or long-term stays, with a maximum length of one stay being 30 days.

**Multi-Family Development**

A tract of land under single individual, corporate, firm, partnership or association ownership, or under common control evidenced by duly recorded contracts or agreements; planned and developed as an integral unit in a single development operation or in a definitely programmed series of development operations. Such development may consist of two or more duplex buildings, or three (3) or more multi-family units. The development shall have a unified or coordinated design of buildings and a coordinated organization of service areas and common open space area.

**Natural Amenities**

Environmentally sensitive areas, wildlife habitats, stands of trees, ponds, rock outcroppings, streams, scenic vistas or other unique natural features.

**Neotraditional Principles (or New Urbanism Principles)**

Planning and design principles that seek to integrate or re-integrate the components of modern life. Generally, neo-traditional principles results in development that is compact and interconnects work, housing, shopping and recreation uses in a pedestrian friendly way.

**Newsstand**

An establishment, which sells newspapers, magazines, candy, tobacco, and sundry products at the retail level. A newsstand may not sell materials so as to conform with the term "adult establishment" as defined in G.S. 14.202.10.

**Nonconforming Lot**

Any lot of record, which does not meet the minimum yard or area requirements, established in these regulations at the time of this Ordinance's adoption or any amendment thereto.

**Nonconforming Sign**

Any sign which was lawfully erected in compliance with applicable code provisions and maintained prior to the effective date of this Ordinance, and which fails to conform to all applicable standards and restrictions of this Ordinance.

**Nonconforming Structure**

Any structure lawfully existing on the effective date of these regulations, or any amendment to it rendering such structure nonconforming, which does not comply with all of the standards and regulations of these regulations or any amendment thereto.

**Nonconforming Use**

Any use of a building or land which does not conform to the use regulations of this Ordinance for the district in which it is located, either at the effective date of this Ordinance or as a result of subsequent amendments which may be incorporated into this Ordinance.

**Nursery**

A commercial enterprise conducted on land where flowers, shrubs and similar horticultural products are raised and sold to general public. Nurseries may include the use of greenhouses for growing purposes.

**Nursing Facility**

An institution licensed by the State of North Carolina to provide basic living and medical needs to seven or more elderly in-house residents. Congregate meals are served to residents. Such facilities have a 24-hour licensed in-house professional nursing staff with doctors on call.

**Nursing Home**

See "Nursing Facility"

**Off-premise Sign**

A sign that directs attention to a business commodity, service, or establishment conducted, sold, or offered at a location other than the premises where the sign is erected or affixed.

**Office**

A room or group of rooms used for the conduct of a business, profession, service, industry or government where retail trade is not conducted.

**Office Building**

A building used primarily for conducting affairs of businesses, professions, services, industries or a government, or like activities, that may include ancillary services for office workers such as a restaurant, coffee shop, newspaper or candy stand.

**On-premise Sign**

A sign that directs attention to a business commodity, service, or establishment conducted, sold, or offered on the premises on which the sign is erected or affixed.

**Open-Air Storage**

An unroofed area or a structure with a roof but no walls used for the storage of bulk materials or discarded items but not including items and non-bulk materials openly displayed for the purpose of retail sale.

**Outparcel**

A lot, which is located within a planned shopping center or office park and is used for office, commercial or institutional purposes. Such lot shall not be required to have direct access upon a public road. Off-street parking and loading requirements for the use located on the out parcel lot may be waived as provided in this Ordinance.

**Parapet**

That portion of a building wall or false front that extends above the roof line.

**Parking Bay**

The parking module consisting of one or more sets of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave.

**Parking Lot Plantings**

Planting areas within and adjacent to parking areas designed to shade and improve the attractiveness of large areas of pavement.

**Parking Space**

A storage space of not less than nine (9) feet by eighteen (18) feet [except as permitted in this ordinance for one (1) automobile, plus the necessary access space. All off-street parking spaces shall be located outside the dedicated street right-of-way.

**Pawn Shop**

A shop where money is lent on the security of personal property pledged. Such property may then later be sold at the shop.

**Pharmacy**

A retail store which sells prescription drugs and which may also sell other items at the retail level. A pharmacy may have a maximum gross floor area of fifteen-thousand (15,000) square

feet. Prescription drugs may also be sold in department stores, variety stores and food stores but such a store shall not be deemed to be a “pharmacy”.

**Photocopy Service**

An establishment which makes photocopies of items and related printing services and which may provide a variety of auxiliary services including the use of in-house computer equipment and the retail sale of papered goods and other products for the office.

**Planting Area**

The ground surface free of impervious cover and/or paved material reserved for accommodating the planting of trees, shrubs, and ground cover.

**Pole Sign**

A sign on one or more vertical pole supports that extend more than two (2) feet off the ground.

**Pool Hall**

An establishment, which provides three or more pool tables for use by the general public.

**Portable Sign**

Any free-standing sign that is not permanently affixed to the ground and can freely and easily be removed from one location to another. A sign is permanently affixed to the ground if its supporting elements are set in such a manner as to manifestly indicate that the sign is intended to remain in one location for an indefinite period. Without limiting the generality of the foregoing, portable signs shall include any sign mounted on a trailer or on wheels as well as "V-shaped" or "Sandwich" signs that can with little difficulty be moved from place to place.

**Postal Store and Contract Station**

A retail establishment that provides post office services (i.e., the vending of stamps, mailing of items and rental of post office boxes) and which may sell other auxiliary goods including boxes, envelopes, and other paper products.

**Premises**

A parcel of real property with a separate and distinct number or designation shown on a recorded plat, record of survey, parcel map or subdivision map. When a lot is used together with one or more contiguous lots for a single use or unified development, all of the lots so used, including any lots used for off-street parking, shall be considered a single premise for purposes of these regulations.

**Primary Façade**

The predominate front street facing façade of a building for which the building is typically addressed. For shopping centers or similar primary façade shall be the most public facing façade where the front door is located.

**Principal Use**

The singular or larger, primary, and predominate zoning use classification or activity for a property.

**Produce Stand**

The sale of any form of agricultural or horticultural products at a free-standing retail stand structure.

**Projecting Sign**

Any sign other than a wall, awning, canopy, or marquee sign, which is affixed to a building and is supported only by the wall on which the sign is mounted.

**Professional Services**

Services provided that make available the knowledge and skills of their employees to sell expertise and perform professional, scientific, and technical services to others such as legal services; accounting, tax, bookkeeping, and payroll services; architectural, engineering, and related services; graphic, industrial, and interior design services; consulting services; research and development services; advertising, media, and photography services; real estate services; investment banking, securities, brokerages; and insurance-related services; and, medical services such as physician's and dentist's offices.

**Pruning**

The act of removing, or cutting back parts of a tree or shrub.

**Public Interest Sign**

A sign on private property that displays information pertinent to the safety or legal responsibilities of the general public such as "Warning" and "No Trespassing" signs.

**Real Estate Sign**

A sign that is used to offer for sale, lease, or rent the premises upon which such sign is placed.

**Recreation Center**

Public or private indoor sports and recreation including such structures and uses as: health or exercise clubs, gymnasiums, indoor running tracks, climbing facilities, sports facilities, soccer, tennis or other racquet ball courts, swimming pools, YMCA's, YWCA's or similar uses that are located indoors with additional outdoor sports facilities not to exceed the related indoor square footage. Outdoor storage shall be prohibited. Recreation Centers are intended as generally operated on a fee or membership basis for the use of persons who do not reside on the same property.

**Recreation Complex**

A tract of land, owned and operated by a private or non-municipal entity, designated and used for active and/or passive recreation, primarily conducted outdoors. A Recreation Complex may include Recreation Center uses. The term shall not include the terms "racetrack", "outdoor firing range", "amphitheaters", "amusement park", "baseball hitting ranges", "country club", or "golf course".

**Recreation Facility, Public**

A tract of land, owned and operated by a public municipal entity, designated and used by the general public for active and/or passive recreation, primarily conducted outdoors. An example

of such a facility shall include a public park. The term shall not include the terms "racetrack", "outdoor firing range", "stadiums", "amphitheaters", "amusement park", "baseball hitting ranges", "country club", or "golf course".

**Recreational vehicle**

A vehicle that is: built on a single chassis; four hundred square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use.

**Recyclable Materials**

Materials, such as aluminum, glass, plastic bottles, corrugated cardboard, newspaper, office paper, or similar which are capable of being recycled and reused.

**Recycling Collection Drop Off Point**

A secondary incidental screened area (excluding residential and customary business trash facilities) containing one or more portable "recycling containers" operated by a unit of local Government, or its designee, which is set aside and used by members of the public, including business entities, to collect recyclable materials as a collection point before transport to a recycling deposit station.

**Recycling Container**

Containers used exclusively for the collection and temporary storage of recyclable materials.

**Recycling Processing Facility**

A facility where recyclables are collected, sorted, or processed.

**Restaurant**

A commercial establishment other than a drive-in or fast food restaurant where food and drink are prepared, served and consumed primarily within the principal building. Restaurants serving alcoholic beverages shall also qualify as a "restaurant" according to the North Carolina General Statutes as related to ABC permits.

**Restaurant, Drive-In**

A building or portion thereof where food and/or beverage are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site.

**Restaurant, Drive-Through**

An establishment whose principal business is the sale of pre-cooked or rapidly prepared food directly to the customer in a ready-to-consume state for consumption on the restaurant premises or off-premises. Unlike a fast food restaurant, a drive-through restaurant does not contain any indoor customer dining areas. Unlike a drive-in restaurant, orders are taken from customers from centrally located drive-in windows rather than from individual calling stations.

**Restaurant, Fast Food**

An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, on the restaurant premises or off-premises.

**Road Right-Of-Way**

An area of land occupied or intended to be occupied by a public road, including areas offered for dedication to the public for such purpose, areas claimed by the State of North Carolina for such purposes, or actually used for such purposes.

**Roof Sign**

A sign located in whole or in part upon or across an angled roof surface or above the parapet of a building.

**Rooming and Boarding House**

Any dwelling, which was constructed originally as a single-family residential dwelling, duplex or townhome that rents out, or offers to rent out four or more rooms to four or more persons unrelated by blood, marriage, or adoption.

**Root Protection Zone**

Generally 18-24 inches deep at a distance from the trunk equal to one-half of its height or to its drip line, whichever is greater.

**Salvage Yard**

Any non-residential property used for the storage, collection, and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

**Sandwich Board Sign**

A sign consisting of two panels joined together at the top and configured in the shape of an inverted "V" so that the bottom of the sign rests upon or near the ground.

**Satellite Dish**

An apparatus capable of receiving a communications signals from a transmitter relay located in planetary orbit.

**Second-Hand and Consignment Shop**

A retail establishment where clothes, furniture, and other household goods are sold to the general public on a consignment, retail, or not-for-profit basis. A "pawn shop" shall not be considered as being a "second-hand shop".

**Service Station**

Any building, land area or other premises, or portion thereof, primarily used or intended to be used for the retail dispensing or sales of fuels for vehicles and for any minor repair work conducted as an accessory use. In addition, sales of beverages, packaged foods, tobacco products, and similar convenience goods for customers, as accessory and incidental to principal operations are permitted. Wrecker service shall be considered an accessory use provided that any inoperative vehicle towed to the service station by a wrecker vehicle be

stored on premises either inside or outside the service station for a period not to exceed 30 days. Uses permissible at a service station do not include major mechanical and body work, straightening of body parts, painting, welding, or other work involving an excessive amount of noise, glare, fumes, or smoke.

**Setback**

A minimum distance specified for the various zoning districts measured inward from a property line, which shall remain unoccupied and unobstructed upward except as, may be permitted elsewhere in this Ordinance.

**Setback, Front**

That portion of the front yard, which shall remain unoccupied and unobstructed from the ground upward except as, may be permitted elsewhere in this Ordinance.

**Setback, Rear**

That portion of the rear yard, which shall remain unoccupied and unobstructed from the ground upward except as, may be permitted elsewhere in this Ordinance.

**Setback, Side**

That portion of the side yard, which shall remain unoccupied and unobstructed from the ground upward except as, may be permitted in this Ordinance.

**Shopping Center**

A group of two or more commercial establishments planned, constructed and developed in one or more phases with customer and employee parking and merchandise and other loading facilities provided on-site. A shopping center may be located and developed on one (1) or more lots and may include one (1) or more principal buildings.

**Sight Triangle**

A triangular-shaped portion of land established at street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. In Pineville, the triangular area formed by a diagonal line connecting two points measured back from **back of curb where curb exists or back of asphalt where it does not adjacent to** intersecting property lines, **driveways and similar areas where vehicular sight distance is needed.**

*\*Where property lines do not exist and/or are questionable, irregular, or conflict with the purpose or intent of this section; the applicable sight triangle shall be created by establishing a line 10 (ten) feet back from back of curb(s) and otherwise follow the provisions stated herein relating to sight triangles. The following sight triangles will apply to all streets within the Pineville Town Limits:*

**MINIMUM R.O.W. STREET TYPE**

**FEET**

Major Arterial (Class III)

100

**State 10' x 70', County/Town 35' x 35'**

*Any Town Maintained Road intersecting with a State Maintained Road would be required both Sight Triangles listed above.*



Minor Arterial (Class IV) 70

**State 10' x 70', County/Town 35' x 35'**

*Any Town Maintained Road intersecting with a State Maintained Road would be required both Sight Triangles listed above.*

Collector (Class V) 60

**State 10' x 70', County/Town 35' x 35'**

*Any Town Maintained Road intersecting with a State Maintained Road would be required both Sight Triangles listed above.*

Local (Class VI) 50

**Town 25' x 25', Alleys 10' x 10'**

*If two (2) Local Class Roads intersect the Sight Triangles would be a minimum 25' x 25'. If a Local Road intersects with a Collector Street or State Maintained Road it will require a 35' x 35' & 10' x 70' Sight Triangles. If an Alley intersects a Local Class Road a 10' x 10' Sight Triangle may be used.*

Local Limited (Class VI-L) 40

**Town 25' x 25', Alleys 10' x 10'**

*If two (2) Local Limited Class Roads intersect the Sight Triangles would be a minimum 25' x 25'. If a Local Limited Road intersects with a Local Class Road the Sight Triangles would be a minimum 25' x 25'. If a Local Limited Road intersects with a Collector Street it will require a 35' x 35' Sight Triangle. If an Alley intersects a Local Class Road a 10' x 10' Sight Triangle may be used.*

## **Sign**

Any object, device, or structure, or part thereof, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, graphics, designs, symbols, fixtures, colors, illumination, or projected images. Signs do not include works of art which in no way identify a product; or scoreboards located on athletic fields.

## **Sign Face**

The entire surface area of a sign upon, against, or through which copy is placed.

## **Sign Height**

The vertical distance measured from the sign's average grade level, provided that no filling, berming, or mounding solely for the purpose of locating the sign at a higher level is done.

## **Sign Surface Area**

The entire area of a sign shall be the smallest rectangle that encloses the entire sign inclusive of any border or trim and all the elements of the matter displayed, but excluding the base or apron, supports, and other structural members. In the case of three-dimensional or painted letters located directly on a wall surface, the surface area shall be

defined as the area encompassing the individual letters themselves including any trim or harder and excluding the background that supports the three-dimensional or painted letters.

**Site**

Any plot or parcel of land or combination of contiguous lots or parcels of land.

**Small Maturing Tree**

Any tree whose height is less than 35 feet at maturity.

**Stadium**

A large open or enclosed place used for games and major events and partially or completely surrounded by tiers of at least three-hundred (300) seats for spectators.

**Street, Public**

A dedicated and accepted public right-of-way, drive or way for vehicular traffic, which affords the principal means of access to abutting properties.

**Street Tree**

A tree planted along the street behind the right-of-way.

**Street Yard**

A planting area parallel to a public or private right-of-way designed to provide continuity of vegetation along the right-of-way and to soften the impact of development by providing a pleasing view from the road.

**Structure**

A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above or below the surface of land or water.

**Structure, Accessory**

A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use.

**Tattoo and Piercing Business**

A business engaged in the creation of any indelible design, letter, word, figure, symbol, or other mark placed upon or under the skin including and/or also engaged in the piercing of any part of the body for the purpose of inserting jewelry for non-medical purposes excluding piercing of the earlobes as accessory use.

**Temporary Sign**

A sign that is used in connection with a circumstances, situation or event that is designed, intended, or expected to take place or to be completed within a definite period of time after the erection of such sign. If a sign display area is permanent but the message displayed is subject to periodic changes, that sign shall not be regarded as temporary.

**Theater, Live Performances**

Includes concert halls and other structures with fixed seats arranged on a sloped or stepped floor; may seat 300 to 3,000 people.

**Theater, Movie**

A specialized theater for showing movies or motion pictures on a projection screen. This category also includes cineplexes and megaplexes, complex structures with multiple movie theaters, each theater capable of an independent performance.

**Tobacco Sales Shop**

A retail sales establishment engaged in the sales of tobacco and other smoking products that are not consumed on site.

**Total Care Facility**

A facility, which contracts with individuals providing residences, and guaranteeing appropriate medical facilities and support for the rest of their lives.

**Town**

Refers to the Town of Pineville

**Trailer**

A structure standing on wheels, towed or hauled by another vehicle and used for short-term human occupancy, carrying materials, goods or objects or as a temporary office.

**Transit Station - Passenger**

Facilities for ground passenger transit systems using multiple modes of transport over regular routes and on regular schedules within the city or that operated over long distances between metropolitan areas.

**Tree and Shrub Topping**

The removal or cutting back of major portions of a **any required tree or shrub** crown by cutting branches to stubs and/or to the trunk **or similarly removing a third or more foliage**. Topping is also referred to as heading, stubbing, or dehorning.

**Truck Stop**

A facility typically offering multiple services to truck and automobile patrons, which are particularly designed to serve the need of freight trucks and their drivers. Such facilities typically include fuel stations (dispensing fuel for trucks and, perhaps, for automobiles), one or more eating establishments and/or sale of prepared food, sales of convenience and sundry items, truck washing facilities, and overnight lodging facilities. Not all such facilities are provided at all truck stops. The foregoing definition distinguishes a "truck stop" from (i) a convenience store, (ii) mini-mart (iii) shopping center, (iv) planned multi-tenant development, and (v) motel or hotel.

**Truck Terminal**

A facility where cargo is stored and where trucks load and unload cargo on a regular basis.

### **Unobstructed Open Space**

Land not covered by buildings or structures.

### **Utilities**

Publicly or privately owned facilities or systems for the distribution of gas, electricity, steam, or water, the collection and disposal of sewage or refuse; the transmission of communications; of similar functions necessary for the provision of public services. Radio transmission facilities for use by ham radio operators or two-way radio facilities for business or governmental communications shall be deemed accessory uses and not utilities, provided no transmitter or antenna tower exceeds 180 ft in height. Utilities are divided into 3 classes:

- A) **Class 1**  
Transmission lines (above and below ground) including electrical, natural, gas and water distribution lines; pumping stations, lift stations, and telephone switching facilities (up to 200 sq. ft.).
- B) **Class 2**  
Elevated water storage tanks; package treatment plants, telephone switching facilities (over 200 sq. ft.), substations, or other similar facilities in connection with telephone, electric, steam and water facilities.
- C) **Class 3**  
Generation, production, or treatment facilities such as power plants, water and sewer plants, and landfills.

### **Variance**

A relaxation of the strict terms of a specific provision of this Ordinance by the Board of Adjustment in accord with the provisions of Article 2.

### **Vehicular Sign**

Vehicles parked in such a way that are visible from the public right-of-way where the purpose of the vehicle is to advertise a product or to direct people to a business or activity. Vehicle signage include vehicles parked parallel or immediately adjacent to roadways with signage, vehicles unrelated to the daily operation of a business, or vehicles with open hoods, trunks, doors, or similar for the purpose of signage.

### **Veterinary Hospital**

A facility established to provide treatment to animals, which may remain in the facility for the duration of the treatment and consist of a main building with offices and treatment rooms, as well as outdoor kennels and runways.

### **Wall Sign**

Any sign directly attached to an exterior wall (including windows) of a building or dependent upon a building for its support with its exposed face parallel or approximately parallel to the plane of the building or structure on which the sign is affixed. Signs directly painted on walls shall be considered wall signs.

**Warehouse**

A building or group of buildings for the storage of goods or wares belonging either to the owner of the facility or to one or more lessees of space in the facility, or both, with access to contents only through management personnel.

**Yard, Front**

An open space between a building or structure and the street line of the lot on which the building or structure is located, unoccupied and unobstructed from the ground upward, except by fences or as otherwise provided in these regulations. In measuring a front yard, the horizontal distance between the street line and the closest projection of the building shall be used. Every required front yard shall be measured in a parallel manner from the street line.

**Yard, Rear**

A yard extending the full width of the lot on which a principal building is located and situated between the rear lot line and a line parallel thereto and passing through the point of the principal building nearest the rear lot line.

**Yard, Side**

A space extending from the front yard to the rear yard between the principal building and the side lot line as measured perpendicular from the side lot line to the closest point of the principal building.

**Yard Sale**

An outdoor sale of merchandise conducted entirely upon a residentially or institutionally developed lot by one or more households or civic groups.

## **CHAPTER 4 PARKING**

### **4.1 OFF-STREET PARKING**

#### **4.1.1 Applicability**

**A) New Development**

The off-street parking and loading standards of this section shall apply to the erection of any building, and to any new use established.

**B) Downtown Exemption**

1) In effort to encourage Downtown mixed-use development; Downtown Core (DC) Zoning District parking and loading requirements shall be waived for developments consisting of majority ground floor commercial office/retail with residential dwelling units above.

2) Downtown Core (DC) Zoning District shall be permitted to count directly adjacent approved on-street parking towards off street parking requirements.

3) Minimum parking requirements shall be waived for historically designated properties so long as historic designation is maintained on the property and upheld by Charlotte-Mecklenburg Historic Landmark Commission or similar.

**C) Expansions and Alterations**

The off-street parking and loading standards of this section shall apply when an existing structure or use is expanded or enlarged.

**D) Change of Use**

Off-street parking and loading must be provided for any change of use or manner of operation that would, based on the Off-Street Parking Schedule of this section, result in a requirement for more parking or loading spaces than the existing use.

#### **4.1.2 Requirements**

**A) Off-Street Requirements**

Unless otherwise expressly stated in this Ordinance, off-street parking spaces shall be provided in accordance with Table 4.1-1.

**Table 4.1-1 Off-Street Parking**

<u>Use</u>	<u>Parking Requirements</u>
<b><u>RESIDENTIAL USES</u></b>	
Single-Family / Duplex	Two (2) spaces per dwelling unit.
<b>Multi-Family</b>	
Efficiency Units	Two-and-a-half (2.5) spaces per dwelling unit.
One (1) or Two (2) Bedroom Units	Three (3.0) spaces per dwelling unit.
Three or more (3+) Bedrooms Per Unit	Three-and-a-quarter (3.25) spaces per dwelling unit. (Parking shall be evenly spaced throughout any development).
Dwellings designed specifically for the Elderly or Disabled.	One-and-a-quarter (1.25) spaces per dwelling unit.
Rest Homes / Nursing Homes	One (1.25) space per dwelling unit.
Home Occupation	One (1) space per residential unit, plus one (1) space per three hundred and fifty (350) square feet of office / business space.
Rooming / Boarding	One (1) space per room rented in the dwelling unit plus the required spaces for the dwelling unit.
Family Care Home	Four (4) spaces per family care home.
Day Care, Home	One (1) space plus additional required parking spaces for the residential dwelling.

## COMMERCIAL USES

General Commercial, except as listed below	One (1) space per five hundred (500) square feet.
Amusement Park	One (1) space per three hundred (300) square feet of indoor space, plus one (1) space per thousand (1,000) square feet of outdoor facilities.
Animal Hospital / Animal Services	One (1) space per three hundred (300) square feet
Automobile / Motorcycle / Boat Sales / Lease	One (1) space per two hundred (200) square feet
Auto Repair / Service / Body Shop	One (1) space per three hundred (300) square feet. Service bays shall not be considered as being off-street parking spaces.
Bank / Financial Institution	One (1) space per two hundred fifty (250) square feet, plus one hundred (100) linear feet of queuing area per drive-in window, plus two (2) spaces per automatic teller.
Barber / Beauty Shop	One (1) space per three hundred (300) square feet.
Bed and Breakfast	One (1) space per guest bedroom, plus one (1) space for resident manager / owner.
Bowling	Five (5) spaces per lane, plus one (1) space per five hundred (500) square feet
Campground	Three (3) spaces per camp site.
Car Wash	Two (2) spaces per bay / stall, plus two (2) stacking spaces per bay / stall.
Day Care	One (1) space per three hundred (300) square feet
Funeral Home / Crematorium	One (1) spaces per seat in the chapel or per two (2) feet of bench area, plus One (1) space per five hundred (500) square



	feet for all other areas. In addition, off-street parking area shall be provided to accommodate a minimum of thirty (30) passenger vehicles for the purpose of forming a funeral procession.
Gas Station	One (1) space for each two hundred (200) square feet plus two (2) spaces for each fuel nozzle.
Golf Courses / Miniature Golf / Driving Range	Five (5) spaces per green, plus one (1) space per five hundred (500) square feet for other buildings.
Hotel / Motel	One (1) space per bedroom, plus one (1) space for each two hundred (200) square feet of public meeting area and restaurant space.
Office, Public or Private	One (1) space per three hundred (300) square feet of office area.
Recreation Center	One (1) space per one hundred (100) square feet of pool or similar; plus, one (1) space per three hundred (300) square feet of building area not otherwise calculated for parking purposes.
Recreation Complex or Outdoor Sport area	One (1) space per two thousand (2,000) sq. ft. of outdoor field or sport area, plus one (1) space per four (4) seats or one (1) space per six (6) feet of bench area. Buildings are calculated separately.
Restaurant	One (1) space per one hundred (100) square feet. If drive-in window service is provided, a reservoir area equal to at least three (3) spaces per drive-in window shall be provided.
Theater / Cinema	One (1) space for each three (3) patron seats.

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## **INDUSTRIAL USES**

Industrial, except as listed below	One (1) space per five hundred (500) square feet.
Manufactured Goods, Class 1 and 2	One (1) space per four thousand (4,000) sq. ft. of manufacturing and/or storage area, plus one (1) space per three hundred and fifty (350) square feet of office / business space.
Mini-Warehouses	One (1) space per fifteen (15) units plus standard office parking for offices.
Warehouse	One (1) space per four thousand (4,000) sq. ft. of manufacturing and/or storage area, plus one (1) space per three hundred and fifty (350) square feet of office / business space.

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## **CIVIC USES**

Civic, except as listed below	One (1) space per four hundred (400) sq. ft.
Auditorium / Assembly Hall / Amphitheater	One (1) space per four (4) seats, every two (2) feet of bench area shall be considered a seat. Other square feet shall be counted separately.
Bus Terminal	One (1) space per one hundred-fifty (150) sq. ft. of waiting area. Other areas calculated separately.
Cemetery	Three (3) spaces per acre of land utilized as grave space.
Church / Place of Worship	One (1) space per four (4) seats, every two (2) feet of bench area shall be considered a seat for main chapel or sanctuary space. One (1) space per three hundred (300) square feet shall be used for all other square feet.

College / University	One (1) space per six hundred (600) square feet of building area (excluding dorms), plus one (1) space per dorm room.
Hospital / Clinic	One (1) space per three hundred (300) square feet
Library, Museum, Art Gallery	One (1) space per three hundred (300) square feet
Post Office, Town Hall	One (1) space per three hundred (300) square feet
Recreation Facility, Public	One (1) space per three hundred (300) square feet per building area.

**Square Feet Parking Calculation:** Square feet used for parking calculations above shall be the total gross square feet inclusive of all space measured inside the outer wall or walls of a building, structure, or similar unless otherwise stated.

## 4.2 OFF-STREET LOADING REQUIREMENTS

### 4.2.1 Purpose

In order to assure a proper and uniform development of off-street loading areas and to relieve traffic congestion in the streets, the off-street loading requirements set forth in Section 4.2.2 will apply in all zoning districts. These requirements will apply to new buildings and uses and to additions to existing buildings and uses.

### 4.2.2 Minimum Off-Street Loading Space Requirements

The following minimum loading space requirements shall apply for the uses listed:

<u>Use</u>	<u>Gross Floor Area (Square Feet)</u>	<u>Required Number of Loading Spaces</u>
Any Single Retail Establishment (not located in a shopping center)	0 to 20,000:	None
	20,001 to 50,000:	One Berth
	50,001 to 250,000:	Two Berths
	Over 250,000	Three Berths
Shopping Centers	0 to 50,000:	None
	50,001 to 100,000:	One Berth

	Each Additional 100,000	One Berth
Office Buildings, Hospitals, Health Care Establishments, Hotels and Motels	0 to 100,000: 100,001 to 200,000: More than 200,000:	None One Berth Two Berths
Manufacturing,	Over 15,000	One Berth
Wholesaling and the like	15,001 to 40,000: 40,001 to 65,000: Each Additional 80,000	Two Berths Three Berths One Berth

#### 4.2.3 Design of Loading Spaces

Off-street loading spaces must be designed and constructed so that all maneuvering of vehicles for loading and unloading can take place entirely within the property lines of the premises. Loading spaces must be designed so as to not interfere with the normal movement of vehicles and pedestrians on public rights-of-way. Where feasible, off-street loading shall be located in the rear yard. In no instance, however, shall an off-street loading area be located in any required screening area.

Each loading berth shall have a paved surface and be a minimum of twelve (12) feet in width and forty-five (45) feet in length. Each such berth shall also have a minimum vertical clearance of fourteen (14) feet.

#### 4.2.4 Parking Location and Shared Parking

Off-Street Parking Shall Be Located As Follows:

- A) Off-street parking spaces shall be in the rear or side yard for new development.
- B) Off-street parking spaces shall generally be provided on the same lot of record as the principal use. In instances where such parking cannot be reasonably provided on the same lot of record, it may be provided on a separate lot of record and located within **one thousand (1,000)** feet of the lot of record on which the principal use is located.
- C) Cooperative provisions for off-street parking may be made by a legally binding contract between owners of two or more adjacent properties. The parking area provided on any lot may not be reduced to less than one-half (1/2) the number of parking spaces required for the use occupying such lot. The aggregate number of parking spaces provided in accordance with such cooperative parking mechanisms shall not be less than the sum of the parking spaces required for the uses if computed separately **unless as provided below:**

The sharing of off-street parking spaces may also be provided where two or more uses share the same parking area and the uses do not use the shared parking spaces at the same time. To this degree, the same parking spaces may be credited to these uses. For

example, if a parking lot is used in connection with an office building, which is in operation on a Monday through Friday basis, an adjacent use that is in operation only on weekends could be credited with those parking spaces provided by the office building. Similarly, if a church parking lot is only 10 percent occupied on days other than Sunday, another use could be credited on Mondays through Saturdays with 90 percent of the parking spaces provided on said parking lot.

In order to be credited with either of these cooperative parking mechanisms, a legally binding contract between the parties (i.e., the party(ies) providing the cooperatively used parking and the party(ies) seeking to make use of the cooperative parking) shall first be submitted to the Planning Director for his review and approval. **This requirement shall exclude shared parking between government to government owned properties.**

Any zoning permit or certificate of occupancy issued for a use which is party to a cooperative parking agreement shall be valid (with regard to having satisfied the off-street parking requirements of this Ordinance) so long as the terms of the contract and the terms upon which the contract was predicated are maintained.

- D) No parking area shall be located over an active septic tank field.
- E) The temporary parking or storage of mobile homes shall be prohibited in all areas not zoned for mobile homes (excluding mobile home sales lots or when used on a temporary basis in accordance with Section 7.8 of this Ordinance). Boats, motor homes and camping trailers may, however, be stored or temporarily parked on any residentially-developed lot so long as they are not occupied for residential purposes.
- F) The Planning Director may approve the location of required off-street parking spaces on a separate lot from the primary lot in question if the off-site parking complies with this ordinance.
- G) Ineligible Activities. Off-site parking (**excluding adjacent on-street parking included or built as part of any conditional site plan approval**) may not be used to satisfy the required off-street parking standards for **single family, duplex, triplex, quadraplex, or townhome** residential development.
- H) Off-site parking areas require the same or a more intensive zoning classification than required for the use served unless as conditionally approved.
- I) Shared Parking Study. Those wishing to use shared parking as a means of satisfying off-street parking requirements must submit a shared parking analysis to the Planning Director that clearly demonstrates the feasibility of shared parking. The study must be provided in a form established by the Planning Director and made available to the public. It must address, at a minimum, the size and type of the proposed development, the composition of tenants, the anticipated rate of parking turnover and the anticipated peak parking and traffic loads for all uses that will be sharing off-street parking spaces.

#### **4.2.5 Design Standards**

Design Standards for Parking Areas Are as Follows:

- A) Except as herein provided, a parking space shall be not less than nine (9) feet in width nor less than eighteen (18) feet in length.
- B) Parking bays shall be designed in accordance with accepted standard practice for parking at various angles, with aisles being of such widths as to permit the entering and leaving of a parking space with ease and safety.
- C) Access to, but not necessarily within, all required off-street parking areas shall be by roads adequate in width to accommodate two-way traffic. Except by way of approved driveways, access from or egress to a public road from a parking area shall be expressly prohibited. Adequate provisions shall be made to ensure compliance by the use of fences, walls, wheel stops or landscaping, or a combination of these devices.
- D) Wheel stops or curbs shall be provided for parking lots or spaces to prevent any vehicle from encroaching either on a public right-of-way or on adjacent property. All paved parking spaces shall be clearly marked by either painted lines or wheel stops. Gravel lots must mark spaces with wheel stops.
- E) Driveways shall be considered as providing off-street parking spaces for all single-family, duplex, and townhome dwellings.
- F) All off-street parking areas shall be constructed in such a manner that contamination by dust or dust clouds will not exist. This shall be accomplished by concrete, asphalt, or crushed gravel.

#### **4.2.6 Driveway Permits**

Permits for driveway locations on State-maintained roads shall be obtained from the North Carolina Department of Transportation. Permits for driveway locations on Town-maintained roads shall be obtained from Mecklenburg County Land Development after Town approval.

#### **4.2.7 Drainage**

Storm drainage facilities shall be required and shall be so designed as to protect any public right-of-way or adjacent property from damage.

#### **4.2.8 Computation of Spaces**

The requirements for off-street parking spaces shall be computed as follows:

- A) When units of measurement determining the number of required parking spaces result in a fractional space, any fraction of one-half (1/2) or more shall require one (1) parking space.

- B) Where seats consist of pews or benches, each twenty-four (24) inches of pew or a bench shall be considered as one seat unless otherwise stated in this ordinance.
- C) For the purpose of computing parking requirements based on the number of employees, the on-site owners or managers shall also be considered employees.
- D) Lots containing more than one principal use shall provide parking in the amount equal to the total of the requirements for each use.

### 4.3 PARKING IN RESIDENTIAL ZONES

All parking areas located in a residential (R) zone or for a **single family** residential use shall meet the following standards:

- A) Parking areas shall be used for the parking of **passenger vehicles** only, with no **commercial vehicle**, vehicle sales, storage, repair work, dismantling, or servicing of any kind to be permitted unless as otherwise permitted in this ordinance.
- B) The following shall apply to all off-street parking for property developed for single family detached, duplex, triplex or quadruplex dwelling units:
  - (1) **Front yard parking.**
    - (a) Parking, driveways, and vehicle paths shall be on improved surfaces only.
    - (b) An improved driveway shall not exceed 25% of the area of the defined front yard unless as paved by concrete or asphalt in one single contiguous driveway, then the driveway area shall be allowed to be expanded to a maximum of 35%. Driveways wide enough to accommodate two parked cars are encouraged.
    - (c) Passenger vehicles, recreational vehicles, semi-trailer truck (cab only), golf carts, utility trailers, and boats or box trucks of twenty-**one** feet in length or less are permitted. All other vehicles or equipment (i.e., heavy equipment, backhoes, tractors, and similar) are prohibited in the front yard.
    - (d) **FRONT YARD** is defined as the space extending along the most forward-facing foundation of a building façade or roofed porch of a residential unit and measured outward from the closest corner or edge to meet the side property lines then forward to the meet street or right-of-way of the lot on which the unit is officially addressed or where the front door faces, as determined by the planning director.
  - (2) **Side yard parking.**
    - (a) Parking, driveways, and vehicle paths shall be on improved surfaces only.
    - (b) Parking of passenger vehicles, recreational vehicles, semi-trailer truck (cab only), golf carts, utility trailers, and boats or box trucks of twenty-**one** feet in length or less are permitted.

- (c) *SIDE YARD* is defined as a space measured from foundation of a side façade of a residential unit measured outward to meet the nearest side property line(s) and stopping at the front and rear yards.
- (3) **Rear yard parking.** No more than one junk vehicle or junk equipment item such as tractor or four wheeler (see also Chapter 91 of the Town Code) may be parked in the rear yard.
  - (a) Parking in the rear yard is permitted if concealed/screened with evergreen landscaping or minimum six-foot-high solid wood, vinyl, or masonry fencing for all vehicles and equipment from the public right of way and adjacent properties. Except as detailed below.
  - (b) Rear yard required parking screening is not required for working tagged antique vehicles, or rear yard parking on an improved surface such driveway
  - (c) *REAR YARD* is defined as the space extending along the most rear-facing facade foundation measured directly outward from the furthest rear edge(s) of a residential unit to meet the side yard property line and backward to meet the rear property boundary.
- (4) **Vacant lots.** Parking of passenger vehicles, recreational vehicles, golf carts, utility trailers, and boats or box trucks of twenty feet in length or less are permitted on vacant lots in residential zoned property as screened and improved under town code or zoning ordinance.
- (5) *Minimum parking.* Minimum of two (2) parking spaces. Each measured a minimum of nine feet by eighteen feet (9'x18').
- (6) *Maximum number.* The maximum number of vehicles and/or equipment allowed to park in the *front yard* shall be the greater of either of the following options: two (2) OR one and a half (1.5) rounded down per bedroom per property.
- (7) *Fully Enclosed Structures.* Minimum parking counts shall include fully enclosed garage structures, so long as the roll out trash cans have an area to be stored aside from a parking space. The maximum parking count shall exempt vehicles in fully enclosed garage structures.

C) For purposes of this section, *IMPROVED* means surfaced with concrete, asphalt, or gravel or any other material commonly used for the parking of vehicles, but not including grass or dirt.

D) This section adopts the U.S. Department of Transportation definition of passenger vehicle to mean cars and trucks used for passengers; the term here excludes buses, commercial vehicles, recreational vehicles and trains.

*COMMERCIAL VEHICLE:* Any vehicle or equipment other than a customary residential two or four door passenger car, pick-up truck, **motorcycle**, Sport Utility Vehicle (SUV) or passenger van more than 15 passengers.

E) The prohibitions of this section shall not apply:

- (1) In conjunction with special events involving family or social gatherings, provided such events do not occur more frequently than once a month; except



for weekly Sunday church events, and provided the Town is made aware and confirms the event prior; or

- (2) To emergency and public service vehicles whose operators are performing services for which they are responsible, nor do these prohibitions apply to vehicles belonging to persons under contract with the city to perform a public service.
  - (3) Moving trucks used in association with residential use loading and unloading household goods in for a period of up to twenty-four (24) hours if parked on an improved surface and otherwise in conformance with this ordinance.
- F) All required parking spaces shall be of such design and located so as to be convenient and readily usable by the patrons.
- J) If lighting is provided it must meet the lighting requirements of this ordinance or otherwise shielded and dimmed so as not to create a nuisance onto adjoining properties.
- K) All parking lots, parking spaces, and similar shall be constructed in such a manner that contamination by dust or dust clouds will not exist. This shall be accomplished by use of concrete, asphalt, or crushed gravel.
- L) Violations shall be given five (5) days to correct the violation before additional enforcement including fines per day per violation and as otherwise specified in section 2.8.7.

## 4.4

### PARKING OF COMMERCIAL AND RECREATIONAL VEHICLES

#### 4.4.1 Recreational Vehicles

Recreational vehicles shall be prohibited from being utilized for any amount of time as a dwelling unit. and the usage of a recreation vehicle for living, sleeping or housekeeping purposes and the connection of such vehicle to utility services (other than for periodic maintenance and/or repair purposes) shall be prohibited unless the vehicle is located in an approved camping and recreational vehicle park so designed to accommodate recreation vehicles.

#### 4.4.2 Parking Tractor-Trailers or Vehicles over Six Tones

- A) It shall be unlawful for any tractor-trailer or vehicle over ten thousand (10,000) pounds to be parked in any parking lot, travel lane, or parking space designed for passenger vehicles.
- B) Item (A) above shall not apply to vehicles used in association with properties in zoning compliance with all valid approved permits for an active construction site, vehicles parked actively refueling gas tanks such as with gas stations, road repaving, water, sewer, or similar public utility project, Section 4.3, or as approved on a zoning temporary event permit.

#### **4.4.3 Commercial Vehicles**

No residentially-developed lot may be used as the base of operation for any freight hauling truck.

4.4.4 Violations shall be given five (5) days to correct the violation before additional enforcement including fines per day per violation and as otherwise specified in section 2.8.7.

### **4.5 ON STREET PARKING AND VEHICLES IN EXCESS OF 90 INCHES IN WIDTH**

4.5.1 It shall be unlawful for any person to park any vehicle, trailer, material, or equipment which shall have a width in excess of 90 inches, and/or any commercial vehicle, and/or any vehicle over ten thousand (10,000) pounds upon any street or street right-of-way within the town.

4.5.2 Section A shall not apply to vehicles used in association with any government approved roadway or utility project such as road repaving or where specifically designed and approved for on street commercial vehicle parking/loading as approved by Pineville Town Council.

4.5.3 On street parking or parking within any road right of way is prohibited on unimproved surfaces and on any street where there is less than fifteen (15) feet of unobstructed roadway as measured from the side of the vehicle (including vehicle mirrors) facing the street.

#### **4.5.4 On street Parking**

Where public on street parking is provided, parking shall be for customers, temporary deliveries parked ten (10) minutes or less, residents, employees, municipal events, or with approval from the Town Manager only. Signage or storage in this area shall be prohibited.

4.5.5 Violations shall be given five (5) days to correct the violation before additional enforcement including fines per day per violation and as otherwise specified in section 2.8.7.

### **4.6 OBSTRUCTIONS AND RESTRICTIONS**

#### **4.6.1 Obstructions with Public Right of Way**

Except as otherwise permitted by these regulations, no material, vehicle, structure or refuse container shall be permitted which obstructs or otherwise interferes with public use of a street right-of-way or other public easement.

Materials, vehicles, structures or refuse containers shall not be stored or parked within a public right-of-way. These regulations shall not apply to lawful on-street parking, or for the temporary placement of refuse containers for curbside pick-up.

#### **4.6.2 Restriction on use of off-street parking and loading spaces**

The storage of merchandise, materials, containers, the repair of motor vehicles, or any kind of equipment shall be prohibited in all parking lots and loading spaces except as permitted with a valid licensed temporary **event or** construction project.

## 4.7 PARKING LOT DESIGN STANDARDS

### 4.7.1 Parking Lots

Because parking areas frequently predominate the visual impact of a development, this section is intended to beautify and enhance these spaces without compromising vehicular and pedestrian safety. The Town does not desire parking areas that dominate a site and advocates de-emphasized parking in favor of architectural design, landscape buffers and pedestrian amenities. Site development shall also address the safety and comfort of the pedestrian in walking within and between areas of automobile movement.

### 4.7.2 Site Layout

Refer also to appropriate **Overlay Plan** as to **location and other site design minimums**.

### 4.7.3 Dimensions

#### A) General

Required off-street parking spaces shall comply with the following dimensional standards:

**Table 4.5.3 General Dimensional Standards for Off-Street Parking**

USE	TYPE OF SPACE	DIMENSIONS (FEET)
Residential	Spaces in Garage or Carport	10 x 20
	Uncovered	9 x 18
Nonresidential	Angle Spaces	9 x 18
All	Parallel	8 x 22

#### B) **Parking Space Obstructions**

**Every parking space shall be free and clear of any obstruction within the minimum dimensional standards of this ordinance.**

#### C) **Access to Parking Areas**

All off-street parking spaces shall be accessible without backing into or otherwise reentering a public right-of-way, unless it is physically impossible to provide for such access **or as provided with on-street parking**. An alley may be used as maneuvering space for access to off-street parking.

#### D) **Parking Lot Access Drive**

**Parking lots shall provide** an access drive not less than 24 feet in width for two-way traffic movement, or **12 feet in width for one-way traffic**. **One on site vehicular movement shall be marked with pavement paint and/or vertical "one-way only" type signage. See also Pineville Land Development Standards.**

**4.7.4 Use of Off-Street Parking Areas**

Required off-street parking areas are to be used for the parking of licensed, motor vehicles in operating condition. Required spaces may not be used for the display of goods for sale or lease or for long-term storage of vehicles, boats, motor homes, campers, mobile homes, or building materials.

**4.7.5 Vehicle Stacking**

The vehicle stacking standards of this subsection shall apply unless otherwise expressly approved by the Planning Director/Planning Director.

**A) Minimum Number of Spaces**

Off-street stacking spaces shall be provided as follows:

**Table 4.5.4: Minimum Required Vehicle Stacking Spaces**

<b>Activity Type</b>	<b>Minimum Stacking Spaces</b>	<b>Measured From</b>
Bank Teller Lane	4	Teller or Window
Restaurant Drive-In	6	Order Box
Restaurant Drive-Through	4	Order Box to Pick-Up Window
Car Wash, Automatic	6	Entrance
Car Wash, Self-Service	3	Entrance
Gasoline Pump Island	2	Pump Island

B) Stacking spaces shall be a minimum of 8 feet by 20 feet in size.

C) Stacking spaces shall not **conflict, overlap,** or impede any other on- or off-site vehicle movement **or parking space.**

D) Stacking que lanes shall be separated from other internal driveways by raised medians if deemed necessary by the Planning Director for traffic movement and safety.

**4.7.6 Accessible Parking for Physically Handicapped Persons**

A portion of the total number of required off-street parking spaces shall be specifically designed, located, and reserved for use of persons with physical disabilities. The number of spaces required shall be determined by the Mecklenburg County Land Development Standards Manual.

**4.7.7 Bicycle Parking**

For lots where more than **50** spaces are provided, provide 1 bike parking space for every 50 car spaces. Inverted U or “Cora” –type racks are suggested though others of similar durability and ease of use may be approved. Bike racks should be located close to the main building entrance(s) so they are highly visible and convenient. To facilitate access, install a curb ramp in any drive near the bike parking.

#### **4.7.8 Cart Corrals**

Any zoning use or property that utilizes shopping carts shall keep carts inside the building and/or provide cart corral containment area(s). These containment area(s) shall be adjacent to the building and within the parking lot to a size adequate to prevent any loose cart or cart stacking outside of designated areas. Coin activated cart returns may be used in lieu of parking lot cart corrals provided that carts are kept within designated containment areas.

## **CHAPTER 5 SIGNS**

### **PURPOSE AND INTENT**

The purpose and intent of this Article is to support and complement the various land uses allowed within the incorporated limits of the Town of Pineville by the adoption of policies and regulations concerning the placement of signs. Any violation of this article see: 2.8.7.

The Pineville Town Council does hereby find and declare the outdoor placement of signs to be a legitimate use of private property but that the erection of signs should be controlled and regulated in order to promote the health, safety, welfare and convenience and enjoyment of travel on and protection of the public investment in streets and roads in Pineville and to promote the reasonable, orderly and effective display of such signs, displays and devices. It is also the intent of this Ordinance to prevent signs from dominating the visual appearance of the area in which they are located.

#### **5.1**

##### **Sign Permits Required**

Unless specifically exempted by other sections of this Ordinance, all signs shall be required to have completed and approved permits prior to installation. A sign permit shall not be deemed complete or approved unless fees have been paid, and all required information needed to determine compliance is supplied by the applicant. Such required information includes, but is not limited to the following:

- A) A completed application and detailed description of any new sign including materials and lighting.
- B) All complete and accurate measurements and square footages (total height by total width and depth) for all signage associated with a proposal. This shall include all existing signs to remain and new proposed signs.
- C) Graphic showing exact sign placement on walls for wall signage
- D) Survey showing all freestanding signs that confirms sign height, distance from ground, setback requirements and sight triangles.
- E) Address and tax parcel number.
- F) Once zoning has approved a sign proposal the applicant must get approval from Mecklenburg County prior to installation.

#### **5.2**

##### **SIGNS NOT REQUIRING A PERMIT**

Signs listed in section 5.2 are exempt from Town permit requirements of Section 5.1.1 and may be erected in any zoning district provided they are located onsite, comply with sight triangle safety requirements, Mecklenburg County requirements and all other provisions herein.

##### **5.2.1 Government signs**

Temporary or permanent signage erected and maintained by or required by the Town of Pineville, Mecklenburg County, North Carolina, or Federal government and meets the

following conditions.

Governmental signs are allowed to include the following:

- A) Municipal, County, State and Federal traffic signs.
- B) Historical markers, monuments or signs erected by public authority.
- C) Signs denoting the location of underground utilities.
- D) Signs posted by or under the authority of Municipal, County, State, or Federal authorities for crime prevention, public safety, health, zoning, and identification.
- E) Signs erected by government entity to advertise public or community events.

### 5.2.2 Incidental Signs

Incidental signs shall be detached freestanding secondary onsite signage, such as “no parking”, “entrance”, “loading only”, and meets the conditions below:

Incidental signs shall be allowed provided they comply with the following:

- A) Maximum size of two (2) square feet.
- B) Maximum height of three (3) feet high.
- C) Must be within property lines and outside of any right of way.
- D) Must not cause a safety hazard or conflict with utilities.
- E) Must be permanent style and constructed of metal or masonry frame.
- F) Limit two (2) per property for properties under 10 acres. No limit for properties over 10 acres where not visible from public road right of ways.

### 5.2.3 Flags

A generally rectangular fabric, **generally** representing a nation, state, country, city, or other official government entity, designed to be flown from a flag pole and meets the following conditions:

#### **Flags on Free Standing Poles**

- A) **Government and church owned properties are limited to three (3) poles not to exceed forty (40) feet in height. Flag size shall be a maximum of six (6) by ten (10) feet**
- B) **All other uses and properties there shall be** no more than one flagpole displayed on any lot unless the lot has more than one road frontage, in which case there may be one flagpole per each public road frontage.
- C) A maximum of 2 flags shall be allowed per a flag pole.
- D) **Unless specified otherwise** flag poles shall not exceed thirty (30) feet in height nor shall flags on these poles exceed a size of five (5) feet by eight (8) feet.
- E) **Free standing poles shall be located a minimum of five (5) feet inside any property line.**
- F) **Any pole fifteen (15) feet in height or greater must provide and install an engineer approved foundation.**
- G) **Any pole on any residentially (R) zoned property (excluding apartment complexes and commonly owned home owner’s association property) shall be limited to one (1) pole**

at a maximum of height of fifteen (15) feet and a single flag at a maximum size of five (5) feet by eight (8) feet

- H) Apartment complexes and commonly owned home owner's association property) shall be limited to three (3) poles per driveway entrance at a maximum of height of twenty (20) feet and a single flag per pole at a maximum size of five (5) feet by eight (8) feet.

#### **Flags on Buildings and Similar Attached Poles**

- A) Flags on the exterior of any building must be located on a pole which is stationary and securely affixed to a building.
- B) Maximum pole length shall be eight (8) feet.
- C) Maximum one flag per pole. flag size maximum shall be three (3) feet by five (5) feet.
- D) Maximum number shall be: the greater of one per public street frontage, or one per tenant space storefront.
- E) Shall not conflict with any pedestrian sidewalk walkability, sight triangle, or otherwise create a safety issue.

#### **5.2.4 Real Estate**

Temporary onsite real estate signs typically advertising specific property for sale, lease, rent or new development shall be located as follows:

- A) Signs must have an active real estate listing.
- B) Signs advertising individual single-family, duplex, and townhome or similar residential uses totaling ten (10) homes or lots or less shall have a maximum area of six (6) square feet apiece and a maximum height above grade of four (4) feet.
- C) Signs advertising all other uses shall not exceed thirty-two (32) square feet, and a maximum height above grade of ten (10) feet.
- D) Only one (1) sign per street front shall be erected. This sign may be double sided or 'V' style.
- E) Signs shall not be illuminated.
- F) Signs must be a minimum of five (5) feet inside the property.
- G) Signs must not be in any sight triangle.
- H) Signs shall be removed within seven (7) days after the sale is closed or other transaction is finalized.
- I) Signs in place longer than ninety (90) days must be of painted wood or metal material approved by the Planning Director.

#### **5.2.5 Election Signs**

Signs during federal, state, and local municipal election season are permitted with the following restrictions:

- A) Election season signs shall not exceed six (6) square feet and must be of approved rigid, weather resistant, and non-banner material.
- B) All such signs shall be erected no sooner than thirty (30) days prior to the election and removed within seven (7) days after the election for which they were made.
- C) The party responsible for erecting the sign shall be held responsible for violations.



- D) Signs shall not be on Town owned property.
- E) Signs shall not be in the Right-of-Way.
- F) Signs shall not be in any sight triangle.

### 5.2.6 Construction Signs

Temporary onsite signs in association with construction projects typically advertising the builder, developer, bank or similar where final Town of Pineville and Mecklenburg County plans have been approved and a construction permit is posted.

- A) Signs must be in conjunction with a valid approved building permit.
- B) Signs in conjunction with any residential uses totaling ten (10) homes or less shall have a maximum area of six (6) square feet apiece and a maximum height above grade of four (4) feet.
- C) Signs advertising all other uses shall not exceed thirty-two (32) square feet, and a maximum height above grade of ten (10) feet.
- D) Maximum of two (2) construction signs per total development project area or one (1) sign placed per street front shall be erected, whichever is greater. This sign may be double sided but not 'V' style.
- E) Signs shall not be illuminated.
- F) Signs must be a minimum of five (5) feet inside the property.
- G) Signs must not be in any sight triangle.
- H) Signs must be removed after completion of project or certificate of occupancy is issued.
- I) Signs in place longer than ninety (90) days must be of painted wood or metal material approved by the Planning Director.
- J) Fence wraps. Per NCGS 160D-908 Fence wraps displaying signage when affixed to perimeter fencing at a construction site are exempt from zoning regulation pertaining to signage under this Article until the certificate of occupancy is issued for the final portion of any construction at that site or 24 months from the time the fence wrap was installed, whichever is shorter. If construction is not completed at the end of 24 months from the time the fence wrap was installed, the local government may regulate the signage but shall continue to allow fence wrapping materials to be affixed to the perimeter fencing. No fence wrap affixed pursuant to this section may display any advertising other than advertising sponsored by a person directly involved in the construction project and for which monetary compensation for the advertisement is not paid or required.

### 5.2.7 Religious Institutions and Other Non-Profit Organizations

Temporary special event signs or banners for religious, charitable, civic, or similar verified non-profit organizations provided that:

- A) Two on-premise signs no larger than thirty-two (32) square feet property shall be permitted per event. Portable signs may be used for such purposes.
- B) Signs shall be erected no sooner than 14 days before and removed 7 days after the event.

- C) The Town Council may approve other signs or banners to be located in or across a public road right-of-way. The number, location, material, and direction of such signs shall be determined by the Town Council.

#### **5.2.8 Agricultural Signs**

Temporary farm product signs restricted to properties actively growing and selling produce:

- A) Maximum of two (2) signs per property shall be erected.
- B) Such sign shall be located on the property where the products are grown or sold.
- C) Signs shall not exceed sixteen (16) square feet in area apiece.
- D) Signs shall be removed within seven (7) days of the termination of sale activities.
- E) Signs must be a minimum of five (5) feet inside the property.
- F) Signs must not be in any sight triangle.

#### **5.2.9 Grand Opening/Closing**

Signs used in association with the initial opening or closing of a business. These signs are only permitted with new certificate of occupancy or before all business activities are to cease. These signs shall be allowed under the following conditions:

- A) Applicant must provide documentation of new certificate of occupancy or store closing.
- B) Such signs shall be attached entirely to a vertical building wall only and not tied between columns.
- C) Any such signs shall not exceed thirty-two (32) square feet.
- D) Sign material must be approved by staff. Signs must be secured so as not to move, bend, or sag particularly in windy conditions.
- E) Signs are limited to a maximum of fourteen (14) days.

#### **5.2.10 Window Signs**

- A) Window signs must be interior placed only. Exterior window signs shall be regulated as wall signage.
- B) Illuminated window openings, such as with light 'washes' and/or up and down lighting shall be with white light only. See also maximum light intensity and prohibited flashing, strobing, and scrolling.
- C) Lighting such as rope or tube lighting around window, door, or similar openings shall be prohibited.
- D) Window signs located less than two (2) feet behind glass shall not exceed twenty-five (25) percent of the window or glass door onto which the sign(s) are located.
- E) Window signs located two (2) or more feet behind glass may exceed the twenty-five (25) percent maximum listed above.

#### **5.2.11 Miscellaneous Exemptions**

- A) Required government safety signage such as roadway and traffic movement signs, NCDOT required or permitted signage, and code related signage such as handicapped parking space signs; inspection signs on gas pumps, vending machines, license plates and similar incidental signs; permanent style signs made of painted wood, metal, stone, or masonry visible only from within the premises.

- B) Customary cemetery signage such as identification and grave markers on masonry, stone, or metal.
- C) Historical Markers erected by a government entity.
- D) Address signs. Addresses on structures, mailboxes, paper tubes and similar customarily allowed for property location and emergency services giving the street name and numerical address only provided all other ordinance provisions are met.
- E) Menu boards and sports field signage such as scoreboards where not visible from a public road right of way provided all other regulations are met (such as lighting).

### 5.3

#### PROHIBITED SIGNS

The following list of signs are prohibited in the Town unless specifically noted elsewhere.

- A) Any sign, which the Planning Director determines, obstructs the view of bicyclists, pedestrians or motorists using any street, obstructs the approach to any street intersection, or interferes with the effectiveness of or obscures any traffic sign, device, or signal shall be prohibited.
- B) Illuminated, highly reflective signs or spot lights that the Planning Director determines hampers the vision of motorists or bicyclists.
- C) Signs, lights, rotating disks, words, and other devices, which resemble traffic signals, traffic signs, or emergency vehicle lights.
- D) Signs, other than government signs, which contain lights, rotating disks, words and other devices not erected by a public authority, which may be erroneously construed as government signs, or emergency warning signs.
- E) Any sign, which interferes with free passage from or obstructs any fire escape, downspout, door, stairway, ladder, or opening intended as a means of ingress or egress or providing light or air.
- F) Any sign placed on any curb, sidewalk, post, pole, hydrant, bridge, tree, or other surface located on, over, or across any public street or right-of-way unless authorized by the Pineville Town Council or the North Carolina Department of Transportation.
- G) Any sign located in such a way as to intentionally deny an adjoining property owner visual access to an existing sign.
- H) Flashing, strobing, scrolling, swinging, rotating signs or similar (except government emergency signs or as required along roadways for traffic control).
- I) Portable signs (except as otherwise stated in this Ordinance).
- J) Vehicular signs. Vehicles used in the normal operation of a business that contains graphics promoting the business are allowed. However, vehicles with signage parked along roadways, and vehicles not directly used in association with regular business activates shall be prohibited.
- K) Off-Premise Sign (such as a Billboard). Any sign that is not located within the property that it identifies or advertises.
- L) Roof signs, or signs on or above the roof or parapet of a building.
- M) Other signs not expressly permitted by this Ordinance.
- N) Electronic message boards in all Residential (R) Districts
- O) Obsolete or Abandoned Signs. Non-conforming signs or parts of signs which advertise or pertain to a business, product, service, commodity, event, activity or

purpose which either no longer exists, has been discontinued or has not been in use for one hundred eighty days or more shall be deemed to be an abandoned sign and shall be removed upon notice by the Planning Director.

- P) Obscenity. Signs or displays, that contain obscene words, pictures, objects or similar which offend the public.
- Q) Pylon or pole signs.
- R) Banners. Banner signs of vinyl fabric, corrugated plastic or similar material or displays typically used in association with temporary events unless specifically stated elsewhere.
- S) Windblown devices such as pennant, streamers, spinners, balloons, gas filled figures and other similar devices.
- T) Signs used in association with any home business/customary home occupation.
- U) Neon illuminated tubing excluding the twenty-five (25) percent maximum interior window signage allowance (such as for "Open" signs).
- V) Any string of lights outlining property lines, open sales areas, doors, windows or wall edges of any building unless elsewhere noted.

5.4

**SIGNAGE DISTRICTS**

**5.4.1 Residential Uses or District Signs**

Signage per individual dwelling unless otherwise specified shall be on a wall, window, or porch column and may not exceed six (6) square feet.

Residential subdivision developments contain property that may require signage. Such developments include single family subdivisions and other master planned developments designated with the letter 'R' in the zoning classification. Total allowable wall sign area shall not exceed one square foot per linear foot of the front of all community owed buildings such as club and pool houses. One (1) ground mounted or monument sign may be utilized per common entrance providing the sign graphic does not exceed twenty (20) square feet. Two (2) ground mounted or monument signs on flanking either side of a common entrance may be utilized providing each sign graphic does not exceed ten (10) square feet. Such signs shall not exceed seven (7) feet in height excluding brick support structure or decorative architectural features such as finials. Internally illuminated signage is prohibited.

**5.4.2A Office-Commercial (O-C)**

	Permitted Sign Type(s) <sup>1</sup>	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
Building Mounted	Wall <sup>2</sup>	Primary <b>public</b> street facing or primary façade	2 sqft for each linear foot of wall frontage <u>or</u> 5% of wall whichever is greater.	Wall height	n/a
	Wall <sup>2</sup>	Secondary <b>public</b> street	1 sqft for each linear foot of building facing side street	Wall height	n/a
	Window	Window glass area	25% of interior window and/or door area	n/a	n/a
	Projecting <sup>2</sup>	Traditional post-and-arm style wall mounted	24 sqft	n/a	1
	Awning	Single color awnings only	Permitted as part of allowable wall signage	Must be affixed only on vertical wall area	n/a
Free Standing	Monument or Ground Mounted <sup>3</sup>	Properties that can meet all freestanding sign requirements	50 sqft	7 ft	1

<sup>1</sup> Combined square footage of all signs shall not exceed 200 square feet.

<sup>2</sup> Wall Signs may project a maximum of 24" from the wall to which it is mounted. Secondary street wall signage allowances shall not be combined onto the front façade, however front or secondary signage may be transferred onto rear or similar facades.

<sup>3</sup> Sign must be placed a minimum of 5' inside property lines, outside of any sight triangle, and not within any existing or future sidewalk area. One ground mounted or monument sign is permitted. In the event of a double-sided sign, only one side shall be used to figure the square footage.

### 5.4.2B Office-Institutional (O-I) Signs

	Permitted Sign Type(s) <sup>1</sup>	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
Building Mounted	Wall <sup>2</sup>	Primary public street facing or primary façade	2 sqft for each linear foot of wall frontage or 5% of wall whichever is greater.	Wall height	n/a
	Wall <sup>2</sup>	Secondary public street	2 sqft for each linear foot of building facing side street	Wall height	n/a
	Window	Window glass area	25% of interior window and/or door area	n/a	n/a
	Projecting <sup>2</sup>	Traditional post-and-arm style wall mounted	24 sqft	n/a	1
	Awning	Single color awnings only	Permitted as part of allowable wall signage	Must be affixed only on vertical wall area	n/a
Wayfinding	Wayfinding or Directional <sup>4</sup>	Interior property Wayfinding signs for Developments over 500,000 gross square feet	15 sqft	5 ft	1 per corner of any roadway, driveway, or similar vehicular intersection
Free Standing	Campus Primary Monument or Ground Mounted <sup>3,4</sup>	Developments over 500,000 gross square feet	250 sqft	30 ft	3 per tax parcel and/or Campus entrance
Free Standing	Campus Individual Building Ground Mounted Signs <sup>3,4</sup>	Developments over 500,000 gross square feet	50 sqft	7 ft	1 per individual building
Free Standing	Monument or Ground Mounted <sup>3</sup>	Properties under 500,000 gross square feet	50 sqft	7 ft	1

<sup>1</sup> Wall signs shall not exceed 300 square feet per public street facing facade. Campus developments including buildings over 200,000 gross square feet may utilize a 2:1 ratio for each building façade not facing a public street with the limitation that no façade may exceed 300 square feet of signage.

<sup>2</sup> Wall Signs may project a maximum of 24" from the wall to which it is mounted. Secondary street wall signage allowances shall not be combined onto the front façade, however front or secondary signage may be transferred onto rear or similar facades.

<sup>3</sup> Sign must be placed a minimum of 5' inside property lines, outside of any sight triangle, and not within any existing or future sidewalk area. In the event of a double-sided sign, only one side shall be used to figure the square footage.

<sup>3</sup> Campus developments including buildings over 500,000 gross square feet. Campus developments may have a site-specific master sign program as part of any conditional zoning approval.

### 5.4.3 General Business (B-3) Signs

	Permitted Sign Type(s) <sup>1</sup>	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
Building Mounted	Wall <sup>2</sup>	Primary <b>public</b> street facing or primary façade	2 sqft for each linear foot of wall frontage <u>or</u> 5% of wall whichever is greater.	Wall height	n/a
	Wall <sup>2</sup>	Secondary <b>public</b> street	1 sqft for each linear foot of building facing side street	Wall height	n/a
	Window	Window glass area	25% of interior window and/or door area	n/a	n/a
	Projecting <sup>2</sup>	Traditional post-and-arm style wall mounted	24 sqft	n/a	1
	Awning	Single color awnings only	Permitted as part of allowable wall signage	Must be affixed only on vertical wall area	n/a
Free Standing	Monument or Ground Mounted <sup>3</sup>	Properties that can meet all freestanding sign requirements	50 sqft	7 ft	1

<sup>1</sup> Combined square footage of **individual business or tenant space** signs shall not exceed 200 square feet.

<sup>2</sup> Wall Signs may project a maximum of 24" from the wall to which it is mounted. Secondary street wall signage allowances shall not be combined onto the front façade, however front or secondary signage may be transferred onto rear or similar facades.

<sup>3</sup> Sign must be placed a minimum of 5' inside property lines, outside of any sight triangle, and not within any existing or future sidewalk area. One ground mounted or monument sign is permitted. In the event of a double-sided sign, only one side shall be used to figure the square footage.

#### 5.4.4 Highway Business (B-4) and Planned Business Signs (B-P)

	Permitted Sign Type(s) <sup>1</sup>	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
Building Mounted	Wall <sup>2</sup>	Primary <b>public</b> street facing or primary façade	2 sqft for each linear foot of wall frontage <u>or</u> 5% of wall whichever is greater.	Wall height	n/a
	Wall <sup>2</sup>	Secondary <b>public</b> street	1 sqft for each linear foot of building facing side street	Wall height	n/a
	Window	Window glass area	25% of interior window and/or door area	n/a	n/a
	Projecting	Traditional post-and-arm style wall mounted	24 sqft	n/a	1
	Awning	Single color awnings only	Permitted as part of allowable wall signage	Must be affixed only on vertical wall area	n/a
Free Standing	Monument or Ground Mounted <sup>3,4</sup>	Properties that can meet all freestanding sign requirements	50 sqft	7 ft	1

<sup>1</sup> Combined square footage of **individual business or tenant space** signs shall not exceed 300 square feet except as provided below.

<sup>2</sup> Wall Signs may project a maximum of 24" from the wall to which it is mounted. Secondary street wall signage allowances shall not be combined onto the front façade, however front or secondary signage may be transferred onto rear or similar facades. Multiple tenants located inside a single B-P zoned **building** over 100,000 gross square feet may utilize a 2:1 ratio for each building façade with the limitation that no façade may exceed 300 square feet of signage.

<sup>3</sup> Sign must be placed a minimum of 5' inside property lines, outside of any sight triangle, and not within any existing or future sidewalk area. One ground mounted or monument sign is permitted. In the event of a double-sided sign, only one side shall be used to figure the square footage.

<sup>4</sup> If the owner of a landlocked B-4 zoned parcel containing a single tenant building reaches a written agreement with an adjacent B-4 zoned parcel owner with street frontage, a Monument or Ground Mounted sign that includes signage for the landlocked parcel may be erected on the adjacent parcel with street frontage so long as all of the following conditions are met in their entirety:

- The new Monument or Ground Mounted sign shall adhere to and be in compliance with all applicable sign regulations.
- The new Monument or Ground Mounted sign shall not exceed the limitations or maximums for a single parcel (i.e. one per property, maximum sign area of 50 sqft. shareable between agreeing properties).
- Neither property may retain any nonconforming signs of any kind.
- There may be no Monument or Ground Mounted signs on the landlocked parcel.
- The landlocked parcel shall only have one such offsite sign.
- The written agreement between the parcel owners must be notarized and submitted to the Planning Director or their designee.
- The entirety of the proposal must be approved by the Planning Director or their designee.



### 5.4.5 Shopping Centers<sup>1,2,3</sup>

	Number of Tenants	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
Wall		Wall signs calculated individually for maximums.	See zoning district for maximum	See zoning district	N/A
Monument	10-14 Tenants	Identifies tenants in a building.	125 sq ft	20 ft	1 Per Street Frontage
	15 or more Tenants	Identifies tenants in a building.	150 sq ft	40 ft	1 Per Street Frontage

<sup>1</sup> All other applicable zoning district regulations apply.

<sup>2</sup> Non-conforming shopping centers with five or more tenants may replace free standing sign tenant panels only to reflect current tenants provided that the existing sign has five or more tenant panels and does not alter the existing structure, condition, lighting, or intent.

<sup>3</sup> LED or illuminated message board displays are limited to fifty (50) square feet unless as conditionally approved.

### 5.4.6 General Industrial (G-I) Signs

	Permitted Sign Type(s) <sup>1</sup>	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
Building Mounted	Wall <sup>2</sup>	Primary <b>public</b> street facing or primary façade	1 sq ft for each linear foot of wall frontage	<b>Wall height</b>	n/a
	Wall <sup>2</sup>	Secondary <b>public</b> street	½ 1 sq ft for each linear foot of wall frontage	<b>Wall height</b>	n/a
	Window	Businesses.	25% of interior window and/or door area	n/a	n/a
	Awning	Single color awnings only	Permitted as part of allowable wall signage	Must be affixed only on vertical wall area	n/a
Free Standing	Entry Monument Sign for Large Development <sup>4,5</sup>	Conditional Zoning Developments over 500,000	100 sq ft	20 ft	2
Free Standing	Monument Sign <sup>3</sup>	Standard entitlement each land parcel. Box style only no 'V' shaped signs	50 sq ft	7 ft	1

<sup>1</sup> Combined square footage of **individual business or tenant space** wall signs shall not exceed ~~200~~**300** square feet.

<sup>2</sup> Wall Signs may project a maximum of 24" from the wall to which it is mounted. Secondary street wall signage allowances shall not be combined onto the front façade, however front or secondary signage may be transferred onto rear or similar facades.

<sup>3</sup> Sign must be placed a minimum of 5' inside property lines, outside of any sight triangle, and not within any existing or future sidewalk area. One ground mounted or monument sign is permitted. In the event of a double-sided sign, only one side shall be used to figure the square footage.

<sup>4</sup> Sign must be placed a minimum of 5' inside property lines, outside of any sight triangle, and not within any existing or future sidewalk area. Two additional development entry monument signs are permitted in addition to standard parcel monument sign entitlement.

<sup>5</sup> Conditional developments with buildings totaling over 500,000 gross square feet may have a site-specific master sign program as part of any conditional zoning approval.

### 5.4.7 Downtown Core (DC) District

	Permitted Sign Type(s) <sup>1</sup>	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
Building Mounted	Wall <sup>2</sup>	Primary <b>public</b> street facing or primary façade	2 sqft for each linear foot of wall frontage <u>or</u> 10% of wall whichever is greater.	Wall height	n/a
	Wall <sup>2</sup>	Secondary <b>public</b> street	1 sqft for each linear foot of building facing side street	Wall height	n/a
	Window	Window glass area	25% of interior window and/or door area	n/a	n/a
	Projecting	Traditional post-and-arm style wall mounted	24 sqft	n/a	1
	Awning	Single color awnings only	Permitted as part of allowable wall signage	Must be affixed only on vertical wall area	n/a
Free Standing	Monument <sup>3</sup>	Box style only no 'V' shaped signs	32 sqft	5 ft	1
	Portable <sup>4</sup>	A-Frame, Menu Board	6 sq ft (24" x 36")	4 ft	1

<sup>1</sup> Combined square footage of **individual business or tenant space** wall signs shall not exceed 150 square feet.

<sup>2</sup> Wall Signs may project a maximum of 24" from the wall to which it is mounted. Secondary street wall signage allowances shall not be combined onto the front façade, however front or secondary signage may be transferred onto rear or similar facades.

<sup>3</sup> Sign must be placed a minimum of 5' inside property lines, outside of any sight triangle, and not within any existing or future sidewalk area. One ground mounted or monument sign is permitted. In the event of a double-sided sign, only one side shall be used to figure the square footage.

<sup>4</sup> A-Frame signs are allowed during business hours and must be removed at the close of the business day.

### 5.4.8 Residential Mixed-Use (RMX) District

	Permitted Sign Type(s) <sup>1,2</sup>	Specific Applicability	Maximum Area	Maximum Height	Maximum Number
Building Mounted	Wall <sup>3</sup>	Primary <b>public</b> street facing or primary façade	1 sqft for each linear foot of building front	n/a	n/a
	Wall <sup>3</sup>	Secondary <b>public</b> street	1 sqft for each linear foot of building facing side street	n/a	n/a
	Window	Window glass area	25 % of interior window and/or door area	n/a	n/a
	Projecting	Traditional style vertical wall mounted signs	12 sqft	n/a	1
	Awning	Single color awnings only	Permitted as part of allowable wall signage	Must be affixed only on vertical wall area	n/a
	Monument <sup>4</sup>	Box style only no 'V' shaped signs	20 sqft	5 ft	1

<sup>1</sup> Excludes single family, duplex, and townhome residential dwellings.

<sup>2</sup> Combined square footage of **individual business or tenant space** wall signs shall not exceed ~~40~~ **100** square feet.

<sup>3</sup> Wall Signs may project a maximum of 24" from the wall to which it is mounted. Permitted wall signage shall not be transferred to other walls.

<sup>4</sup> Sign must be placed a minimum of 5' inside property lines, outside of any sight triangle, and not within any existing or future sidewalk area. One ground mounted or monument sign is permitted. In the event of a double-sided sign, only one side shall be used to figure the square footage.

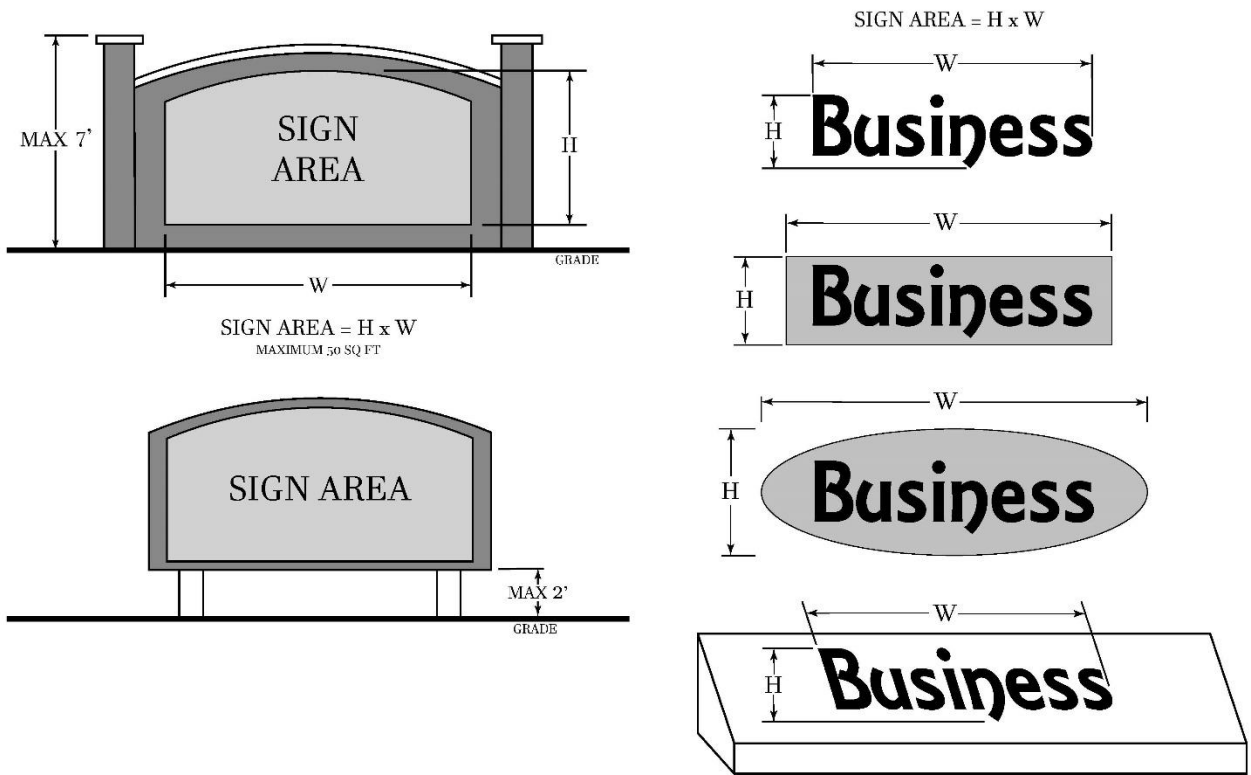
5.5

**GENERAL MEASUREMENT AND SPECIFICATIONS**

The following are general specifications applicable to the various signs permitted. Additional specifications regarding size, number, location, and permitted types of signs are set forth in the individual zoning districts.

**5.5.1 Sign Area**

The surface area of a sign is computed as including the entire area within a triangle, circle, or four-sided parallelogram, including all of the elements of the design and including all illuminated cabinets or sign panels. In the case of enclosed double-sided rectangular panel signs mounted back-to-back, only one side of the sign is to be included in the area. Otherwise, the surface area of each sign is to be separately computed. In the case of cylindrical signs, signs in the shape of cubes, or other signs, which are substantially three-dimensional with respect to their display surfaces, the entire display surface or surfaces, is included in computations of area.



### 5.5.2 Wall Signs

- A) No wall sign shall project more than 24 inches from the building wall unless otherwise noted. No wall sign or its supporting structure shall cover any window or part of a window, nor shall it extend on the onto any angled roof or above any roof or parapet wall.

### 5.5.3 Free-Standing Monument Signs

- A) All free-standing signs shall be a minimum of five (5) feet behind the street right-of-way and similarly located set back inside the property a minimum of five (5) feet to any adjacent lot line.
- B) Any such sign shall be located outside of any adopted sight triangle(s).
- C) Maximum of two (2) feet of open area between grade and mass of sign (for pole supports).
- D) Excludes exempt signs and parking space signs.

### 5.5.4 Projecting (Vertical or Hanging) Signs

- A) A projecting sign will not project more than four (4) feet from a building wall.
- B) A projecting sign will not extend vertically above the roofline or parapet of a building.
- C) The sign shall be a minimum of seven (7) feet from the bottom of the sign above the finished grade.

### 5.5.5 Awning Signs

- A) Awning signs square footage shall be taken out of allowed wall signage.
- ~~B) In no instance shall a canopy or awning sign extend into a street right-of-way~~
- C) Awnings shall be one color except for area permitted as signage.
- D) For solid horizontal flat awnings (not including canopies such as gas stations or drive-through roofs) on a larger enclosed heated and cooled building, signage is permitted on the drip edge band or above this edge provided such signs are no more than one (1) foot in height and no more than fifty (50) percent of the awnings width. Such signs are limited to individual self-supporting raceway letters only.

## 5.6 SIGN HEIGHT

For free standing signs the height of a sign shall be measured from the highest point of a sign copy to the average grade.

## 5.7 SIGN ILLUMINATION

Unless otherwise prohibited, signs may be illuminated if such illumination is in accordance with this section. All electric signs shall be in accordance with all applicable electric codes and shall obtain all required permits from Mecklenburg County. All wiring to ground signs or to lighting equipment erected after the effective date of this section must be underground.

- A) Sign illumination and glare intensity. No sign is permitted by intensity or direction to constitute a nuisance, spill onto adjacent properties, interfere with the reasonable enjoyment residential uses, or cause glare hazard to passing motorists.
- B) Signs near residential premises. No sign within 150 feet of a residential property may be illuminated between the hours of midnight and 6 a.m., unless there is no spillover of lighting or glare to the residential area beyond the boundaries of the lot where the lighting is located.
- C) Shielding of lights. External lighting directed toward a sign shall be shielded so that it illuminates only the face of the sign and does not shine directly into or cause glare onto a public right-of-way or residential uses
- D) Flashing or intermittent lights. No sign shall contain or be illuminated by flashing, scrolling, or intermittent light or lights of changing degrees of intensity.

#### 5.7.1 Exposed Illumination Source

All illuminated signs shall have the bulb or illumination source concealed in such a way as to not be visible to the public unless for interior window signs less than two square feet such as now open signs or for LED portions of freestanding monument signs where permitted.

#### 5.7.2 Electric Supply

All illuminated detached signs shall utilize an underground electrical source. All wall signs shall utilize a direct bore or concealed channel wall electrical source.

#### 5.7.3 Sign Lighting Maximum including Electronic Message Board and Changeable Sign Graphics

- A) Shall not exceed more than 8,000 nits during daytime hours
- B) Shall not exceed more than 700 nits between dusk and dawn
- C) Shall stay static for at least five (5) minutes

### 5.8

#### Parking Space Signs

Signs in association and located within any internal on-site parking space such as for online order pickup signs.

- A) Signs shall be a maximum of seven (7) feet tall
- B) Signs shall be a maximum of one foot six inches (1'6") wide
- C) Maximum of six (6) square feet total
- D) Maximum number of twenty-five (25) percent utilized of a tax parcel's parking spaces
- E) Signage to face internal to parking space only
- F) Signs located in any commercial or industrial zoning but not permitted in any residential (R) zoning.
- G) Signs shall encroach a maximum of six (6) inches into any minimum parking space dimension.
- H) Must be approved permanent smooth rigid material including aluminum or metal but excludes corrugated plastic or any paper material

## 5.9 ENFORCEMENT

### 5.9.1 Inspections and Investigations

A) The Planning Director or designee will periodically inspect signs in order to determine whether there are any violations of this Ordinance.

B) The Planning Director or designee shall have the power to conduct such investigations as it may reasonably deem necessary to carry out the duties as prescribed in these regulations, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting signs. No person shall refuse entry or access to any authorized representative of the Planning Director who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper, or interfere with any such representative while in the process of carrying out his official duties.

C) The Planning Director may require documentation relating to any sign to determine compliance and enforcement action.

### 5.9.2 Removal of Illegal Signs in Right-Of-Way and Public Properties

The Planning Director or their designee may remove and destroy or otherwise dispose of any sign placed on public property or within any right-of-way of any street. Penalties may be levied for each such sign.

### 5.9.3 Citations

If it is determined that a sign has failed to comply with the provisions of these regulations, the Planning Director or their designee shall issue a warning citation to the violator. Violations shall be corrected within three days of the issuance of such citation. If the violation is not corrected within the specified time period, the violator is subject to Section 2.8.7 'Civil Penalty', of this Ordinance, which is incorporated by reference herein as if fully stated. Each sign in violation shall constitute a separate fine.

### 5.9.4 Other Enforcement Methods

In addition to the civil penalties stated in this ordinance, the provisions of these regulations may be enforced by additional enforcement actions permitted under state law.



## **CHAPTER 6 DISTRICTS AND REGULATIONS**

See Table 6-1 for Use Classifications within Zoning Districts

### **6.1 ZONING and OVERLAY DISTRICTS**

In order to achieve the purpose of this Ordinance, the following districts and overlays are hereby established. In addition to the primary uses, other uses including accessory uses, off-street parking and signage, are permitted as described in this Ordinance.

#### **6.1.1 Single-Family Residential Districts (R-44 and R-12)**

These districts are established to provide areas consisting primarily of larger lot single-family.

#### **6.1.2 Residential District (R-7)**

This district permits single-family residences, on lots a minimum of seven-thousand (7,000) square feet in area, and duplexes located on corner lots only.

#### **6.1.3 Multi-Family District (R-MF)**

This district is intended primarily for attached **multi-family** residential development such **apartment complex**, townhome, **patio home** and similar multi-family dwellings. Other single family, private, or community uses may be allowed.

#### **6.1.4 Office-Institutional District (O-I)**

This district is for medium to larger lots and intended to accommodate institutional uses such as hospitals-, short- and long-term care facilities as well as for offices and services that assist these uses.

#### **6.1.5 Office-Commercial District (O-C)**

This district is intended as a mixed-use district allowing for both offices and lighter commercial uses and business services. The O-C district is meant to provide for consolidated professional services and less retail sales than business or "B" zoning designations.

#### **6.1.6 General Business District (B-3)**

This business district located adjacent to Pineville's historic Downtown Core and intended to closely reflect that. This district is designed to accommodate a wide variety of smaller and medium-sized retail and commercial uses.

#### **6.1.7 Highway Business District (B-4)**

This is a business district along major highways for the placement of a wide variety of retail uses including large shopping and commercial complexes.

#### **6.1.8 Planned Business District (B-P)**

This is a business district designed for large master planned and generally commercial uses. The purpose of this district is to provide for the development of large-scale developments in consolidated manner to enhance traffic flow, limit driveway curb cuts on public roads, and provide pedestrian sidewalk connectivity between businesses and along roadways. All areas

zoned B-P shall initially contain an area of at least ten (10) acres.

**6.1.9 General Industrial District (G-I)**

This district is designed to accommodate industrial and warehousing operations which can be operated in a clean and quiet manner that will not produce detectable noise, odor, light, or similar detriment to adjacent residential or commercial properties.

**6.1.10 Downtown Core District (DC)**

The Downtown Core District permits the sensitive continuation of the Historic Main Street environment and its secondary streets and include on street parking. The ground floor of buildings that are not entirely residential should be active uses including retail or restaurants with office and residential uses located on upper stories.

**6.1.11 Residential Mixed-Use (RMX)**

The Residential Mixed-Use District allows for a variety of residential uses but also encourages mixed-use walkable master planned communities with commercial uses. Development must follow new urbanist development patterns and include on street parking for new or improved streets.

**6.1.12 Downtown Overlay District**

The overall intent of the Overlay District is to guide the design of all projects within the this overlay district into the most attractive, long lasting, sustainable, and pedestrian friendly environment possible. Design features within this overlay district include placing buildings closer to each other as well as closer to the street to foster a more comfortable pedestrian streetscape where activity and amenities are expected to occur. As sidewalks remain the principal place of pedestrian movement and casual social interaction, designs and uses should therefore be complementary, and reinforce that function. All development in this district shall comply with the requirements within the Downtown Overlay Plan.

**6.1.13 Corridor Overlay District**

The Corridor Overlay District is intended to manage and guide the continued development/redevelopment of the primary transportation corridors of Main Street, Polk Street, and Dorman Road as they pass through the Town of Pineville. This district has been established based on the primarily commercial viability of properties along these roads. It is anticipated that best use for any residential development in this district will take the form of live/work units, condominiums, or for larger parcels lighter use residential units to be located a significant distance behind these travel corridors and well buffered allowing commercial units to best utilize the traffic and visibility along the front portions of these thoroughfares.

High architectural integrity and additional streetscape features such as street trees, seating, bicycle lanes, and wide sidewalks will greatly improve both the aesthetics and pedestrian oriented potential in these areas. Ground floor uses facing any primary travel corridor in this district shall be comprised of pedestrian friendly and/or active uses. Mixed and multiple tenant buildings are encouraged as are additional connector roads to ease traffic burdens on existing roads and to provide more options to travel between destinations.

It is the ultimate intent to encourage both well-planned and high quality sustainable development. Uses in this district are foreseen to be primarily commercial, commercial/residential mixed-use, higher density residential, offices, and neighborhood services. All development in this district shall comply with the requirements within the Corridor Overlay Plan.

#### **6.1.14 Neighborhood Mixed-Use Overlay District**

The Neighborhood Mixed-Use Overlay District is intended to manage and guide continued growth and development pressure. This district has been established based on location, land use plans, and the general neighborhood/light mixed-use potential of these areas. It is anticipated that the development model in these areas will be primarily lighter to moderate density residential uses with light to moderate neighborhood retail and neighborhood services. These retail and service uses shall be located around local neighborhood centers and/or higher traffic locations.

High architectural integrity and additional streetscape features such as street trees, seating, bicycle lanes, and wide sidewalks will greatly improve both the aesthetics and pedestrian oriented potential in these areas.

Ground floor uses facing any primary travel corridor in this district shall be comprised of pedestrian friendly and/or active uses. Mixed and multiple tenant buildings are encouraged as are additional connector roads to ease traffic burdens on existing roads and to provide more options to travel between destinations. Existing zoning designations such as 'RMX' and the subsequent allowable uses are seen to be a good fit for this area.

It is the ultimate intent to encourage both well-planned and high quality sustainable development. Uses in this district are foreseen to be primarily a mixture of light commercial, neighborhood services, and offices with light to medium residential uses arranged around hierarchical neighborhood centers. All development in this district shall comply with the requirements within the Neighborhood Mixed-Use Overlay Plan.

#### **6.1.15 Residential Overlay District**

The Residential Overlay District is intended to manage and guide continued growth and development pressure for the district shown on the right in green. This district has been established based on location, land use plans, and the general development trend in these areas.

It is anticipated that the development model in these areas will be the creation of attractive and classic time proven residential (generally single family) neighborhood designs. High architectural integrity and additional streetscape features such as street trees, seating, bicycle lanes, and wide sidewalks are required and intended to greatly improve both the aesthetics and pedestrian oriented potential in these areas.

It is the ultimate intent to encourage both well-planned and high quality sustainable development. Uses in this district are foreseen to be primarily single-family detached residences arranged around a neighborhood center and/or usable common open spaces.

All development in this district shall comply with the requirements within the Residential Overlay Plan.

#### **6.1.16 Industrial Overlay District**

The Industrial Overlay District is intended to manage and guide the continued development/redevelopment of the current industrial area. This area defined in this district is an established and relatively stable area with no foreseeable development pressure that would challenge the current uses, viability or character within this district.

Added streetscape features such as street trees, seating, bicycle lanes, and sidewalks will greatly improve both the aesthetics and pedestrian friendly nature needed in this area, in keeping with general town goals and objectives. Pedestrian streetscape features, greenway improvements, and limiting pollution are the primary objectives desired for this district.

It is the ultimate intent to encourage both well-planned and high quality sustainable development. Uses in this district are foreseen to be primarily light industrial uses such as, warehousing, light manufacturing/processing/distribution, and industrial offices. All development in this district shall comply with the requirements within the Industrial Overlay Plan.

#### **6.1.17 Conditional Developments (CD)**

Conditional developments are permitted in all zoning districts as described in this ordinance and shall be designated with a (CD) designation after the zoning classification as verified by planning staff.

### **6.2 DISTRICT BOUNDARIES**

The boundaries of these districts are hereby established as shown on a map entitled "Official Zoning Map of Pineville, North Carolina", adopted by the Town Council. Said map and all explanatory matter thereon accompanies and is hereby made part of this Ordinance. Said map shall be kept **by the Planning Director and available to the public.**

### **6.3 RULES GOVERNING BOUNDARIES**

Where uncertainty exists with respect to the boundaries of any of the previously mentioned districts as shown on the zoning map, the following rules shall apply:

**6.3.1** Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or railroad right-of-way lines, or such lines extended, such centerlines, street lines, or railroad right-of-way lines or such lines extended shall be construed to be such boundaries.

**6.3.2** Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.

6.3.3 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 there from as indicated on the zoning map. If no distance is given, such dimensions shall be determined by use of the scale shown on said zoning map.

## 6.4 USE CLASSIFICATIONS

### 6.4.1 Table of Uses

The list of uses allowed in each general zoning district is indicated in Table 6-1. For any use listed in this table, the Planning Director shall be able to determine if the use is (i) permitted, (ii) permitted subject to the adherence of certain identified performance criteria, (iii) permitted subject to conditional approval, (iv) permitted subject to conditional approval and also having to meet certain performance criteria, or (v) not permitted.

A use shall be permitted in a certain zoning district if it is accordingly designated in Table 6-1 with a "P". A use permitted subject to certain performance criteria, is designated by a "PS". A use that is subject to conditional approval is indicated by a "C". If performance criteria pertain to a certain conditional use, this would be indicated by a "CS". If a use does not have a "P", "PS", "C", or "CS" designation in a particular zoning district, that use shall not be allowed in that zoning district.

No building or structure, sign or land shall hereafter be used, erected or occupied and no building or structure shall be erected, expanded or moved except in conformity with the regulations of this Ordinance. This Ordinance specifies uses, which are allowed in each zone.

Uses designated as "permitted uses" in Table 6-1 are allowed in a zone as a matter of right. Uses designated as "conditional uses" in Table 6-1 are allowed only after approval by the Town Council pursuant to Section 2.6 of this Ordinance.

Supplemental regulations as listed in Table 6-1 are found in Section 6.5 of this ordinance.

See Section 7.8 for temporary uses.

### 6.4.2 Uses Not Expressly Permitted or Conditional

For any use not listed in this Ordinance, the Planning Director shall determine if said use can reasonably be interpreted to fit into an existing use classification as described in this Ordinance. Pineville Town Council, after conducting a public hearing may make the same determination upon request of the Planning Director or by appeal of the Planning Directors classification.

If an applicable zoning use and associated regulation cannot be found in this Ordinance as determined by the Planning Director that zoning use shall be considered not permitted. An applicant may seek to add any zoning use not expressly permitted or conditional in the use classification chart as a text amendment for the proposed land use or regulation following zoning text amendment procedures.

## 6.5

### SUPPLEMENTAL USE REGULATIONS

The following performance criteria and/or supplemental regulations shall pertain to the various uses listed in Table 6-1. If not otherwise listed, these regulations shall be applicable in all districts in which the individual uses are allowed. For any use, which requires the issuance of any conditional approval or conditional district, the performance criteria listed herein shall be in addition to any other fair and reasonable conditions placed on such use by the Planning Board or Town Council. Such conditions may impose greater restrictions or offer relief from regulation authorized from this Ordinance.

#### 6.5.1 Adult Establishments

Adult Establishments are recognized as having serious objectionable operational characteristics upon adjacent uses of a less intense nature, specifically residential neighborhoods, schools, and churches. The following special regulations must be adhered to ensure that any adverse effects to the surrounding neighborhoods will be eliminated:

- A) No two (2) adult establishments may be located within a radius of one-thousand (1,000) linear feet from each other, or any other use providing for the sale of alcoholic beverages, using the shortest straight-line distance between lot lines.
- B) No adult establishment may be located within one-thousand (1,000) linear feet of any Residential (R) zoning district or pre-existing residential use, using the shortest straight-line distance between the lot line of the adult establishment and the zoning district boundary or the lot line of the pre-existing residential use.
- C) No adult establishment may be located within one-thousand (1,000) linear feet of any church/house of worship, private or public elementary, middle, junior high, or high school, parks and/or playgrounds for public use, or other similar public uses, using the shortest straight-line distance between lot lines.

#### 6.5.2 Animal Grooming Establishment; Animal Obedience School

- A) All operations shall be conducted indoors **except animal run areas**.
- B) **Animal run areas be limited to not more than half the heated square footage of accompanying enclosed building use.**
- C) **Must otherwise meet 6.5.3**

#### 6.5.3 Outdoor Animal Runs

- A) **Animal run areas used in association with animal hospitals, kennels, shelters, grooming, obedience, and similar. Public dog parks excluded.**
- B) **Animal run areas must not be adjacent to any residential zoning or use or be within five hundred (500) linear feet of the same as measured at property lines.**

- C) Animal run areas must be located at least one hundred (100) feet back from any street.
- D) Animal run areas must be screened from view from any street or adjacent property by way of a solid fence enclosure minimum height of six (6) feet.
- E) Animal run areas are limited to not more than twice the heated square footage of the accompanying enclosed building use.
- F) Hours of outdoor animal runs shall be limited to 10 am to 6pm

#### **6.5.4 Commercial Uses**

- A) Any individual commercial use having greater than 100,000 square feet gross leasable floor area must obtain conditional zoning approval in accordance with this Ordinance.

#### **6.5.5 Auction House**

All activity must take place indoors.

#### **6.5.6 Auditorium, Assembly Hall, Amphitheaters**

- A) Access to the site shall be provided by major or minor thoroughfares only.
- B) The lot containing an outdoor amphitheater shall be located at least five-hundred (500) linear feet from any pre-existing residential dwelling unit (as measured between lot lines).
- C) A Conditional zoning approval is required if the use has three hundred (300) or more seats.

#### **6.5.7 Automobile Servicing, Installations, Repair and Body Shop**

- A) If located adjacent to a Residential (R) use, the hours of operation may be from 7:00 A.M. to 9:00 P.M. only. This shall not apply in the case of lots containing this use, which are separated from such R-zoned lots by a major or minor thoroughfare.
- B) All work including vehicle servicing and inspections must take place indoors.
- C) Unless structures and site design meet current zoning and overlay district requirements; the use shall not be permitted.
- D) Must meet overlay façade requirements, be all brick store front type design, and no street facing service bay doors or utility elements
- E) Façade must be at least 75% of width of primary street front.
- F) Approved primary building materials must be used within 200 feet of any street.

- G) Elevated vehicle platforms or displays are prohibited.
- H) Site and Parking lot lighting will be limited to a maximum height of 35 feet and equipped with full cut-off fixtures. Site and Parking lot lighting may not shine on adjacent properties.
- I) **Automobile and similar vehicular storage longer than thirty (30) days is prohibited**

#### **6.5.8 Automobile Parking Lot**

Parking lot must be used in accordance with approved permitted uses in each zoning district only.

#### **6.5.9 Automobile Towing and Wrecking Service**

- A) Any outdoor vehicle storage area shall be located a minimum of one-hundred (100) linear feet from any street right-of-way; and two-hundred (200) linear feet from any Residential (R) zoning district or lots which contain a pre-existing principal residential use.
- B) Vehicle storage areas shall not be located at an elevation whereby the storage is visible from a public street after the required screening is in place.

#### **6.5.10 Cemetery**

- A) Tombstones, crypts, monuments and mausoleums shall be located a minimum of twenty (20) feet from any side or rear lot line and at least thirty (30) feet from a street right-of-way. 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 (20) feet from any side or rear lot lines in cemeteries (or cemetery expansions) occurring after the effective date of this Ordinance.
- B) Sales of crypts shall be allowed as an accessory use on premises (for cemeteries as a principal use only).
- C) Notwithstanding any other provisions of this Ordinance, a minimum of thirty (30) acres shall be needed for any cemetery being developed as a principal use.

#### **6.5.11 Church/House of Worship**

- A) On-site schools providing elementary or secondary education and having an enrollment capacity of three-hundred (300) students or greater shall have direct access to the site provided by major or minor thoroughfares only.
- B) If a school is operated on-premises, parking needs may be satisfied by that already provided by the church. A school having an enrollment certification of one-hundred



(100) or more students shall be considered a separate principal use and may be allowed on the same lot so long as the school meets all applicable area, bulk and setback requirements.

- C) A single-family residential use, occupied by the pastor, priest, rabbi, etc. of the facility, may be placed on the lot containing the church/house of worship. Said structure shall meet all setback requirements for single-family dwellings for the zoning district in which the lot is located. Said structure may not be used for day care facilities.
- D) Any church having a sanctuary capacity of five-hundred (500) or more seats shall be located on and have direct access to a major or minor thoroughfare.
- E) Church schools shall be allowed to have up to two (2) modular classrooms without having to submit and receive site plan approval. All modular classrooms, however, shall have their foundations skirted and shall have shrubs planted five (5) feet on center around the periphery of the structure.
- F) A conversion of a dwelling unit into a church/house of worship shall be a conditional use.

#### **6.5.12 Communication Facilities and Towers**

In recognition of the Telecommunications Act of 1996, it is the intent of the Town of Pineville to allow communication providers the opportunity to locate towers and related facilities within its jurisdiction in order to provide an adequate level of service to its customers while protecting the health, safety, and welfare of the citizens of Pineville. Wireless towers may be considered undesirable with other types of uses, most notably residential, therefore, special regulations are necessary to ensure that any adverse effects to existing and future development are mitigated.

- A) Wireless telecommunication towers, (including cellular towers, digital towers, and PCS towers), are permitted uses by right in the G-I district pursuant to the regulations set forth in this section. Telecommunication towers require the conditional zoning approval from town council in all other zoning districts pursuant to the regulations set forth in this section and Ordinance.
- B) All telecommunication towers constructed must be of the monopole variety, unless the tower exceeds 199.9 feet, in which case a lattice type tower may be used to ensure structural safety. Towers within the G-I district may be either a monopole or lattice type where the property currently has no structure or is developed for non-residential purposes. Towers constructed on property, which includes residential development, must be of the monopole variety.
- C) It is the intent of the Town to encourage providers to co-locate facilities in an effort to reduce the number of towers in Pineville's jurisdiction. Providers shall exhaust all potential co-location possibilities and provide documentation to such effect before the Town considers any application.

The Town encourages providers to construct telecommunication towers such that additional telecommunication providers may be afforded the opportunity to co-locate facilities on the tower. The owners of the towers with co-location space shall negotiate in good faith with other providers' space at a reasonable lease cost, and publicize the fact that space is available on a lease basis. The Town further reserves the right to make co-location a condition of any tower permitted as a conditional use under the guidelines listed above.

Mini or micro cell co-locations of the mono-pole type only on top of existing buildings or utility poles are permitted up to twenty (20) feet in height.

- D) The maximum height of any tower located in all Residential (R) districts, Business (B) districts, and Office (O) districts is 125 feet unless documentation is provided to show a taller tower is required to meet minimal service levels (i.e. cannot meet reasonable service coverage area). Towers located in the G-I district have a maximum height limitation of 199.9 feet unless documentation is provided to demonstrate a taller tower is required for a minimal level of service and need. If the property on which the tower is located is developed for residential purposes, the tower will have a maximum height of 125 feet.
- E) No telecommunication tower is allowed to be located within the front or side yards of any existing development.
- F) The Town of Pineville, by federal law, cannot prohibit a telecommunication tower nor deny a conditional zoning approval on the basis of environmental or health concerns relating to radio emissions if the tower complies with the Federal Radio Frequency Emission Standards. The Town requires that the provider must provide documentation proving that the proposed tower does comply with the Federal Radio Frequency Emission Standards.
- G) A minimum lot size as listed in the underlying zoning district is required, provided all setbacks required herein are met.
- H) Wherever feasible, all accessory structures on the ground which contain switching equipment or other related equipment must be designed to closely resemble the neighborhood's basic architecture, or the architecture and style of the principal use on the property. Every effort should be made to conceal a tower within Residential (R) Districts.
- I) Screening is required along all sides of the perimeter of the tower site in accordance with the provisions set forth in Article 5 of this Ordinance. It will be the responsibility of the provider and/or the property owner to keep all landscaping material free from disease and properly maintained in order to fulfill the purpose for which it was established. The owners of the property, and any tenant on the property where screening is required, shall be jointly and severally responsible for the maintenance of all screen materials.

Such maintenance shall include all actions necessary to keep the screened area free of litter and debris, to keep plantings healthy, and to keep planting areas neat in appearance. Any vegetation that constitutes part of the screening shall be replaced in the event it dies. In addition, an eight (8) foot high fence must be placed around the structure (before the screening) to avoid creating a nuisance.

- J) In all districts, a minimum setback requirement, on all sides of the property, shall be 150 feet or two feet for every one (1) foot of actual tower height (i.e. a 150 foot tower would require a 300 foot setback), whichever is greater. If the applicant can document a reduced collapse area, then the setback shall be the greater of that distance or 150 feet.
- K) Telecommunication towers located in all residential districts and having a height of 199.9 feet or less, shall not contain lights or light fixtures at a height exceeding fifteen (15) feet. Furthermore, lighting of all towers in any district shall be directed toward the tower and/or equipment shelters to reduce the effect of glare.
- L) Towers and related facilities must be removed by the provider and/or the property owner if abandoned (no longer used for its original intent) for a period greater than six (6) consecutive months.
- M) Additional provider antennas and equipment shelters to an approved telecommunication tower site may be made with the approval of the Planning Director, without additional review by the Planning Board and Town Council, provided said changes do not increase the height of the tower or the type of tower construction.
- N) Free-standing signs for telecommunication towers are prohibited. One wall sign, for the purpose of identification, is allowed on any equipment shelter provided it does not exceed ten (10) percent of the total wall area of the wall on which it is located.
- O) The provider must show proof of adequate insurance coverage for any potential damage caused by or to the telecommunication tower prior to the issuance of a conditional use permit.
- P) Outdoor storage of equipment or other related items is prohibited on a telecommunication tower site.
- Q) Provider must notify the Town of sale or lease of structure.
- R) All applications for a conditional **approval** for a telecommunication tower must include the following information:
  - 1) Identification of intended provider(s);
  - 2) Documentation by a registered engineer that the tower **and foundation** have sufficient structural integrity to accommodate more than one user;

- 3) A statement from the owner indicating intent to allow shared use of the tower and how others will be accommodated;
- 4) Evidence that the property owners of residentially zoned property within 300 feet of the site have been notified by the applicant of the proposed tower height and design;
- 5) Documentation that the telecommunication tower complies with the Federal Radio Frequency Emission Standards;
- 6) Documentation that towers over 125 feet (or 199.9 feet in the G-I district) are necessary for a minimal level of service;
- 7) Screening must be shown on the site plan detailing the type, number of plantings, and location; and
- 9) Documentation of collapse zones.

#### **6.5.13 Contractors' Storage and Equipment Yard**

- A) If more than one (1) acre of outdoor storage area is provided, this shall be a conditional use.
- B) All outdoor storage must be materially screened on all sides whereby no materials are visible to any adjacent lot or public street.

#### **6.5.14 Convenience Store; Mini-Mart**

- A) Vacuuming facilities may be located outside the building, but may not be located within any required yard or buffer area adjacent to a Residential (R) use.
- B) If a mini-mart is located adjacent to a Residential (R) district, hours of operation may be from 5:00 A.M. to Midnight only.
- C) A mini-mart may contain a free-standing automatic car wash facility.
- D) If a mini mart lies within fifty (50) feet of a Residential (R) use, a dense buffer at least fifty (50) feet in width shall be placed in the side or rear yard closest to the R district.

#### **6.5.15 Correctional Facility**

- A) A two hundred (200) foot setback for all principal and accessory structures shall be observed if the facility is adjacent to any lot located in a Residential (R) Zoning District or any pre-existing principal residential structure.
- B) Any fence, which is barbed or contains razors shall be located at least twenty (20) feet from any lot line.

C) All lighting for the facility must be oriented so that direct beams of light shine away from all adjoining properties.

D) All lots containing a correctional facility must have a minimum of 30 acres.

#### **6.5.16 Customary Home Occupations**

Customary home occupations may be established in any dwelling unit. The following requirements shall apply in addition to all other applicable requirements of this Ordinance for the district in which such uses are located:

A) The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the residential character of the dwelling.

B) No accessory buildings or outside storage shall be used in connection with the home occupation.

C) Use of the dwelling for the home occupation shall be limited to twenty-five percent (25%) of the area of the principal building.

D) Residents of the dwelling may only be engaged in a home occupation.

E) No external alterations inconsistent with the residential use of the building shall be permitted.

F) Only vehicles used primarily in connection with the conduct of the customary home occupation shall be permitted.

G) Chemical, mechanical, or electrical equipment that creates odors, light emission, noises, or interference in radio or television reception detectable outside the dwelling shall be prohibited.

H) Customary home occupations may be conducted in an accessory building subject to the issuance of a Conditional Use Permit by the Town Board.

I) All home occupations shall be conducted between the hours of 7:00 A.M. and 9:00 P.M. only.

J) No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood. Any need for parking generated by the conduct of the home occupation shall be provided off the road right-of-way.

#### **6.5.17 Dwelling, Duplex, Two-Family**

A) Two-family dwellings shall only be located on corner lots. The architectural front of each dwelling unit must face separate streets. Street ingress and egress to each unit shall also be from separate streets. The structure must meet the minimum front

setbacks from both streets. Minimum lot area on corner lots for a two-family dwelling shall be ten-thousand (10,000) square feet.

#### **6.5.18 Family Care Homes**

- A) A family care home shall be a use by right, except that no family care home shall be located within one-quarter (1/4) mile of another family care home unless a special exception is granted by the Board of Adjustment for such reduced separation. Prior to issuing such special exception, the Board of Adjustment, after having first held a public hearing, must have first determined from the evidence presented at the hearing that:

Such reduced separation will not result in further clustering of family care homes, which could promote the clustering and isolation of handicapped persons instead of the integration and interaction of handicapped persons with the community mainstream.

The Board of Adjustment shall only consider evidence relevant to the above finding in reaching a decision to grant the special exception.

- B) The structure must maintain its residential character.
- C) Family Home Care does not include the provision of services for contagious disease, alcoholics, drug addicts, or mentally ill patients deemed to be dangerous.

#### **6.5.19 Food Catering Facility**

The maximum square footage of any food catering facility in the B-3 district shall be fifteen-thousand (15,000) square feet.

#### **6.5.20 Golf Course (Miniature and Golf Driving Range)**

- A) Fencing, netting, trees, berms, or other control measures shall be provided around the perimeter of the driving or playing areas so as to prevent golf balls from going onto adjacent properties. Such devices, where applicable, may be counted towards any required screening provided.
- B) No direct beam of light from outdoor lighting fixtures or signs shall shine onto any lots located in a Residential (R) district or containing an existing residential use.

#### **6.5.21 State and Municipal lines**

No residence, business, or structure shall be split between two or more municipalities or states. Shared land uses utilizing parking or other elements that allow cross state/municipal access and services shall be a conditionally approved only.

#### **6.5.22 Laboratories**

- A) All research or testing service must be conducted within an enclosed building.

- B) Any research involving, using, or developing contagious toxins, nuclear elements, explosives, or other potentially dangerous elements that if released would constitute a hazard shall be a conditional use.

### 6.5.23 RESERVED

### 6.5.24 Manufactured Home Park Standards

All manufactured homes shall be located in a Manufactured Home Park. Manufactured Home Parks shall be conditionally approved only in the R-MF zoning district to ensure conformity with the below standards.

#### A) Minimum Park Area

Manufactured Home Park - Five (5) acres with a density not to exceed seven (7) homes per acre.

#### B) Occupancy

There must be at least five (5) improved manufactured home spaces at first occupancy. Any existing manufactured home park containing less than five (5) manufactured home spaces shall not be considered nonconforming if otherwise in conformance with the standards contained in this Ordinance.

No manufactured home space shall be occupied, nor may a certificate of occupancy be issued unless the requirements of this Ordinance have been met. The requirement of a minimum of five (5) spaces at first occupancy shall apply only to the first five (5) spaces of a new manufactured home park. In all other situations, a manufactured home park may increase in size in any increments of spaces.

#### C) Space Sizes

All manufactured homes within the park shall be located in designated manufactured home spaces. Minimum space sizes shall be as follows:

- 1) Where a well and septic tank are on the same space - Twenty thousand (20,000) square feet.
- 2) Where one of either public or community water service, or public or community sewer service is provided to each space, a minimum of ten-thousand (10,000) square feet shall be required.
- 3) Where both public water and sewer services are provided to each space - Five thousand (5,000) square feet.
- 4) The above space sizes are to be deemed the minimum size requirements and may be increased due to requirements for placement of well and septic tank systems (such as soil conditions and separation distances), the topography of the land, watershed requirements or other factors. The applicant shall indicate on the

application the specific number of bedrooms per manufactured home for which the septic tank system should be evaluated.

**D) Space Widths**

Each manufactured home space shall be at least thirty (30) feet in width at the interior street right-of-way line and forty-five (45) feet in width at the front yard setback line.

**E) Setbacks**

Minimum separation distances between manufactured homes within a manufactured home park shall be observed. In addition, setbacks of manufactured homes from property lines and publicly maintained street right-of-way lines shall also be observed as herein required.

- 1) The minimum setback for any structure within a manufactured home park from a publicly maintained street right-of-way line or any property line shall be fifty (50) feet. Where a required screen area lies between a manufactured home space and a property line or street right-of-way line, all required setbacks shall be measured from the edge of the required screen nearest the manufactured home. In addition to these requirements, a thirty (30) foot minimum front setback from any interior street right-of-way line shall be observed. In addition, a ten (10) foot minimum side setback shall be observed.
- 2) All manufactured homes within a manufactured home park shall be located no closer than twenty (20) feet from each other.

**F) Location on Suitable Land**

Each manufactured home space shall be located on ground not located within the one-hundred (100) year flood plain as established by the most recently issued maps published by the Federal Emergency Management Agency. No manufactured home shall be placed on land having excessive slope or other characteristics making the land unsuitable for placement of manufactured homes. Each manufactured home space shall be graded so as to prevent any water from ponding or accumulating on the space.

**G) Manufactured Home Standards**

All manufactured homes shall bear a valid seal indicating conformance with the 1976 National Manufactured Housing Construction and Safety Standards Act. These homes shall meet the following standards:

- 1) The structure shall be set up in accordance with the standards set by the North Carolina Department of Insurance (including tie-down standards).
- 2) The structure will have all wheels, axles, transporting lights, and towing apparatus removed. If any of these items is nonremovable, then it shall be screened with landscaping if it is still visible after the unit is underpinned.

**H) Stand, Underpinning and Tiedown of Manufactured Homes**



The location of each manufactured home stand must be at an elevation, distance and angle in relation to the adjacent access drive so that placement and removal of the manufactured home is practical by means of customary moving equipment. All manufactured homes shall have continuous underpinning from the bottom of the walls to the ground made of brick, pressure-treated wood (see below), or vinyl, pre-painted aluminum material, or other material specifically manufactured for manufactured homes, unpierced except for required ventilation and an access door.

Each manufactured home in the park shall conform to North Carolina Department of Insurance Standards for tiedown requirements.

I) **Steps**

All manufactured homes within the park shall be equipped with two (2) sets of steps.

J) **Location of Accessory Structures and Common Structures**

Structures accessory to a particular manufactured home shall be located only on the lot containing that manufactured home. All such structures shall be (i) residential in character; (ii) no closer than five (5) feet from the mobile home space boundary and no closer than ten (10) feet from any manufactured home on another space within the park.

However, for carports having a capacity not exceeding two (2) car spaces, the only requirements shall be that such structures observe the same front yard setback as required for the manufactured home and that such structures be located no closer than five (5) feet from any property line, or from the edge of any required buffer. In no instance shall an accessory or common structure be located in a required buffer area.

Accessory structures of benefit to all residents of the manufactured home park shall be permitted within the park. Said structures (i.e., community pools, laundry facilities, game rooms, club houses, etc.) shall be located at least twenty (20) feet from any interior street line and thirty (30) feet from any manufactured home located within the park. Outdoor vending machines may be located in the manufactured home park.

All vending machines must be located indoors or, if outdoors, under a covered surface adjacent to a common building (e.g., administrative office) or facility (e.g., community pool). Vending machines on individual manufactured home spaces shall be prohibited. No retail establishments (other than customary home occupations) may be allowed within the manufactured home park.

K) **Public Road Frontage**

All manufactured home parks shall abut and have at least fifty (50) feet of frontage on a public road. No manufactured home lots shall be directly accessible from the public street.

L) **Ingress and Egress**

Manufactured home parks shall not be located on through lots unless the park is designed in a manner, which does not encourage motorists from using the park as a means of traveling from one public street to another.

Manufactured home parks with twenty (20) or more manufactured home spaces shall have at least two (2) separately designated areas, which contain both an entrance and exit to the manufactured home park. All manufactured home parks containing less than twenty (20) manufactured home spaces shall have at least one area containing both an entrance and an exit to the manufactured home park. Manufactured home parks requiring only one entrance and exit area shall provide at least one permanent turn-around within the park.

**M) Interior Streets, Drainage, and Markings**

No structure within a manufactured home park shall have direct access to a public street. Access to all manufactured homes and accessory structures within the manufactured home park shall be made using internal one-way or two-way streets. All internal streets within a manufactured home park shall be privately owned and maintained. All such streets shall be constructed and paved to minimum NCDOT subdivision road standards except that all such one-way streets shall be paved to a minimum width of fifteen (15) feet; all two-way streets shall be paved to a minimum width of twenty-four (24) feet.

All streets shall be located within a minimum sixty (60) foot wide dedicated right-of-way area. Such area shall be used for street maintenance, underground utility and drainage purposes. The developer may be required to increase the width of said area to properly accommodate the slope and natural terrain of the area. If curb and gutter is provided, a right-of-way area of forty (40) feet may be approved.

Permanent street names shall be assigned to all internal streets. Permanent street name signs shall also be installed at street intersections within the park. All streets shall be named lots and all street signs shall be in accordance with local requirements. Upon completion of the construction site, these signs will be installed. The developer will be responsible for advising tenants of the property address assignments for respective manufactured home spaces and instructing them in the purpose of these addresses. Addresses must be posted, constructed and visible from street per Rowan County requirements.

Permanent traffic control signs shall be installed within the park. Such signs shall include, as a minimum the following:

- 1) Stop sign(s) where park streets access public roads;
- 2) Stop sign(s) at the intersection of interior streets, (it is recommended that all four-way intersections be controlled by four-way stop signs);
- 3) "No Parking" signs along interior streets at intervals sufficient to be readable except where streets have been paved to a width of at least thirty (30) feet.

- 4) One way streets shall be marked as such at appropriate intervals and "Do Not Enter" signs shall be posted where streets become one way or where streets intersect with one way streets.

Roads in manufactured home parks must be designed and graded in such a manner as to allow for the adequate runoff of storm water from interior streets and other surface areas within the manufactured home park.

Speed reduction bumps on paved internal streets are permissible, but they shall be painted and appropriate signs indicating the bump must be placed along the street.

All dead-end internal streets, which provide access to three (3) or more manufactured home spaces shall be provided with a permanent turn-around. All such turn-arounds shall have a minimum paved surface diameter of fifty (50).

Streets and roads within the manufactured home park shall intersect as nearly as possible at right angles, with a 20' radius of intersection and no street shall intersect at an angle of less than seventy (70) degrees. Where streets intersect with a State maintained road, the design standards of NCDOT shall apply.

Maintenance of all internal streets, signage, and all drainage facilities shall be the responsibility of the owner of the manufactured home park. Such streets shall be maintained in a manner to be free from pot holes, breaks in the pavement, rough surfaces, ponding of water during rainy periods, excessive washing of drainage ditches, and other associated problems, which would impede or cause hazards to motor vehicles.

Street jogs ("T" intersections with a street or road, on opposite sides of said road) of less than one-hundred twenty-five (125) feet within and abutting the manufactured home park shall be prohibited.

#### **N) Parking**

At least two (2) off-street parking spaces with not less than four (4) inches of crushed stone or other suitable material (such as asphalt paving or bituminous surface treatment (BST) paving) on a well compacted sub-base shall be provided for each manufactured home space. Required parking spaces may be located in the required front or side yards of the manufactured home space.

Parking spaces shall not be located in the street right-of-way the shoulder, or drainage ditches. One or more separate common visitor parking areas may be designated within any manufactured home park. Such common visitor parking areas shall be separate from any manufactured home space, roadway, drainage facility or buffer, and shall not be located in the street right-of-way, shoulder, or drainage ditches.

#### **O) Trash Facilities**

At least one (1) fly tight, water-tight and rodent proof garbage or trash container with a twenty-four (24) gallon minimum container and forty (40) gallon maximum container capacity, shall be provided for each occupied manufactured home space. Containers shall be placed on racks and such racks shall be located within the manufactured home park at a point, which is readily accessible for collection. All refuse must be placed in refuse containers and it shall be the responsibility of the park operator to provide sufficient container capacity to meet the needs of the manufactured home park.

The burning of refuse within the manufactured home park is not permitted.

When suitable collection service is not available from municipal or private agencies, the manufacture home park operator shall provide this service.

**P) Lighting**

Manufactured home parks shall contain street lights throughout the manufactured home park. Such lights shall be located at all internal street intersections, at the intersection of any internal street and a public street and elsewhere in the park at a maximum of three hundred (300) feet intervals.

**Q) Electric, Telephone and Cable Television Utilities**

Each manufactured home space shall have individual electric and telephone service connections provided.

All electric, telephone, and cable television utilities, and other utility lines shall be placed underground ~~unless unsuitable underground conditions (e.g., rock, swamp, etc.) exist. In such cases, above-ground utility lines may be provided.~~

Each manufactured home must have an individual metered connection to an electric supply and must have an approved fuse disconnect box at the metered location. All wires from the meter to the manufactured home must be buried underground cable in conformance with the North Carolina Electrical Code. Each meter box shall be properly and distinctly identified with either paint or indelible ink.

**R) Mailboxes**

Mailbox spaces within the manufactured home park shall be provided in accordance with United States Postal Services Standards. **There shall be** at least two (2) parking spaces in the vicinity of the mailboxes specifically designated for persons using the mailbox area.

**S) Administrative Office**

One manufactured home may be used solely as an administrative office within the park or an administrative office may be located in a manufactured home, which is used as a residence by the resident manager. An administrative office is not required.

**T) Water Service**

An accessible, adequate, safe and potable supply of water shall be provided in each manufactured home park. Where connection to a municipal water supply is available, connection shall be made thereto and its supply used exclusively. Each lot to be individually metered for water. All lines, meters, boxes, and connections are to be constructed to the specification of the Charlotte/Mecklenburg Utility Department.

When municipal water supply is not available, adequate water supply shall be developed and its supply used exclusively, in accordance with the standards of the State of North Carolina and the Mecklenburg County Health Department. Any water supply must be capable of providing three hundred (300) gallons of water per day manufactured home space.

Each space shall be provided a minimum three fourth (3/4) inch size copper or PVC water service line.

Fire hydrants must be installed at a minimum of every 1,000 foot of road frontage, additional hydrants or other provisions per the Pineville Town Board may be required.

**U) Sewage Facilities**

Adequate and safe sewage disposal facilities shall be provided. Where public sewer is available, connection to the park and individual lots must be made. All lines and connections are to be constructed to the specifications of the Charlotte/Mecklenburg Utility Department. Any individual clean-out is required per lot/space.

If public sewer is not available, collection systems and sewage treatment plants complying with the requirements of the N.C. Department of Health and Environment and the Mecklenburg County Health Department. Individual septic tank systems are permissible in accordance with the requirements of the Mecklenburg County Health Department regulations. There shall be no more than one (1) manufactured home connected to an individual septic tank.

**V) Screening**

All manufactured home parks shall provide screening along all adjoining properties on the side and rear property lines. Such screening shall be located within the manufactured home park and shall materially screen all structures within the manufactured home park from all adjacent properties **in the form of a fifty (50) foot buffer around all side and rear property lines containing a minimum six foot tall solid wood, vinyl, or masonry fence and two rows of approved large maturing evergreen screening offset five feet. Evergreen screen vegetation shall be a minimum six feet tall at planting and planted ten feet on center.**

**W) Maintenance**

The grounds of a manufactured home park shall be kept free of trash, litter, debris, noxious weeds, open sewage or other unhealthy matter. Any septic tanks, which fail, shall be immediately repaired or replaced by the manufactured home park owner. Grounds, buildings and storage areas shall be properly maintained.

The manufactured home park or operator shall take all necessary steps to prevent infestation by rodents, vermin and insects. All grounds shall have proper drainage to prevent the accumulation of water. It shall be the responsibility of the manufactured home park owner or operator to maintain the manufactured home park in accordance with these standards at all times.

**X) Future Ownership**

The sale of individual manufactured home spaces or lots to individual owners shall be prohibited. The manufactured home park, as a whole, shall remain in ownership of a single entity.

**Y) Guarantee of Improvements**

The required improvements specified in this Section shall be completed, inspected, and accepted prior to connection to permanent electric power and/or the occupancy of any lot.

Where the required improvements have not been completed due to weather or other identifiable conditions not the fault of the owner, the park owner may petition the Town Council in writing to allow the occupancy of a limited number of lots (a phased portion of the entire park) by posting a performance bond or cash.

**6.5.25 RESERVED**

**6.5.26 Gas Station, Express fuel**

- A) Gasoline pump islands shall be located no closer than **twenty (20)** feet from any lot line.
- B) Pump island canopies may not be extended into to the street right-of-way.
- C) Suitable landscaping shall be provided along all sides of the property, which abut Residential (R) Districts as per Section 7.4).
- F) Any associated building must be located along the most dominant street(s) with the pumping stations and canopies located behind and provide a pedestrian friendly entrance, façade and connections to the dominant street(s) in question.
- G) Canopies do not count toward minimum building frontage.
- H) Signs and logos may be placed on canopies but do not count as wall frontage for additional signage.

**6.5.27 Monument Sales**

Monument sales establishments are only allowed in conjunction with existing cemeteries and must be located on the same parcel as said cemetery.

**6.5.28 Office, Mixed and Multiple use Buildings and Development**

- A) Developments having an aggregate gross leasable area of 0-50,000 square feet shall be provided access by at least one minor arterial, as defined by the most recent Town of Pineville Subdivision Ordinance.
- B) Developments having an aggregate gross leasable area of 50,001-100,000 square feet shall be provided direct access by (i) one major arterial or (ii) two minor arterials as defined by the most recent Town of Pineville Subdivision Ordinance
- C) Developments having an aggregate gross leasable area of 100,001+ square feet shall be conditionally approved and provide direct access by: (i) one major arterial or (ii) two minor arterials as defined by the most recent Town of Pineville Subdivision Ordinance (iii) and conduct a traffic study and are responsible for the improvements recommended therein

#### **6.5.29 Petroleum Sales and Bulk Storage**

- A) Petroleum storage containers shall be located at least 1,500 linear feet from any Residential District or pre-existing residential use and a setback a minimum of 50 feet inside the property.
- B) Petroleum and similar combustible storage of more than 50,000 gallons of aggregate storage capacity shall be a conditional use.
- C) All fire and safety regulations must be met.

#### **6.5.30 Restaurant and Fast Food**

- A) Loudspeakers, automobile service order devices, and similar instruments shall not be located within 40 feet of any residential zone or used property.
- B) Outdoor menu boards shall be placed and oriented so as to be for internal site viewing use only.
- C) Restaurants, which incorporate drive-through windows, shall conform to the following design criteria:
  - 1) Automobile reservoir and stacking areas shall be designed so as not to overflow into streets or roadways, with stacking lanes capable of accommodating all minimum stacking lanes and parking counts.
  - 2) Pickup window and similar stacking areas shall not conflict or overlap with parking or other vehicle movement.
  - 3) All outdoor speakers shall be directed away from any residentially zone or used property.

- 4) Drive up, drive through, or pick up window shall be located on the least visible building façade.

#### **6.5.31 Restaurant (Within Other Facilities)**

- A) A restaurant as a minor secondary use consisting of twenty-five (25) percent or less inside of a primary use shall only require parking based on the primary use. Such restaurant shall be designed to serve customers or users of such use. Examples of such uses include snack shops in department or variety stores; employee cafeterias; snack shops or canteens in office buildings, bowling alleys, etc.
- B) A restaurant as a minor secondary use consisting of more than twenty-five (25) percent or of a primary use shall require parking for square feet of restaurant in combination with the remaining primary use parking calculations.

#### **6.5.32 Elementary, Junior, and Senior High Schools (Public and Private)**

- A) Schools having an enrollment capacity of three-hundred (300) students or greater shall have direct access to the site provided by major or minor arterials only, as defined in the most recent Town of Pineville Subdivision Ordinance.
- B) All schools shall be allowed to have up to two (2) modular classrooms without having to submit and receive site plan approval. All modular classrooms, however, shall have their foundations skirted and shall have shrubs planted five (5) feet on center around the periphery of the structure.

#### **6.5.33 Hotels/Motels**

- A) All hotels/motels must be licensed by the State of North Carolina.
- B) Lodging for an extended period of time shall not exceed 30 consecutive days.
- C) Open space on site shall equal 25% of the lot or as otherwise permitted or mitigated through Mecklenburg County.
- D) Properties adjacent to Residential (R) Districts or residentially developed property must be designed to be compatible with and complimentary to the neighborhood in terms of architectural design and potentially intrusive elements. This shall include but not be limited to;
  - 1) Traffic circulation;
  - 2) Height, scale, mass, and bulk of buildings;
  - 3) Design of outdoor lighting so that glare is not intrusive to the surrounding environment;
  - 4) Signage in harmony with the surrounding area.



#### 6.5.34 Auto, Truck, Boat and Motorcycle Sales

Auto, truck, boat, and motorcycle sales, and associated secondary long term dealership leases; where permitted, are limited under the following specific conditions in addition to the normal development standards for those districts.

- A) Minimum lot size: 4 acres.
- B) Minimum area contained within an enclosed building or buildings: 28,000 sq. ft.
- C) Buildings must be designed so that the façade is varied in terms of rooflines, building wall articulation, entrances, materials, and scale to respect the built environment and to reduce the overall visual impact on the community.
- D) Buildings must be oriented and located on the site in an effort to separate and shield large vehicle storage lots from view from the public street. Building materials may consist of a variety of materials including glass, steel, brick, stone, other masonry or similar products, or other high quality materials so as to create a high quality façade on buildings that relate to the street. Metal or vinyl materials, industrial prefabricated buildings, or other building types normally associated with industrial, warehouse, or manufacturing type uses are not permitted on building facades that face the street or on any part of the building within 200 feet of the street.
- E) Site and parking lot lighting will be limited to fixtures designed to cast light downward into the site and that lighting, except for security lighting, may not be illuminated between the hours of 11:00 p.m. and 6:00 a.m.
- F) Site and Parking lot lighting will be limited to a maximum height of 35 feet and equipped with full cut-off fixtures. Site and Parking lot lighting may not shine on adjacent properties.
- G) Elevated vehicle platforms or displays are prohibited.
- H) To prevent widespread saturation of vehicular sales new dealerships are limited to parcels of land located within a half mile radius of interstate onramps.
- I) All work including vehicle servicing and inspections must take place indoors.
- J) Unless structures and site design meet current zoning and overlay district requirements; the use shall not be permitted.
- K) Must meet overlay façade requirements, be all brick store front type design, and no street facing service bay doors or utility elements
- L) **Building** façade must be at least 75% of width of primary street frontage for properties five hundred (500) feet or less. Properties with primary road frontage longer than five hundred (500) feet shall be arranged to maximize linear building road frontage.

### 6.5.35 Dwelling, Secondary

Secondary dwelling units or “in-law suites” within residential districts ~~shall be encouraged~~ **are permitted** to meet housing needs **following the requirements of this section and within this ordinance.**

- A) Any secondary dwelling unit shall be located in the rear yard or above a ~~detached~~ garage of any **single-family** residential lot **or single-family residential use and be subordinate in height and size to the primary dwelling.**
- B) Secondary dwelling units may be created behind or as a second story within detached garages provided that the height of the accessory unit and/or garage does not exceed the height of the principal structure on the lot. Not more than one (1) secondary dwelling unit is permitted. There shall be a two (2) story height maximum.
- C) The secondary dwelling unit may not be larger than fifty (50) percent of the gross **heated** floor area of the principal structure or **eight hundred (800) square feet, whichever is less.**
- D) At least one (1) additional parking space shall be provided.
- E) Secondary dwelling units shall be located, designed, constructed, landscaped and decorated in such a manner to match the appearance of the principal building.
- F) The property owner(s) on which the accessory dwelling unit is to be located shall occupy at least one (1) of the dwelling units on the premises.

### 6.5.36 Live/ Work Unit

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

- A) Non-residential use areas shall meet accessibility requirements of the North Carolina Accessibility Code (including site access and parking).
- B) The work area must occupy equal or less than 50% of total unit.
- C) The same tenant must occupy the work area and living area.
- D) There shall be a maximum of five (5) non-resident worker/employees allowed in the Live-Work unit at one time.
- E) Each room of the work area must have access to two (2) remotely located exits or have a direct exit to the outside, one of which is handicap accessible.
- F) Stairs when enclosed or separated at the top or bottom must be one-hour fire construction.

#### **6.5.37 Group Care Facility (More than 6 persons)**

- A) Any structure used for such facility in a residential district shall maintain an appearance of a residence which is compatible with the surrounding neighborhood.
- B) Such facilities shall have an enclosed rear yard by a fence or wall.
- C) Indoor space must be at least 50 square feet of floor area per person excluding bathrooms, hallways and other similar areas unsuitable as activity space.
- D) Outdoor leisure space must be at least 500 square feet per person, 100 square feet which shall be in lawn (as opposed to woodlands) of well drained area enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuitable for leisure space; this space may not be in the established front yard.
- E) The minimum lot size requirement shall be increased by seven hundred and fifty (750) square feet for each person in excess of six (6) people who are is provided.
- F) No more than one facility may be located within a one half (1/2) mile radius of another similar facility, nursing home, adult, or child care facility.

#### **6.5.38 Bar/ Tavern/ Night Club/ Lounge**

- A) Any bar/tavern/night club/lounge shall be prohibited from directly adjoining a single-family dwelling use or church owned and church use/utilized property except as part of a conditional zoning approved plan.
- B) All applicable ABC permits shall be required. Adherence to such permits shall at all times be required.
- C) No sound that would constitute a nuisance due to decibel, high or low pitch, vibration, or similar shall be audible from outside the structure.
- D) No spot lights, rotating lights, or similar permitted.
- E) Property; specifically, sidewalks and parking lots, must be kept clean and clear of all cans, bottles, paper waste, and similar.
- F) Garbage dumpster and similar facilities must meet this ordinance and be fully within and behind a solid fence enclosure at all times.

#### **6.5.39 Day Care Facilities**

Adult day care, adult care centers, day care centers, day care centers in a residence, family day care homes, and large childcare centers shall grouped by the below count of individuals at a location and must meet this, and all other state or federal regulation. Children and child day care shall include the same services provided to adults.

Facilities for the temporary care of children are divided into four classes – family day care homes, day care centers in a residence, day care centers, and large day care centers.

A family day care home serves six (6) or fewer children.

A day care center in a residence serves between seven (7) and twelve (12) children.

A day care center serves between one (1) and seventy-nine (79) children.

A large childcare center serves eighty (80) or more children.

The development requirements for each class of facility are indicated below:

(A) Family Day Care Homes

All family day care homes for six (6) or fewer children must be licensed as required by the North Carolina Department of Health and Human Services, may be established as an accessory use to a single family detached dwelling unit or/and where allowed in the table of uses chart and according to the following requirements:

- (1) A dwelling unit containing the family childcare home must be the primary residence of the operator/primary caregiver.
- (2) The minimum lot area must be equivalent to the minimum lot area for a single-family detached dwelling for the district in which it is located.
- (3) The dwelling unit must meet the minimum setback, yards, and height requirements for the district in which it is located.
- (4) New family day care homes must be separated from other day care facilities in a residential district by a distance of 400 feet measured in a straight line from the closest point of each lot property line, excluding day care facilities operating as accessory use to a religious institution.
- (5) Any building additions and/or ornamentations to the residential dwelling unit must be in general character with other homes facing the same street as the family childcare home.
- (6) Outdoor play space and play equipment must be located in the required or established rear yard but outside of any required buffers.
- (7) Outdoor play space must be screened and fenced from adjoining properties by way of a solid six (6) foot tall fence (excluding chain link). Finished side of fencing must face out from property.
- (8) No outdoor play is permitted after sundown.

- (9) One (1) unlighted identification sign, not to exceed four (4) square feet, may be attached to the residence. Detached identification signs are not permitted.
- (10) No more than one (1) person, at any one time, who resides outside of the residence, may be an employee.
- (11) The operator's own children must be counted in the number of children allowed.
- (12) No additional parking is permitted beyond four (4) parking spaces.

(B) Day Care Centers in a Residence

All day care centers in a residence for seven (7) to twelve (12) children must be licensed as required by the North Carolina Department of Health and Human Services, may be established as an accessory use to a single family detached dwelling unit or/and where allowed in the table of uses chart and according to the following requirements:

- (1) The single family detached dwelling unit containing the childcare center in a residence must be the primary residence of the operator/primary caregiver.
- (2) The minimum lot area must be equivalent to the minimum lot area for a duplex dwelling for the district in which it is located.
- (3) The dwelling unit must meet the minimum setback, yards, and height requirements for the district in which it is located.
- (4) New ~~childcare~~ **day care** centers in a residence must be separated from existing family childcare homes and childcare centers in a residence in a single family residential district by a distance of 400 feet measured in a straight line from the closest point of each lot property line, excluding childcare facilities operating as accessory use to a religious institution.
- (5) Any building additions and/or ornamentations to the residential dwelling unit must be in general character with other homes facing the same street as the family childcare home.
- (6) Outdoor play space and play equipment must be located in the required or established rear yard but outside of any required buffers.
- (7) Outdoor play space must be screened and fenced from adjoining properties by way of a solid six (6) foot tall fence (excluding chain link). Finished side of fencing must face out from property.

- (8) No outdoor play is permitted after sundown.
- (9) One (1) unlighted identification sign, not to exceed four (4) square feet, may be attached to the residence. Detached identification signs are not permitted.
- (10) No more than two (2) persons, at any one time, who reside outside of the residence, may be employees.
- (11) The operator's own children must be counted in the number of children allowed.
- (12) No additional parking is permitted beyond four (4) parking spaces.

(C) Day Care Centers

Day Care centers for between one (1) and seventy-nine (79) children licensed by the North Carolina Department of Health and Human Services may be established in the zoning districts as stated in Table of Uses in this Ordinance with the requirements listed below. Day care centers are also permitted as an accessory to the following uses; religious institutions, elementary, junior and senior high schools, and government buildings, and are exempt from the requirements listed below.

- (1) Day care centers in the multi-family residential districts must meet the minimum lot area of 12,000 square feet.
- (2) In all other districts where childcare centers are permitted, they must meet the minimum lot size or floor area ratio of the district where located.
- (3) Setback, yard and height requirements must meet the requirements of the district where located.
- (4) Day care centers must have frontage on a collector street or a minor or major thoroughfare. Primary access to the center may be provided by way of a local residential street that directly intersects a collector street or a minor or major thoroughfare.
- (5) Outdoor play space and equipment must be located in the required or established rear yard in all residential districts but outside of any required buffers. In nonresidential districts, outdoor play space and equipment must be located outside of the required setback and side yards.
- (6) There is no limit on the hours of operation of a childcare center, but no outdoor play shall be permitted after sundown.

- (7) In residential districts, building additions and/or ornamentation must be in general character with other residential uses facing the same street as the childcare center.
  - (8) Buffers and screening requirements as set forth in this Ordinance.
  - (9) In residential districts, detached signage will be limited to one (1) sign with a maximum of sixteen (16) square feet in area and a maximum height of four (4) feet. Signage in nonresidential districts will be permitted according to requirements of the district where located.
  - (10) Parking spaces are required based upon one (1) space per employee, plus one (1) space per ten (10) children.
- (D) Large Day care Centers  
Large day care centers for eighty (80) or more children, licensed by the North Carolina Department of Health and Human Services, may be established in the districts as stated in the Table of Uses in this Ordinance, and according to the requirements listed below.
- (1) Large childcare centers must meet the minimum lot size or floor area ratio of the district where located.
  - (2) There is no limit on the hours of operation for large childcare centers, but no outdoor play shall be permitted after sundown.
  - (3) Outdoor play space and equipment must be located outside of the required setback and side yards and be outside of any required buffers.
  - (4) Buffers and screening requirements as set forth in section 7 of this Ordinance.
  - (5) Signage will be permitted according to requirements of the zoning district where located.
  - (6) Parking spaces are required based upon one (1) space per employee, plus one (1) space per ten (10) children.
  - (7) Large day care centers must have frontage on a collector street or a minor or major thoroughfare.

#### **6.5.40 Recreation Complex**

- (A) Any Outdoor Fields must be a minimum fifty feet from any property line.
- (B) Any lighting associated with active recreation must not cast onto any adjacent lot. A lighting plan must be provided prior to approval. Parking lot and pedestrian lights must

follow the lighting requirements set forth in the Zoning Ordinance.

- (C) All field lighting must be turned off by 10 P.M.
- (D) Internal Driveways must be of sufficient length to prevent both conflicting internal traffic movements and stacking on the public road.
- (E) Minimum Size of any recreational complex must be 10 Acres.
- (F) A Trip Generation Report must be provided and any recommendations from the report must be completed by the applicant.
- (G) Access to the complex must be provided by a Collector Street (or higher road classification) as defined by the Pineville Subdivision Ordinance.
- (H) If adjacent to another residential lot a fifty foot screen buffer must be installed on the property's perimeter, where proposed active uses (including parking) lie within 300' of the adjoining residential lot. Existing vegetation may be preserved and utilized to meet the buffer requirements. Additional plantings may be required to meet the minimum buffer requirements.

**6.5.41 Auto, Truck, Boat and Motorcycle Leasing including Taxi and Limo**

Auto, Truck, Boat and Motorcycles for lease shall exclude long term multiple year dealership leases and also exclude vehicles with a gross actual curb weight over 16,400 lbs. Auto, truck boat and motorcycle lease where permitted are limited under the following specific conditions in addition to the normal development standards for those districts.

- A) Unless structures and site design meet current zoning and overlay district requirements; the use shall not be permitted.
- B) Approved primary building materials must be used within 200 feet of any street
- C) Up to five (5) vehicles (restricted to passenger sedans, coupes, or convertibles only) available for rent with council approval may be located between the principal building and the street within the front or side yard. The remainder of the vehicles available for rent must be located in the rear yard.
- D) Site and Parking lot lighting will be limited to a maximum height of 35 feet and equipped with full cut-off fixtures. Site and Parking lot lighting may not shine on adjacent properties.
- E) See 'Industrial Equipment Sales, Supply, and Repair' for Large equipment or vehicles over 16,400 gross curb weight.
- F) Elevated vehicle platforms or displays are prohibited.



#### **6.5.42 Tattoo and Piercing**

- A) One location per property or tax parcel.
- B) Minimum lot size: 45 acres.
- C) Must be located within a shopping center.
- D) Minimum shopping center size: 900,000 square feet.

#### **6.5.43 Automotive Supply Store**

No servicing of vehicles permitted including oil changes, battery replacement, tires, or similar.

#### **6.5.44 Microbrewery**

- A) Maximum annual production is limited to 25,000 barrels per year or as otherwise amended by the State of North Carolina.
- B) Microbreweries must also contain at least contain two of the following commercial uses: (1) a bar or tasting room, (2) event space, or (3) a restaurant or other food option provided such as pre-packaged foods/vending machine, or similar.
- C) Event space shall be exterior or interior space. It shall be no smaller than one-thousand (1,000) square feet and programmed for typical and customary microbrewery associated uses such as additional seating areas, games, and music.
- D) Outdoor, open air, or similar seating and customer recreational area not to exceed twice the gross interior square footage area utilized by the microbrewery.
- E) All production and storage must take place within an enclosed structure.
- F) Parking in the front yard or anywhere between the front façade and the street shall be passenger vehicles only. No parking, loading, or storage of commercial vehicles or equipment including but not limited to: box trucks, forklifts, tractor trailers, etc. in the front yard.
- G) Parking shall be calculated using restaurant parking calculations for all interior space excluding production related areas. Production areas and outdoor event space parking requirements shall be calculated using warehouse parking requirements.
- H) Noise, odor, or light that would have a substantial negative impact upon the normal expected use or enjoyment of adjacent parcels is not permitted.

6.6

**APPLICABLE DIMENSIONAL REQUIREMENTS**

The following requirements shall be applicable to each use in the various zoning districts unless otherwise specified in this Ordinance or in the appropriate Small Area Plan.

**6.6.1 R-44 Single Family Residential District**

A) **Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

B) **Dimensional Requirements**

<b>R-44 Single-Family District</b>	
Minimum Required Lot Area	44,000 Square Feet
Minimum Required Lot Width	100 Feet
Minimum Required Front Yard	20 Feet
Minimum Required Side Yard	12 Feet (except when the side yard abuts a public street, then the setback is increased by 10 feet)
Minimum Required Rear Yard	40 Feet
Maximum Building Height	40 Feet (elevated foundations excluded)

C) **Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

D) **Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

**6.6.2 R-12 Single Family Residential District**

**A) Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

**B) Dimensional Requirements**

<b>R-12 Single-Family District</b>	
Minimum Required Lot Area	12,000 Square Feet
Minimum Required Lot Width	70 Feet
Minimum Required Front Yard	20 Feet
Minimum Required Side Yard	10 Feet ( except when the side yard abuts a public street, then the setback is increased by 10 feet)
Minimum Required Rear Yard	40 Feet
Maximum Building Height	40 Feet (elevated foundations excluded)

**C) Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

**D) Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

**6.6.3 R-7 Medium Density Residential District**

**A) Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

**B) Dimensional Requirements**

<b>R-7 Medium Density District</b>	
Minimum Required Lot Area	7,000 Square Feet
Minimum Required Lot Width	50 Feet
Minimum Required Front Yard	15 Feet
Minimum Required Side Yard	5 Feet (except when the side yard abuts a public street, then the setback is increased by 10 feet)
Minimum Required Rear Yard	30 Feet
Maximum Building Height	40 Feet (elevated foundations excluded)

**C) Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

**D) Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

**6.6.4 R-MF Multi-Family Density Residential District**

**A) Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

**B) Dimensional Requirements**

<b>R-MF Multi-Family District (Single-Family Developments)</b>	
Minimum Required Lot Area	7,000 Square Feet
Minimum Required Lot Width	50 Feet
Minimum Required Front Yard	20 Feet
Minimum Required Side Yard	5 Feet (except when the side yard abuts a public street, then the setback is increased by 10 feet)
Minimum Required Rear Yard	30 Feet
Maximum Building Height	40 Feet (elevated foundations excluded)

<b>R-MF Multi-Family District (Master Planned Apartment and Other Developments)</b>	
Minimum Required Lot Area	43,560 Square Feet (1 acre)
Maximum Density	10 Units Per Acre (unless otherwise granted by Town Council during the conditional approval process)
Minimum Front Yard Lot Width	100 Feet of project road frontage
Minimum Side Yard Width (at Project Boundary)	30 Feet
Minimum Rear Yard Width (at Project Boundary)	30 Feet
Minimum Lot Width (Townhome Parcels)	15 Feet
Maximum Building Height	40 Feet (elevated foundations excluded)

**C) Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

**D) Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

**6.6.5 O-I Office Institutional District**

**A) Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

**B) Dimensional Requirements**

<b>O-I Office-Institutional District</b>	
Minimum Required Lot Area	<b>2 acres</b>
Minimum Required Lot Width	50 Feet
Minimum Required Front Yard	See applicable Overlay District
Minimum Required Side Yard	None (Buffer requirements still apply)
Minimum Required Rear Yard	None (Buffer requirements still apply)
Maximum Building Height	See applicable Overlay District
Maximum Gross Floor Area Allowed Per Tenant	See applicable Overlay District

**C) Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

**D) Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

**6.6.6 O-C Office-Commercial District**

**A) Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

**C) Dimensional Requirements**

<b>O-C Office-Commercial District</b>	
Minimum Required Lot Area	<b>.5 acre</b>
Minimum Required Lot Width	<b>100 feet</b>
Minimum Required Front Yard	See applicable Overlay District
Minimum Required Side Yard	None (Buffer requirements still apply)
Minimum Required Rear Yard	None (Buffer requirements still apply)
Maximum Building Height	See applicable Overlay District
Maximum Gross Floor Area Allowed Per Tenant	See applicable Overlay District

**C) Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

**D) Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

**6.6.7 B-3 General Business District**

**A) Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

**B) Dimensional Requirements**

<b>B-3 General Business Perimeter District</b>	
Minimum Required Lot Area	.15 acres
Minimum Required Lot Width	60 feet
Minimum Required Front Yard	See applicable Overlay District
Minimum Required Side Yard	None (Buffer requirements still apply)
Minimum Required Rear Yard	None (Buffer requirements still apply)
Maximum Building Height	See applicable Overlay District
Maximum Gross Floor Area Allowed Per Tenant	See applicable Overlay District

**C) Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

**D) Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.



**6.6.8 B-4 Highway Business District**

**A) Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

**B) Dimensional Requirements**

<b>B-4 Highway Business Perimeter District</b>	
Minimum Required Lot Area	<b>.25 acre</b>
Minimum Required Lot Width	<b>100 feet</b>
Minimum Required Front Yard	See applicable Overlay District
Minimum Required Side Yard	None (Buffer requirements still apply)
Minimum Required Rear Yard	None (Buffer requirements still apply)
Maximum Building Height	See applicable Overlay District
Maximum Gross Floor Area Allowed Per Tenant	See applicable Overlay District

**C) Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

**D) Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

**6.6.9 B-P Planned Business District**

**A) Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

**B) Dimensional Requirements**

<b>B-P Highway Business Perimeter District</b>	
Minimum Required Lot Area	None
Minimum Required Lot Width	None
Minimum Required Front Yard	See applicable Overlay District
Minimum Required Side Yard	None (Buffer requirements still apply)
Minimum Required Rear Yard	None (Buffer requirements still apply)
Maximum Building Height	See applicable Overlay District
Maximum Gross Floor Area	See applicable Overlay District

**C) Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

**D) Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

**6.6.10 DC Downtown Core District**

A) **Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

B) **Dimensional Requirements**

<b>DC Downtown Core District</b>	
Minimum Required Lot Area	None
Minimum Required Lot Width	None
Minimum Required Front Yard	See applicable Overlay District
Minimum Required Side Yard	None (Buffer requirements still apply)
Minimum Required Rear Yard	None (Buffer requirements still apply)
Minimum Building Height	See applicable Overlay District
Maximum Building Height	See applicable Overlay District
Maximum Gross Floor Area Allowed Per Tenant	See applicable Overlay District

C) **Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

D) **Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

**6.6.11 RMX Residential Mixed-Use District**

A) **Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

B) **Dimensional Requirements**

<b>RMX Residential Mixed-Use District</b>	
Minimum Required Lot Area	5,000 Square Feet
Minimum Required Lot Width	40 Feet
Minimum Required Front Yard	See applicable Overlay District
Minimum Required Side Yard	5 Feet (except when the side yard abuts a public street, then the setback is increased by 10 feet)
Minimum Required Rear Yard	5 Feet (Buffer requirements still apply)
Maximum Building Height	See applicable Overlay District
Maximum Gross Floor Area Allowed Per Tenant	25,000 Square Feet

C) **Accessory Buildings and Structures**

Shall be located in rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

D) **Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

**6.6.12 G-I General Industrial District**

A) **Permitted and Conditional Uses**

See Section 6.1 and Table 6-1

B) **Dimensional Requirements**

<b>G-I General Industrial District</b>	
Minimum Required Lot Area	None
Minimum Required Lot Width	None
Minimum Required Front Yard	See applicable Overlay District
Minimum Required Side Yard	10 Feet (30 Feet When Abutting a Residential Use)
Minimum Required Rear Yard	10 Feet (30 Feet When Abutting a Residential Use)
Maximum Height	50 Feet
Maximum Gross Floor Area Allowed Per Tenant	150,000 Square Feet

C) **Accessory Buildings and Structures**

Shall be located in side and rear yards only, unless otherwise specified in this Ordinance or adopted Town Plan.

D) **Rooftop Mechanical Equipment and Other Features**

Shall be limited in height to a maximum of 10 feet above the highest portion of a pitched roof or the lowest point of a parapet wall.

E) **Over 100,000 Square Feet**

Any zoning use having greater than 100,000 square feet gross leasable floor area must be issued a conditional use permit in accordance with ~~Section 2.6~~ of this Ordinance.

## 6.7 Usable Open space

Every subdivider of residential zoned land (R zoning designations in this ordinance) for any residential dwelling unit development including residential single family, duplex, townhomes, apartments, and similar involving three (3) or more acres or ten (10) or more dwelling units, shall dedicate a portion of such land, as set forth herein, for the purpose of providing active recreation areas to serve the residents of the immediate neighborhood within the development.

- A) Ten percent (10%) active usable recreation area required based on the total parcel acreage of a development.
- B) Designation of land to be dedicated. Development shall designate on the preliminary subdivision plan the area or areas to be dedicated pursuant to this section.
- C) Active recreation consists of usable indoor and/or outdoor areas. Indoor active recreation areas shall not satisfy more than fifty (50) percent of required active recreational areas. These areas include but not limited to:
  - 1) Level central grassed village green with concrete paved perimeter sidewalk and trees planted every thirty-five feet on center
  - 2) Outdoor walking paths through natural tree save areas or replanted tree areas provided with either a ten-foot-wide crushed gravel path or six-foot-wide concrete sidewalk
  - 3) tennis courts
  - 4) ball fields
  - 5) swimming pools
  - 6) exercise room with equipment
  - 7) tot lots or children's playground with one large equipment piece consisting of a minimum of two slides, two swings, bridge or climbing component, and roofed area or 3 other sized individual play equipment with capacity of a minimum of four children each
  - 8) Enclosed and climate-controlled clubhouse

Parking spaces associated with these uses, whether required or not, shall not be counted towards satisfying the required active recreation space provision.

- D) Unity. The dedicated land shall form a single parcel of land, whether or not the subdivision is developed in phases or sections, except where it is determined by Town Council, that two (2) or more parcels would be in the best interests of the residents of the subdivision and the public; and in such case, council, may require that such parcels be connected.
- E) Ownership. The type of ownership of land dedicated for park, recreation or open space purposes shall be selected by the owner, developer, or subdivider, subject to the approval of Town Council; provided, however, any of such areas included in the master parks plan shall be dedicated to the Town. The type of ownership may include, but is not necessarily limited to, the following:

- 1) The Town, subject to the acceptance by the Pineville Town Council;
  - 2) Other public jurisdictions or agencies, subject to their acceptance;
  - 3) Property owner, condominium or cooperative associations or organizations;
  - 4) Shared, undivided interest by all property owners in the subdivision.
- F) Dedication in lieu. Development where active usable open space improvements are required may choose to dedicate land to satisfy the requirements of this section. This is specifically intended for land suitable for any current or planned greenway or future Town maintained park recreational area. Planned greenway areas shall be dedicated to Mecklenburg County or Town of Pineville. Other areas may be dedicated to the Town of Pineville.
- G) Greenways. Space dedicated for future or current greenways shall be a minimum of one hundred feet (100) in width following the center of any creek primary centerline. All other areas shall be a minimum of fifty (50) feet in width.
- H) Payments in lieu of dedication.
- 1) General provisions. When the Town Council determines (upon the recommendation of the Town Manager) that the useable open space needs of a development as required in this section may also be adequately met by facilities constructed or to be constructed on Town-owned property or property to be acquired by the Town within a reasonable time that is located close enough to such development to reasonably serve its residents, Town Council may approve the developer to make a payment to the Town in lieu of dedication of required useable open space. The Town Council may also authorize a combination dedication and partial payment in lieu of dedication when such is determined to be in the best interest of the citizens of the area to be served.
  - 2) Procedure. The subdivider shall include with the application for preliminary plan approval, a letter requesting approval to make a payment in lieu of dedication. The letter shall include the proposed per acre value and the basis for the determination of such value. Upon receipt of the preliminary subdivision plan, a copy thereof with the letter requesting a payment in lieu of dedication shall be submitted to the Town Manager. The Town Manager shall submit any recommendations concerning the request to Town Council at the next available meeting but the Town Manager shall have not less than thirty (30) days to review prior to next available Council meeting unless the Manager is able to make a determination prior to the thirty (30) days.
  - 3) Amount of payment. If the board approves a payment in lieu of dedication, the amount of such payment shall be the product of the number of acres or part thereof to be dedicated as in this ordinance above, and the average fair market value of the land being subdivided at the time of the submission of the preliminary subdivision plan. The board shall determine the average fair market value of the

land based on the value of the land for property tax purposes, the information submitted by the subdivider and other relevant information.

- 4) Use of payments in lieu of dedication. All monies received by the Town pursuant to this section shall be used only for the acquisition or development of recreation, park, or open space areas that will benefit the new development residents.
- 5) Required payment in lieu of dedication. In the event the board finds that a land dedication does not meet the long-range plans of the city it shall require payment in lieu of a dedication.
- 6) Time of payment. If a payment in lieu of dedication is authorized, such payment shall be made before recording the final plat for the subdivision. If a subdivision is developed in phases, a payment relating to each phase must be made prior to the recording of a final plat for each phase.



## **CHAPTER 7 GENERAL PROVISION**

### **7.1 APPLICATION**

No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered except in conformity with the regulations herein specified, or amended thereto, for the district in which it is located.

### **7.2 REDUCTION OF LOT AND YARD AREAS PROHIBITED**

No yard or lot existing at the time of adoption of this Ordinance, or any subsequent amendments, shall be reduced in size or area below the minimum requirements set forth herein, except for street widening or similar takeage for public use. Yards or lots created after the effective date of this Ordinance shall meet at least the minimum requirements established by this Ordinance. This prohibition shall not be construed to prevent the condemnation of narrow strips of land for public use.

### **7.3 TREES AND LANDSCAPING**

The purpose and intent of these regulations are to establish a landscape planting area parallel to the recorded public street right-of-way, internal landscaping, and tree planting within residential subdivisions. These areas shall contain plantings of trees and other live vegetation to provide a more pleasing view from the ways of travel, to provide a continuity of vegetation throughout the Town, to reduce the amount of impervious surface and reduce stormwater runoff, to filter air, provide shade, improve the microclimate, and to protect and preserve Pineville's existing vegetative cover by:

- Saving trees on public property from indiscriminate destruction or unnecessary removal
- Diversifying the tree species in the area
- Establishing standards limiting and regulating the removal of trees
- Establishing a process for the removal of trees
- Building an awareness of the need for and value of preserving trees
- Providing information and guidelines for tree preservation and maintenance
- Establishing standards for tree regulation, maintenance, and protection

#### **7.3.1 Benefits of Trees and Landscaping**

The Town of Pineville finds it important to adopt an ordinance to preserve and protect trees since numerous benefits are derived from this practice, including the following:

- Assists in the stabilization and fertilization of soil and in the prevention of soil erosion.
- Contributes to the process of ground water recharge and storm water run-off retardation and protecting against flood hazards and the risk of landslides
- Contributes to the process of air purification and oxygen regeneration.
- Intercepts air-born particulate matter, and reduces some air pollutants.

- Aids in glare, heat, and noise abatement, maintaining the climatic balance and decreasing wind velocity.
- Provides important psychological, sociological, and aesthetic counterpoints to the man-made urban setting.
- Provides aesthetic qualities, which enhance livability.
- Promotes energy conservation by maximizing the shading and cooling effects of trees.
- Increases property values.
- Buffers uncomplimentary and often incompatible land uses by providing a transitional area.

### **7.3.2 Required Landscaping in New Residential Subdivisions**

As a requirement of subdivision approval, the subdivider shall plant trees in the front setback of each lot, on both sides of all existing and proposed public and private right-of-ways in the subdivision.

- A) In calculating the number of trees required per lot frontage, tree types have been assigned a value in linear feet based on the average mature canopy spread. The values are 40' for large maturing trees and 30' for small maturing trees. Large maturing shall be required unless the Planning Director determines overhead utilities or similar require otherwise. Each lot, including approved recreation/open space areas, must have one (1) large maturing tree per street frontage (value of 40'). The number of trees to be planted on the remaining frontage (total frontage less value for one large maturing tree) is determined by dividing the remaining frontage by the value(s) assigned to tree types selected for planting by the subdivider. Fractional numbers shall be rounded up to the next whole tree number.
- B) Street trees shall be an approved large maturing species planted within the planting strip between the sidewalk and road unless specifically noted and approved otherwise. Street trees shall be a minimum of 3" caliper.
- C) Existing trees in the front yard setback, which meet the minimum size specifications noted above, can be substituted towards meeting the planting criteria. The Planning Director shall determine on a case-by-case basis whether the developer shall supplement the plantings.
- D) Nothing in this section shall be interpreted to require the removal of existing trees and vegetation.

### **7.3.3 RESERVED**

**7.3.4 Tree and Vegetation Topping**

Tree topping shall be prohibited on all protected, required, or similar screening vegetation falling under the jurisdiction of the ordinance. These shall include, but not limited to: trees lining a street, publicly owned trees, parking lot trees, parking lot screening shrubs, conditionally approved plan landscaping, and required vegetation within any buffer areas. Fines for topping shall be \$250 for the first plant, plus \$500 for the second plant, plus \$150 for each additional plant. (For instance: 3 topped plants would equal \$900). Vegetation deemed by the Planning Director as topped beyond recovery, or removed without written approval is subject to the above fines plus required similar size replacement.

**7.3.5 Preservation of Existing Vegetation**

Existing trees and vegetation shall be preserved whenever feasible. Deciduous trees at least 12” inches DBH, all coniferous trees at least 12” DBH and all understory trees greater than 2” DBH anywhere on the site shall be preserved to the greatest extent practical and incorporated into the required landscaping. Any removal of trees with 12” DBH or greater requires approval from the Planning Director.

Tree preservation is encouraged on all properties located in business, office, industrial, multi-family, and non-residential uses in a residential zoning district, as well as conditional use districts. A tree landscape plan must be submitted prior to grading. A tree landscape plan must show that there will be no disturbance in the Critical Root Zone. A disturbance is considered trenching, placing backfill in the Critical Root Zone, driving or parking equipment in the Critical Root Zone, and dumping of trash, oil, paint or other materials detrimental to plant health in close proximity of the tree(s).

When selecting which trees to preserve, the following shall be considered: existing and proposed grading; age, condition, and type of tree; and location of site improvements and utility connections.

Should any tree designated for preservation in the tree landscape plan die at any time after approval of the plan or issuance of a Certificate of Occupancy, the owner shall replace sufficient landscaping equal to the tree within 180 days. In the event of a restricted site, the owner may request review by the Planning Director. Replacement trees shall be a minimum of two inches caliper (measured 6” above ground) for a large maturing tree and have a minimum height of eight feet from the ground surface. Small Maturing trees shall be a minimum 2” caliper (measured 6” above ground) and have a minimum height of eight feet from the ground surface.

How to Determine Required Mitigation Trees:

<u>Diameter of Trees</u>	<u>Number of Replacement Trees Required</u>
8-14 in.	1
15-24 in.	2
25-34 in.	3
35+ in.	4

### **7.3.6 Protective Measures During Construction**

Protective barricades shall be placed around all protected trees designated to be saved in development areas, prior to the start of development activities or grading. Protective barricades shall remain in place until development activities are complete or construction in accordance with standards set forth in this Section commences. The area within the protective barricade shall remain free of all building materials, dirt or other construction debris, construction traffic, storage of vehicles and materials, and grading shall not take place within the dripline of the existing trees to be protected. Barricades shall be erected at a minimum distance from the base of protected trees according to the following standards:

- A) For trees 10" or less DBH: Protective barricades shall be placed a minimum distance of 10' from the base of each protected tree, or outside the dripline, whichever is greater.
- B) For trees greater than 10" DBH: Protective barricades shall be placed at a minimum distance equal to 10' from the base of a protected tree plus an additional 1' for each additional 1" DBH greater than 10" DBH, or outside the dripline, whichever is greater.
- C) Construction access to a site should occur where an existing or proposed entrance/exit is located.
- D) Except for driveway access points, sidewalks, curb and gutter, no paving with concrete or other impervious materials within a tree dripline shall be allowed.
- E) Where grading within a tree dripline cannot be avoided:
- F) Limit cut and fills to  $\frac{1}{4}$  to  $\frac{1}{2}$  the area within the dripline.
- G) Avoid cut and fill around entire circumference of trunk.
- H) Where grading leaves roots exposed, cut roots clean.
- I) Avoid filling within the dripline of a tree without some mechanism to allow air and water to reach the roots.

### **7.3.7 Tree Removal**

- A) The Public Work's Director is authorized to permit the removal and or trimming of trees and shrubs from public properties, and in the public rights-of-way.
- B) The Town of Pineville Zoning Board shall hear and decide all matters in the event of a conflict with property owners with regard to tree removal in the public rights-of-way or on public property.

- A) Trees designated for removal must be dead, diseased, irreparably damaged, hazardous, creating damage to private property, or potentially creating damage to private property.
- B) Fines for required or protected trees identified in this ordinance that are removed without Town approval see 7.3.4.

### **7.3.8 Tree/Landscape Plan**

A tree/landscaping plan shall be required on all business, conditional-use, office-institutional, industrial, multi-family, and non-residential uses in a residential district. The plan must contain the following information (a required tree/landscape plan shall be incorporated into the site plan submittal process.)

- A) A tree/landscaping plan shall be submitted to the Pineville Planning Department for administrative approval prior to site disturbance.
- B) An accurate drawing of property boundaries.
- C) A development summary including the total acres in development, proposed use(s), required parking and provided parking spaces and total building square footage
- D) Calculations for total new and proposed impervious area on the site and for amount of landscape area.
- E) The location of proposed buildings, driveways, parking areas, required parking spaces, and traffic patterns.
- F) Location of overhead and underground utilities.
- G) Location, by species, of all deciduous trees at least 12" DBH, all coniferous trees at least 12" DBH and all rare, protected, or ornamental trees greater than 2" DBH such as Dogwood and Magnolia trees prior to any site disturbance on area to be developed.
- H) Plan of required landscaping.
- I) Dimensions from back of curb to back of curb for all landscape islands to contain trees or a typical detail.
- J) Plant lists with common names, quantity, spacing and size of all proposed landscaping and plant material at the time of planting.
- K) Name of the project, owner, name and address of engineer, scale, date, legend and north arrow.

- L) Minor changes or additions to existing development or approved plans may submit an abbreviated site plan. An abbreviated site plan shall be allowed when a proposed change is physically limited to only a contained portion of the site. An abbreviated site plan shall include, but not be limited to, items listed in C and E of this section. The Planning Department shall determine when an abbreviated site plan may be submitted for a detailed site plan and what items must be included.

### **7.3.9 Modifications**

Under certain circumstances, the application of the standards of this Ordinance is either inappropriate or ineffective in achieving the purposes of this Ordinance. When planting is required by this Ordinance, and the site design, topography, unique relationships to other properties, natural vegetation, or other special circumstances exist relative to the proposed development, the developer may submit a specific alternative plan for planting to the Planning Department staff. This plan must demonstrate how the purposes and standards of this Ordinance will be met by measures other than those found in the Ordinance. The Planning Department staff shall review the alternate proposal and advise the applicant of the disposition of the request within 15 working days of submission by the applicant. An appeal of the staff's decision may be made to the Zoning Board of Adjustment.

Requests for a delay in complying with this Ordinance due to poor weather conditions for planting will be considered following written request directed to the Planning Department staff. Certificates of Occupancy will be issued with the approval of a request for planting delay, if deemed reasonable. Such request for a delay shall note the time frame during which the planting shall be completed.

### **7.3.10 Emergencies**

In the case of emergencies such as windstorms, ice storms, fire, or other disasters, the requirements of this Ordinance may be waived by the Town during the emergency period so that the requirements of this Ordinance will in no way hamper private or public work to restore order in the Town. This shall not be interpreted to be a general waiver of the intent of this Ordinance.

### **7.3.11 Violations and Penalties**

Should a violation of the tree and landscaping provisions occur, a non-monetary or substitution penalty, in the form of increased or additional planting requirements may be assessed. **That are twice the ordinance minimum standards or better may be applied if mutually agreed upon by the Planning Director and Property Owner of which the violation occurred.**

### **7.3.12 Reserved**

## 7.4

### SCREENING AND LANDSCAPING

The intent of these screening requirements shall be to separate certain zoning districts from other zoning districts or to screen certain uses in order to minimize potential nuisances such as the transmission of noise, dust, odor, litter, and glare of lights; to reduce the visual impact of unsightly aspects of adjacent development; to provide for the separation of spaces; and to establish a sense of privacy.

#### 7.4.1 **Parking Lots and Internal Landscaping**

Interior landscaping and parking lots for properties located in all business, office, industrial zones, multi-family, conditional uses, and parking lots other than single family or duplex driveways shall comply with the following regulations:

- A) **Parking lot screening shrubs.** Evergreen shrubs screening the parking lot from the road and adjacent properties shall be required at a minimum size of 2 feet tall by 2 feet wide at planting and placed no more than 5 feet on center.
- B) **Parking lot trees.** No parking space shall be further than 60 feet from a tree. This radius must cover at least 50% of each parking space.
- C) **Tree size.** Large maturing trees shall have a minimum of two inches caliper (measured 6" above ground) and have a minimum height of eight feet from the ground surface. Small maturing trees shall be a minimum of 2" caliper (measured 6" above ground) and have a minimum height of eight feet from the ground surface. All trees shall be selected from an approved species list, which is provided in Appendix A.
- D) **Parking lot islands.** Such landscaped areas shall be separated from parking spaces, driveways, and maneuvering areas by a curb at least six (6) inches in height designed to minimize damage by vehicles to plants located in the landscaped area. For an area to be considered as satisfying the internal landscaping provision of this Ordinance, it must contain a minimum contiguous area of three hundred (300) square feet for large maturing trees and two hundred (200) square feet for small maturing trees, and be at minimum of 8 feet wide.
- E) **Maintenance.** All plant material shall be free from disease when planted and shall be maintained in a healthy condition. All plant material shall be installed in accordance to adopted town and/or county planting specifications. Required landscaping must be properly maintained in order for the landscaped area to fulfill the purposes for which it is established. The owner of the property and/or any tenant on the property where a landscaped area is required shall be jointly and severally responsible for the maintenance of all plant material located within the landscaped area. Such maintenance shall include all actions necessary to keep the landscaped areas free of litter and debris and to keep plantings healthy and orderly in appearance. **Parking lot screening shrubs shall be maintained to be not less than thirty (30) inches. Required trees and shrubs shall not be severely pruned or topped.**

- F) **Replacement.** Any required landscaping in accordance to this ordinance or conditionally adopted plan must be replaced to the same standards and specifications in the event any vegetation is substandard, missing, or dies.

#### 7.4.2 Screening and Buffering requirements between certain Zoning Districts

- A) When a lot in the Industrial District abuts a lot in a Residential District or a residential use, screening must be provided in the form of a minimum one hundred (100) foot screen/buffer.

When the front yard of a lot developed in the Industrial District is located directly across a public street from a Residential District or a residential use; screening, at a minimum, must be provided on the Industrial lot at a minimum in the form of a twenty (20) foot screen/buffer. Screening shall be in the front yard of the lot in the Industrial district immediately behind the street right-of-way. In lieu of said screen, all principal and accessory structures and off-street parking facilities must be set back in the front yard at least one-hundred (100) feet from the edge of the street right-of-way.

- B) When a lot in a Business/Office District abuts a lot in a Residential District or a residential use, screening must be provided in the form of a minimum twenty (20) foot screen/buffer.
- C) When a lot in a Residential District or a residential use abuts another lot, which contains a dissimilar institutional use, multi-family development or manufactured home park, screening must be provided on the lot containing the institutional use, multi-family development or manufactured home park in the form of a minimum twenty (20) foot screen/buffer.
- D) When a lot containing a use subject to the issuance of a conditional use permit in the Industrial District abuts a lot in a Commercial District, the Town Council may stipulate in the conditional use permit that a specific width of screen/buffer must be provided on the Industrial lot.
- E) Where a minimum twenty (20) foot screen/buffer is required, the following plant materials are required per one-hundred (100) linear feet of buffer strip:
  - E) Minimum 12 trees (one-third shall be evergreen, one third shall be large maturing), and 60 evergreen shrubs shall be required per one hundred linear feet within screen/buffer areas.
  - F) Existing mature screening vegetation, **minimum six (6) foot tall evergreen hedge** and solid wood, vinyl, or masonry wall a minimum six (6) feet in height may be substituted for letter 'F' above.

#### 7.4.3 Screening Requirements for Open Storage and Unenclosed Structures

For open-air storage, or structure **that is not fully enclosed** used for storage of materials, products, wastes or equipment associated with business or industrial uses located in any



zoning district, screening must be provided on the subject property so as to materially screen said storage in the form of a berm, wall, solid fence or an appropriate amount of natural plantings as to provide the necessary amounts of screening to effectively screen the storage from view from any adjacent lot or street right-of-way.

#### **7.4.4 Screening Requirements for All Zoning Districts**

- A) The following uses must be screened from abutting property and from public view from a public street. Screening shall be by approved landscaping or solid fencing. Landscaping shall be positioned and maintained so as to form a continuous tight screen.
- 1) Parking lots excluding single family, duplex, and townhome driveways;
  - 2) Dumpsters, recycling containers, or trash handling areas;
  - 3) Service entrances or utility structures;
  - 4) Display or outdoor storage areas;
  - 5) Loading docks facing and visible to any road;
  - 6) These areas and screening shall be shown on submitted plans.
- B) Dumpster screening shall be a minimum of a six (6) foot solid wood, vinyl, or masonry fence including gates.

#### **7.4.5 Screen and Buffer Areas**

To the extent that the existing natural vegetation located on the same parcel of land as the proposed development can meet the required screening levels of this Section, the use of such material is required. The owner shall designate the land on which such materials are rooted, which shall contain at least the minimum width required for the designated buffer area. Additional plantings shall be added, if the buffer is deficient in any way. The Planning Director shall determine if existing natural vegetation meets minimum standards.

- A) Limited amount of clearing may occur within the buffer to promote the growth of existing vegetation and and/or enhance the aesthetic appeal of the site. The following disturbances are permitted within a buffer:
- 1) Trees may be pruned by hand. No heavy equipment or vehicles are permitted within the buffer.
  - 2) Plant material, when approved by the town for removed, shall be cut flush with the ground.

- 3) Dead or diseased limbs may be removed.
  - 4) Weeds and vines may be removed.
  - 5) Trees of less than 2" in caliper may be removed that are clearly within the drip line of a tree that has a caliper of greater than 2".
  - 6) Dead trees and materials may be removed. Diseased trees may be removed at the discretion of the Zoning Enforcement Officer.
  - 7) Mulch may be applied within the buffer. Mulch shall be kept 2" to 3" away from the bark of trees.
- D) Except as otherwise provided a screen/buffer shall be required along the rear and/or side lot lines only. No required buffer shall extend nearer to a street than the street right-of-way line.
  - E) No structure other than a wall, fence, sidewalk, mailbox, sign, or driveway shall be permitted within the required screen area. If a wall or a fence is used as part of a screen, it shall be no less than six (6) feet in height. No off-street parking may take place in any required screen area.
  - F) The height of any material in the vicinity of a point of ingress or egress may not exceed three (3) feet within the sight triangle.
  - G) Where a wall or a fence will be utilized within a screen/buffer area, and plant materials are required, the required amount of plant materials shall be installed on the side of any wall or fence opposite the new development.
  - H) Where plant materials are required to be installed, plant types shall be selected from the list of materials in Appendix A or otherwise approved by the Planning Director.

#### **7.4.6 Walls, Fences, and Berm Standards**

Whenever a screening alternative specified is selected which includes a wall, fence, or berm, such wall, fence, or berm shall meet the following requirements:

- A) Any wall shall be constructed in a durable fashion of solid treated wood, brick, stone, or Vinyl. All walls, except those constructed of stone, shall be of a consistent pattern. Gates shall be constructed to the standards for fence materials.
- B) Chain link fence with plastic, metal or wooden slats may not be used to satisfy the requirements of this ordinance.
- C) No wall or fence used as part of a screen shall be less than six (6) feet in height.
- D) All berms shall be grassed and/or planted with other plant materials sufficient to prevent soil erosion. If grassed alone, any berm installed to meet the requirements of

this Section shall be no less than four (4) feet in height. No slope of a berm shall exceed a slope greater than one (1) foot of rise for every three (3) feet of run unless approved by the Planning Director. No part of the berm shall be left as bare soil. Any required plant materials accompanying a berm may be planted on the berm and/or along either side of the berm. It is recommended that, where feasible, at least seventy-five percent (75%) of any required shrubs be planted on the slope of the berm opposite the new development.

- E) Where a fence or wall is used as part of a required screen area, any required plantings accompanying the fence or wall shall be located on the side of such fence or wall opposite the new development.

#### **7.4.7 Screen and Buffer Maintenance**

The plantings, fences, walls or berms that constitute a required screen shall be properly maintained in order for the screen to fulfill the purpose for which it is established. The owner of the property and any tenant on the property where a screen is required shall be jointly and severally responsible for the maintenance of all screen materials.

Such maintenance shall include all actions necessary to keep the screened area free of litter and debris; to keep plantings healthy; to keep plant growth from interfering with safe vehicular and pedestrian travel, or use of parking areas, or from creating nuisances to adjoining properties; and to keep walls, fences, and berms in good repair and neat appearance. Any vegetation that constitutes part of a screen shall be replaced in the event that it dies. All screen materials shall be protected from damage, by erosion, motor vehicles or pedestrians, which could reduce the effectiveness of the screen.

**Appendix A**  
**APPROVED TREES AND SHRUBS**

**Small Maturing Deciduous Trees:**

American Hornbeam  
Cherry  
Crape Myrtle (single trunk)  
Dogwood  
European Hornbeam  
European White Birch  
Flowering Crab Apple  
Maple (Trident, Amur single trunk)  
Saucer Magnolia (single trunk)  
Zelkova (City Sprite)

**Large Maturing Deciduous Trees:**

Bald Cypress  
Black Gum or Tupelo (Green Gable var.)  
Elm (Lacebark)  
Elm (Princeton)  
London Plane-Tree  
Oak (Willow and other as approved)  
Tulip Poplar  
Zelkova

# Evergreen Screening

\*various cultivars listed.

Groundcover 0-2'					
Common Name	Latin Name -Varieties	Growth s/m/f	Height	Width	Sun Requirements Full/Partial/Shade
Juniper, Dwarf	<i>Juniper chinensis</i> * -Armstrong -Hughes -Prince of Wales -San Jose	s/m/f	varies	varies	F/P
Jasmine, Asiatic	<i>Trachelospermum asiaticum</i>	f	6-24"	varies	F/P/S
Mondo Grass	<i>Ophiopogon japonicus</i>	m/f	4-12"	4-12"	F/P/S
Monkey Grass	<i>Liriope</i> -muscari -spicata	m/f	6-12"	6-12"	F/P/S
Small 1-6'					
Common Name	Latin Name -Varieties	Growth s/m/f	Height	Width	Sun Requirements Full/Partial/Shade
Boxwood ,Korean	<i>buxus microphylla koreana</i> * -Green velvet -Wintergem -Wintergreen	s	3-4'	3-4'	F/P
Boxwood, Dwarf	<i>buxus</i> *	s	varies	varies	F/P
Camellia, Dwarf	<i>Camellia sasanqua</i> * <i>Camellia japonica</i> *	s/m s/m	varies varies	varies varies	P/S P/S
Holly, Chinese	<i>Ilex cornuta</i> * -Carissa -Compacta -Dwarf burford -Routunda	s/m m m/f s/m	3-4' 3-4' 4-6' 3-4'	3-4' 5-6' 4-6' 6-8'	F/P F/P F/P F/P
Holly, Dwarf Youpon	<i>Ilex vomitoria</i> *	s/m	2-3'	2-3'	F/P/S
Holly, Japanese	<i>Ilex crenata</i> * -Green luster -Helleri -Hetzi -Sky pencil -Soft touch	m m m m m	2-3' 3-5' 3' 8-10' 2-3'	4-6' 4-6' 5' 2-3' 2-3'	F/P F/P F/P F/P F/P
Indian Hawthorn	<i>Raphiolepis indica</i> * -Georgia charm -Georgia petite -Indian princess -Snow white -Yeddo	m	3-5'	3-5'	F/P
Pine, Dwarf Mugo	<i>Pinus mugo</i> *	m	3-4'	3-4'	F/P

<b>Medium 7-12'</b>					
<b>Common Name</b>	<b>Latin Name -Varieties</b>	<b>Growth s/m/f</b>	<b>Height</b>	<b>Width</b>	<b>Sun Requirements Full/Partial/Shade</b>
Camellia	<i>Camellia sasanqua</i> * <i>Camellia japonica</i> *	s s	varies varies	varies varies	P/S P/S
Holly, Inkberry	<i>Ilex glabra</i>	s	5-8'	8-10'	F/P/S
Juniper	<i>Juniperus Chinensis</i> * -Pfizer	f	5-7	8-10	F/P
Pine, Mugo	<i>Pinus mugo</i> *	m	7-10'	8-12'	F/P
Rhododendron	<i>Rhododendron</i> * -catawbiense	s	6-10	5-8'	P/S
Wax Myrtle	<i>Myrica cerifera</i>	f	10-12'	8-10'	F/P
<b>Tall 13'+</b>					
<b>Common Name</b>	<b>Latin Name -Varieties</b>	<b>Growth s/m/f</b>	<b>Height</b>	<b>Width</b>	<b>Sun Requirements Full/Partial/Shade</b>
Arborvitae	<i>Thuja</i> -Green Giant -Steeplechase	f	35-50'	15-20	F/P
Cedar, Deodar	<i>Cedrus deodora</i> *	f	30-50'	20-30'	F/P
Cryptomeria	<i>Cryptomeria japonica</i> * -Yoshino	f	45'	15'	F/P
Holly, American	<i>Ilex opaca</i> * -Fosters	s/m s/m	40-50' 15-25	18-40' 8-12'	F/P/S F/P/S
Holly, Chinese	<i>Ilex cornuta</i> * -Burford -Fine line -Needlepoint Nellie R. Stevens	m m m f	15-20' 20' 15' 15-30'	15-20' 15' 10' 10-20'	F/P/S F/P/S F/P/S F/P
Holly, Youpon	<i>Ilex vomitoria</i> * -Dodd's cranberry -Roundleaf	m	15-20'	6-12'	F/P
Holly, Japanese	<i>Ilex crenata</i> *	m/f	15-25'	10-20'	F/P
Juniper, Upright	<i>Juniperus chinensis</i> * -Blue point -Hetzii -Spartan	m/f	12-20'	4-8'	F
Juniper, Red Cedar	<i>Juniperus virginiana</i> * -Brodie -Burkii	f f	20-25' 15-25'	4-6' 8-25'	F/P F/P
Laurel, English/Cherry	<i>Prunus laurocerasus</i> * -Dwarf leaf English laurel -Otto luyken -Portugal -Schipka	f	10-20'	10-20'	F/P
Magnolia	<i>Magnolia graniflora</i> * -Alta -Claudia Wannamaker -D.D. Blanchard -Greenback -Little gem	s m s s s	40-50' 40-60' 40-50' 25-40' 15-20'	15-25' 20-30 25-30' 10-15' 8-10'	F F F F F
Tea Olive	<i>Osmanthus fortunei</i> * <i>Osmanthus fragrans</i> *	m m	10-15' 10-15'	10-15' 10-15'	F/P F/P

#### **7.4.8 Relief to Screening and Buffer Requirements**

In the event that the unusual topography or elevation of a development site or the location or size of the parcel to be developed would make strict adherence to the requirements of this section serve no meaningful purpose or would make it physically impossible to install and maintain the required screen and buffer, the Planning Director may alter the requirements of Section 7.4 provided the spirit and intent of the ordinance are maintained.

Such an alteration may occur only at the request of the developer, who shall submit a plan to the Planning Director showing existing site features that would screen the proposed use and any additional screen materials the developer may propose to have installed. The Planning Director shall have no authority to alter the screening and buffer requirements unless the developer demonstrates that existing site features and any additional screening materials will screen the proposed use as effectively as the required screen.

The vacancy or non-use of an adjoining parcel shall not constitute grounds for providing relief to the screening and buffering requirements contained in this Ordinance. Neither shall the desire of an owner to make more intensive use or greater economic use of the property be grounds for reducing the screening/buffer requirements of Section 7.4. Where the effect of the screening and buffer requirements of Section 7.4 is to deny the owner reasonable use of the entire tract (or tracts) of property, relief pursuant to this Section may be granted to the extent that reasonable use of such tract or tracts is available. In deciding whether to approve such a plan, the Planning Director may, at his discretion, seek an advisory opinion from the Planning Board.

#### **7.4.9 Existing Screened Areas**

In cases where an existing, screened area is located on the same tract as the proposed development, further plantings and or improvements shall not be required so long as said screened area is of sufficient width and depth and contains adequate and sufficient materials to meet the requirements of this Ordinance. If the screened area is deficient, the developer shall make needed improvements and/or additions to satisfy the screening requirements and intent of this Ordinance.

#### **7.4.10 Visibility at Intersections**

On a corner lot in a residential district, no planting, structure, sign, fence, wall or artificial obstruction to vision more than three (3) feet in height measured from the center line of the street or road shall be placed or maintained within the triangular area formed by the intersecting street or road right-of-way lines and a straight line connecting points on said street or road right-of-way lines each of which is ten feet distance from the point of intersection.

**7.4.11 Implementation of Screening Required Prior to Occupancy**

Fences, walls, berms, buffers, and landscaping materials required in this ordinance shall be installed prior to occupancy.

**A) Improvement Guarantees**

It is recognized that vegetation used in landscaping or screening should be planted at certain times of the year to ensure the best chance of survival. In order to ensure compliance with this section and to reduce the potential expense of replacing landscaping or screening materials which were installed in an untimely or improper fashion, in lieu of requiring the completion and installation of these improvements prior to occupancy, the Town of Pineville may enter into an agreement with the subdivider/developer whereby the subdivider/developer shall agree to complete all required landscaping and screening. To secure this agreement, the subdivider/developer shall provide to the Town of Pineville a guarantee. The amount of such guarantee shall be in accordance with standard Mecklenburg County and Town of Pineville bonding procedures. All such guarantees shall be subject to the approval of the Planning Director. The guarantee shall be held by and overseen in accordance with Mecklenburg County standards unless adopted otherwise.

**7.4.12 Recycling Center and Container Provisions**

- A) When a recycling container is placed on a property permitted before May 14, 2002, the minimum number of parking spaces required by these regulations may be reduced by up to three (3) spaces, if necessary, to provide space for the location and servicing of the recycling container. [This provision is included in these regulations to allow existing uses or uses for which building permits have been obtained prior to the date set forth above to place recycling containers on the property without the location of such a recycling container creating a violation of these regulations.]
- B) All non-residential uses except multi-family, which are permitted after May 14, 2002, shall be required to set aside space for recycling containers and for dumpsters used for the collection of solid waste; Equal space shall be allocated for both recycling and solid waste containers.

All multi-family complexes, which are permitted after May 14, 2002, shall be required to set aside space for recycling containers and dumpsters used for the collection of solid waste as follows:

Space for Solid Waste Containers	Space for Recycling Containers
At a minimum, space for an 8 cu.yd. container per each 30 units or 8 cu.yd. compactor per each 90 units.	Space for five 96-gallon carts per each 80 units (approximately 12x12 foot space).



However, if the multi-family complex is of such a nature that individual garbage and/or recycling containers are presented to each unit and no clustered collection points are utilized, then the owner/owners agent shall make a statement to this effect on submitted plans and does not need to show space for recycling and/or solid waste containers.

## 7.5 FENCES OR WALLS PERMITTED

Except as otherwise noted, fences or walls are permitted in the various districts subject to the following regulations:

### 7.5.1 In Residential Districts:

When fences or walls are installed in a front yard, the maximum height of a fence or wall shall be four (4) feet. When fences or walls are installed in a side yard, the maximum height of a fence or wall shall be six (6) feet. When such fence or wall is installed pursuant to Section 7.4 of this Ordinance, or when it is located in the rear yard, it shall not exceed eight (8) feet in height.

### 7.5.2 In all Other Districts:

Maximum height shall be twelve (12) feet except where otherwise noted in this Ordinance.

## 7.6 STREETS

No building shall be erected or located, nor shall any lot created, which does not abut a public street.

7.6.1 The Town Council in issuing a conditional approval may allow private streets, if and only if health, safety and welfare has been guaranteed relating, but not limited to: fire access, emergency services access, water, sewer, and similar safety and utility items have been verified and if Town Council has found the proposal favorable and consistent with adjacent development and adopted.

## 7.7 ONE PRINCIPAL BUILDING

7.7.1 No more than one principal structure devoted to a residential use shall be permitted on a lot, except as (i) part of a multi-family development or (ii) as a private secondary dwelling unit, or (iii) as a temporary manufactured home as provided in Section 7.8.4 of this Ordinance.

## 7.8

### TEMPORARY STRUCTURES AND USES

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

**7.8.1** Certain outdoor uses or activities other than Town of Pineville events that are of a temporary nature are permitted in every zoning district so long as a temporary event permit has been submitted and approved by the planning director or their designee and must meet both the specific conditions listed on the temporary event permit and the general regulations below:

- A) The proposed use will not materially endanger the public, health, welfare and safety.
- B) The proposed use will not have a substantial negative effect on adjoining properties.
- C) Activities located in any right-of-way or sight triangle are prohibited.
- D) Handicap access shall be maintained at all times.
- E) Additional commercial signage is prohibited.
- F) A temporary event permit application that has been approved by the Town
- G) Failure to satisfy all requirements will automatically void any approved permit.
- H) Violations shall be computed daily:
  - First Citation \$50.00
  - Second Citation \$200.00
  - Third and Subsequent Citations \$500.00

**7.8.2** Construction office unit or construction trailers used in conjunction with construction projects provided that the following conditions are met:

- A) Such construction office unit or construction trailer shall be located at a building site where there is a valid building permit for the construction project, or, in the case of a residential subdivision, a valid building permit for at least one of the residential units being constructed.
- B) All construction office unit or construction trailers shall be located at least twenty (20) feet off any street right-of-way and not be placed in any required rear or side yard setback.

In addition to construction trailers, at any construction site for a construction project valued at one million dollars or more, one or more security guard houses may be installed. Use of such structures may include overnight stay provided adequate sanitary facilities are provided and the same conditions for construction trailers (A and B above) are met.

**7.8.3** Structures, whether temporary or permanent, located in a subdivision containing twenty-five (25) or more lots, and used as sales offices for the subdivision development are permitted.

Any temporary structure used as a sales office shall be located on a lot, which is in compliance with the regulations of this Ordinance and shall meet all yard requirements for the applicable zoning district. At least five (5) off-street parking spaces shall be provided on the lot to accommodate persons using the sales office.

A manufactured **office unit or construction trailer** may be used as a temporary sales office, provided that the following conditions are met:

- A) The manufactured **office unit or construction trailer** shall be provided with underpinning, from the bottom of the walls to the ground, made of vinyl, pre-painted aluminum material, or other material specifically manufactured for mobile homes.
- B) Landscaping shall be provided to create an aesthetically pleasing appearance.

At the completion of the sales in a tract, or two (2) years from the date the temporary sales office began operation, whichever is sooner, said sales office shall cease operation unless the Planning Director determines that substantial progress is being made in the selling and/or marketing of the lots and/or homes in the subdivision.

In such case, one or more extensions (each not to exceed one year in duration) may be so authorized by the Planning Director. If a temporary structure is used as the sales office, it shall be removed after its use as a sales office is terminated.

**C) Manufactured or modular housing units are prohibited**

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

- A) Such manufactured home shall not be located **any** closer than fifteen (15) feet to another principal residential structure on another lot and no closer than ten (10) feet to any lot line.
- B) The Planning Director shall be given the authority to issue a zoning permit for such temporary use on a one-time basis only for a period of up to nine (9) months. Such permit may be renewed on a one-time only basis [for a period of no greater than nine (9) months] if it is determined that:

- 1) Construction of a new dwelling unit has substantially began and is proceeding in a diligent manner; and,
- 2) The granting of such permit will not materially endanger the public, health, welfare or safety; and,
- 3) The location of the manufactured home on the site does not have a negative effect on abutting properties.

**7.8.5** Manufactured homes may be allowed on a temporary basis in connection with construction of a permanent structure upon the same property for business, educational, religious, and similar uses in districts where such businesses, schools, religious institutions, etc. are allowed as a permitted use in the district, but will be subject to review by the Planning Director. The purpose of allowing a manufactured home on said lot is to give the owners of the property a place to conduct business while a new structure or building is being constructed.

If a manufactured home is used on such a temporary basis, it is subject to the following conditions:

- A) Such manufacture home shall not be located **any** closer than (15) feet to another principal structure on another lot and no closer than ten (10) feet to any lot line.
- B) The manufactured home will only be used for the purpose requested and for which the permit is issued.
- C) The Planning Director may issue a zoning permit for such temporary use for a period of one (1) year. Such permit may be renewed for one (1) year periods if it is determined that:
  - 1) Construction of the permanent building or structure has substantially begun proceeding in a diligent manner; and,
  - 2) The granting of such permit will not materially endanger the public health, safety, or welfare; and,
  - 4) The location of the manufactured home on the site does not have a negative effect on abutting properties.

**7.8.6 PODS and similar mobile storage containers.**

Mobile or similar approved storage containers shall be allowed temporarily only. Mobile storage containers used in associating with a construction project shall be for the length of active construction and with a valid approved open construction permit. Mobile storage containers used in association with any other use such as a home move or yard cleanup project shall be for a length of time not to exceed fourteen (14) days per calendar year or per change in property ownership as recorded in Mecklenburg County Register of Deeds.

There shall be a one (1) time extension of fourteen (14) days if approved by the Planning Director. Storage containers on or within any road or right of way must maintain fifteen (15) feet roadway clearance at all times, have traffic cones or similar reflective devices at corners to ensure night motorist safety at all times, and be approved by the Town Manager. There shall be a one (1) time extension of fourteen (14) days if approved by the Town Manager.

## 7.9

### ACCESSORY STRUCTURES AND USES

Accessory structures, except as otherwise permitted or restricted, shall be subject to the following regulations:

- 7.9.1 Front Yard Prohibited.** Accessory structures with the exception of water-well apparatus shall not be allowed in any front yard **excluding R-44 zoned properties over twenty (20) acres.** Water well apparatus may be located in any portion within the front yard. If located on a corner lot, setback requirements found in Section 7.4.11 of this Ordinance shall also be observed. Within any Residential (R) District, detached accessory structures are allowed in the side or rear yard or rear yard area provided that no accessory structure (except for water-well apparatus and fences) shall not be allowed within five (5) feet of any side or rear lot line unless approved as part of a conditional development.

If any other zoning districts, accessory structures shall be allowed in a rear yard or rear setback, provided that no accessory structure (except for water-well apparatus) shall be allowed within twenty (20) feet of any lot line which abuts a Residential (R) District.

- 7.9.2 Character Compatibility.** On any lot containing a principal residential use, no accessory use or structure shall be permitted that involves or requires any construction features, which are not primarily residential in nature or character. Accessory uses shall be located on the same lot as the principal use except in instances when an adjoining lot is owned by the same property owner. In such instance, an accessory use may be located on the adjoining lot subject to all required yard restrictions.
- 7.9.3 Height.** Accessory structures (excluding a satellite dish antenna) may not exceed the height of the principal structure. Single family residential properties two (2) acres or more are excluded provided they meet the general height limit specified in the zoning district.
- 7.9.4 Size.** Accessory structures **on residential zoned property less than two (2) acres** may not exceed the **total heated square feet** of the principal structure. **Properties two (2) acres or more are permitted accessory structures up to twice the heated floor area of the principal structure.**
- 7.9.5** An accessory structure, attached to, or which is part of a principal structure, shall comply with all the yard requirements of the principal structure.
- 7.9.6** There may be more than one accessory building per lot; however, there shall be no more than three accessory buildings per lot **(excluding modular classrooms as permitted in this ordinance)** and all accessory buildings shall be considered together as one in determining whether the buildings comply with the requirements of this Ordinance.
- 7.9.7** Accessory or secondary dwellings see 6.5.35

## 7.10 USE OF MANUFACTURED HOMES AND SIMILAR STRUCTURES

A structure constructed as a manufactured home may only be used as a residential structure, except when serving as a manufactured home sales office for a subdivision development or as a construction trailer as per Section 7.8. In no instance may a manufactured home be used for any other nonresidential purposes.

## 7.11 HEIGHT LIMITATIONS AND EXCEPTIONS

For purposes of this Ordinance, the height of a structure shall be the vertical distance measured from the mean elevation of the finished grade at the front of the structure to the highest point of the structure.

The maximum heights as indicated in the various districts may be exceeded for the following uses:

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, housing for elevators, stairways, water tanks, ventilating fans, air conditional equipment or similar equipment, steeples, flag poles, spires, belfries, cupolas or chimneys, radio and television antennae, transmission towers or smokestacks.

## 7.12 CONSTRUCTION BEGUN PRIOR TO ADOPTION OF ORDINANCE

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, so long as said building permit remains valid.

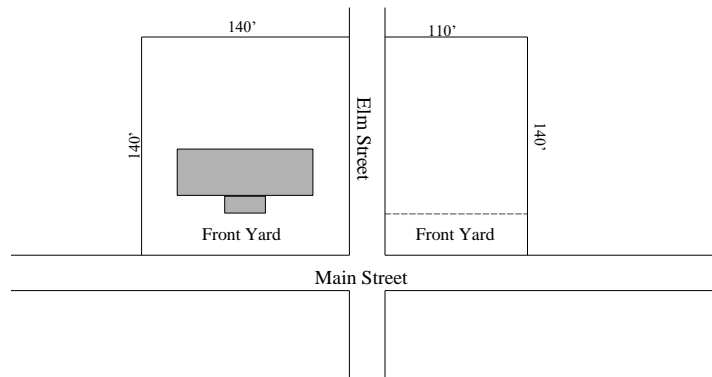
## 7.13 LOCATION OF REQUIRED YARDS AND SETBACKS ON IRREGULAR LOTS, CORNER LOTS, AND THROUGH LOTS

The location of required front, side and rear yards on irregularly shaped lots shall be determined by the **Planning Director**. 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.

### 7.13.1 Front Yards and Rear Yards on Corner Lots

On corner lots, the front yard shall be **determined by the Planning Director based off conformity to the property address on record, front yards of surrounding properties, and the primary street access point.**

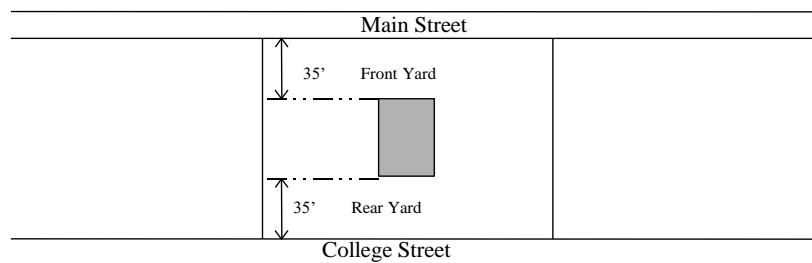
On lots where a principal structure is already located on such lot, the front yard shall be based on the architectural orientation, property address on record, and front door of the house. Once the front yard is determined **by the Planning Director**, the rear yard shall be the yard opposite the front yard. A graphic example of this is as follows:



### 7.13.2 Front Yards and Rear Yards and Setbacks On Through Lots, Which Abut Two Streets

On through lots, the required front and rear yards shall each equal or exceed the greater of either the required front or rear yard setback which would normally be applied in that zoning district. For example, if a through lot were located in a zoning district which normally required a thirty-five (35) foot front setback and a twenty (20) foot rear setback, both front and rear setbacks would have to equal or exceed thirty-five (35) feet.

For the purpose of placing accessory structures, however, the rear yard shall be deemed to be the yard opposite the street-side yard, which the architectural front of the building faces. For the purpose of placing a principal residence, the Zoning Enforcement Office shall require the architectural front of the building to be oriented similar to residences on either side. A graphic example of this is as follows:



**7.13.3 Front, Rear, and Side Yards and Setbacks on Lots, Which Abut Three Streets**

If a lot is abutted by streets on three sides, the front setback requirement for the zoning district shall be applied only on the two opposing street fronts. The required setback on the third street front must be the side yard requirement plus 10' since it is a corner lot. The yard opposite the third street front must be at least the minimum side yard requirement for the zoning district.

**A) Example**

Regulations for a single family dwelling in the R-15 Zoning District:

Front Setback:	35'
Rear Setback:	20'
Side Yard:	22'

**7.14 RESTORING UNSAFE BUILDINGS**

Nothing in this Ordinance shall prevent the strengthening or restoring to a safe condition of any part of any building or structure declared unsafe by the Planning Director or the required compliance with his lawful order, except as specified in this Ordinance.

**7.15 VIBRATION**

No use in any district may operate in such a fashion that any inherent or recurring ground vibrations can be felt or detected at the property line without the use of instruments.

**7.16 NOISE**

Every use of land must be operated in such a way that regularly recurring noises are not disturbing or unreasonably loud and do not cause injury, detriment, or nuisance to any person of ordinary sensitivities. [See also Town Code 91.50 - 91.55](#)

**7.17 ODOR**

Every use of land shall be operated in such a way that regularly recurring odors are not disturbing and do not cause injury, detriment or nuisance to any person of ordinary sensitivities.

**7.18 OUTPARCELS**

The following regulations shall pertain with regard to any outparcel within a planned shopping center or office park.

- A) The required amount of off-street parking (as otherwise provided in this Ordinance) need not be placed on the outparcel lot. If the required amount of off-street parking is not located entirely on the outparcel lot, it shall be provided elsewhere within the planned shopping center or office park.

If the structure on the outparcel is free-standing and does not adjoin any other principal structure within the shopping center or office park, the amount of parking and loading provided for such use shall be determined based on the nature of the use occupying



the outparcel lot. If the principal structure on the outparcel lot adjoins one or more other principal structures within the shopping center or the office park, the amount of required off-street parking for such use shall be determined based on the parking requirements of the entire shopping center or office park.

#### **7.19 YARD AND GARAGE SALES**

Yard, garage, tag, patio and apartment sales are permitted with a permit, as an accessory use on any residentially developed lot in any district. Such sales shall be limited to the number of days as described on the Council approved permit.

#### **7.20 ROAD PRESERVATION AND ADOPTED TRANSPORTATION PLANS**

- A) Whenever any new development or tract of land to be subdivided includes areas adopted by the Town of Pineville, Charlotte Regional Transportation Planning Organization (CRTPO), or similar government entity as part of a thoroughfare plan, comprehensive transportation plan, greenway, or similar, that area shall be platted and dedicated or reserved.
- B) Whenever any new development or tract of land to be subdivided is adjacent to any road stub or road termination that existing transportation connection shall be utilized and extended into new development to further connectivity and a complete street network.
- C) Whenever any new development or tract of land to be subdivided is adjacent to any public road and that road does not meet minimum width or turn radius standards for that class or planned class of road, that area designated for roadways shall be platted and dedicated or reserved.

#### **7.21 PRESERVATION OF EXISTING HOUSING STOCK**

It is important for Pineville to provide for a variety of housing types within its planning jurisdiction in order to ensure it meets the needs of its citizens. To this end, Pineville must consider the existing development patterns and future development issues in an effort to create policy to meet this goal. The availability of viable land and the advent of Light Rail Transit are just two issues that will affect residential development trends. It is therefore necessary to protect the existing **and limited single family** housing stock.

##### **7.21.1 Existing Residential Buildings**

Existing **single family** residential **designated dwellings** within Residential (R) Districts of **R-44, R-12, R-7, and R-MF** may only be replaced by **another single-family dwelling**. For example, the destruction or removal of a single-family detached home shall only permit the erection of a single family detached home in its place.

##### **7.21.2 Exceptions**

The following exceptions may be considered:

- A) Any use deemed to be essential to the provision of public service by an authorized governmental unit or a service provider of the Town may replace an existing residential building.
- B) A greater density residential development (i.e. Townhouses replacing Single Family detached) **or any other zoning use** only after Town Council **approval of a site specific conditional zoning plan.**
- C) Institutional uses, including churches, hospitals, schools, and similar uses may be allowed to reuse or replace existing residential structures only after receiving a Conditional Use Permit from the Town Council. Prior to issuing a CUP, Council must first determine that:
  - 1) The permit will be in the best interest and welfare of the Town,
  - 2) The permit will not adversely affect adjacent residential properties, or encourage the change of use of nearby residential properties, and
  - 3) Every effort will be made to ensure that new uses are compatible with the surrounding neighborhood and are architecturally designed to meet the scale and appearance of the existing structures.
- D) For flood hazard mitigation, public park, or municipal services.**

## 7.22

### COMMUNITY APPEARANCE

#### Community Appearance Standards

The existence of any of the following conditions on any lot or parcel of land within the zoning jurisdiction of the Town is hereby declared to be unlawful and a violation of the provisions of this section:

- A) FENCES AND SIMILAR**  
All fences, retaining walls or similar landscape features that are not firmly anchored to the ground, maintained in good structural condition and appearance, or free of deterioration. Wooden or other fence features subject to deterioration or weathering shall be properly maintained to retard deterioration or provide protection from the weather. Deteriorated features shall be replaced or repaired, or if not otherwise required to be maintained by the Town of Pineville Zoning Ordinance, shall be completely removed.
- B) OPEN PLACES**  
Any of the following conditions in open places (for purposes of this section, "open places" are defined as areas of properties or portions thereof that are open to the exterior, including building openings of residential dwelling units, such as carports or porches, and any other exterior portions of properties ordinarily exposed to the outside and/or public view, including front, side and rear yards):

1) **LITTER AND DEBRIS**

Broken glass, bottles, plastic cups, plastic shopping bags, waste paper, cardboard, wrapping paper, bubble wrap, loose plastic wrap, styrofoam including packing peanuts, paper napkins, fiberglass insulation, metal including roof flashing pieces, oily rags, combustible materials, package containers, food remnants, used baby diapers and general man-made garbage or litter which is scattered, cast, thrown, blown, placed, swept, or deposited anywhere on a persistent, continuous or ongoing basis so as to accumulate on any property in open places.

The owner and occupant of any dwelling unit shall exercise reasonable diligence at all times to keep exterior premises clean of litter, and to prevent same from drifting or blowing to adjoining premises by removing such waste.

2) **JUNK**

The presence, accumulation, storage, or placement of:

Junk, including but not limited to: worn-out, deteriorated or abandoned shopping carts, household or office furniture, any furniture and upholstery not rated for outdoor use, indoor rated appliances stored outside, inoperative appliances, inoperative machinery, inoperative equipment, unusable building materials, building material remnants; including broken bricks, broken concrete, used lumber or lumber remnants, building siding, corrugated metal or plastic sheets, automobile parts including tires, engine parts, glass, automobiles or any other man-made items which are either in whole, or in part, wrecked, junked, disused, worn out, dismantled or inoperative.

a) Storage of junk shall only be allowed on any properties used for nonresidential purposes if in compliance with all other town codes, or if not addressed by a town code or ordinance, completely enclosed within a building or otherwise evenly placed or neatly stacked and concealed by a solid fence, or other means so as to not be visible at the property line from abutting properties or a public street.

b) Storage of junk shall only be allowed on any property used for residential purposes if completely stored in an enclosed building or limited to one hundred (100) square feet in area and completely concealed by a solid fence, cover or other means so as not to be visible at the property line from abutting properties or a public street, concentrated in one area within the rear yard and neatly arranged or stacked so as not to exceed six (6) feet in height.

c) Whether stored on a residential or nonresidential property such storage of junk shall be maintained in such a manner so as to prevent overgrown grass or weeds or an infestation of wild animals, reptiles and rodents.

3) **USABLE AND NEW BUILDING MATERIALS**

Any concentration of landscaping mulch, sand, or dirt over two (2) cubic yards in the front yard or usable building materials such as concrete block, masonry, steel, lumber, pipes, windows, doors, kept in open places where there is not an open valid construction permit and substantial active construction activity. General Industrial zoned properties permitted for such materials and storage shall be excluded.

4) **FIREWOOD**

Firewood, except when such storage is **chopped and stacked neatly in the side or rear yard not to exceed** a total area of one hundred (100) square feet nor stacked to a height more than six (6) feet above the ground.

C) **PARKING ON GRASS PROHIBITED**

It shall be prohibited to park any vehicle or equipment on grass or non-improved surface in any zoning district within the incorporated limits of the Town of Pineville. This shall exclude active construction sites with valid building permits, essential services utility work, police/fire and similar emergency response, residential rear yard as permitted in this ordinance, as shown on any approved temporary event permit, or parking on any Town, County, State or similar municipal owned property in association with a Town approved temporary event or official declared emergency or where otherwise provided by Town Ordinance.

D) **PARKING ON SIDEWALKS PROHIBITED**

Parking of any vehicle or equipment on, within, or to block any sidewalk or pedestrian walkway in any zoning district within the incorporated limits of the Town of Pineville. This shall exclude active construction sites with valid building permits, essential services utility work, and police/fire and similar emergency response.

**7.23**

**SIDEWALKS AND PEDESTRIAN WALKWAYS**

The purpose and intent of these regulations are to promote convenient and safe pedestrian passageways in the public interest within the Town of Pineville. Sidewalks shall be required for new **and expanded** developments in all **zoning districts as specified in the Overlay Districts**. **In the absence of other superseding Overlay or similar regulations** Sidewalks and walkways shall have the following default minimum standards:

A) Wherever possible sidewalks shall provide a continuous pedestrian network. Sidewalks shall comply with the Americans with Disabilities Act and shall be five (5) feet in width, except where specified elsewhere. Sidewalks shall be required along street frontages. Sidewalks shall be constructed along both sides of all streets except alleys. All sidewalks

shall be paved in concrete and be a minimum of 4" in depth. Sidewalk construction shall conform to the requirements of the Charlotte-Mecklenburg Land Development Standards Manual only in the absence of Pineville Development Standards.

- B) Planting strips shall be located between the curb and sidewalk and parallel to the street.
- C) For existing lots being redeveloped without a subdivision. 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 **public access** easement **or dedicate area needed to keep the sidewalk within the street right-of-way.**
- D) For roads that do not have curb and gutter, sidewalks shall be located a minimum of 6 feet from the pavement. Sidewalks shall be located **behind** road side ditches **unless conditionally approved otherwise.**
- E) **Sidewalk construction and connections shall be required for all new or expanded development as specified in each Overlay District.**
- F) **All internal pedestrian walkways shall also be distinguished from driving surfaces through the use of painted marking or alternate pedestrian walkways shall have a minimum width of five (5) feet. Pedestrian walkways shall be designed in such a manner as to ensure that the five (5) feet corridor is unobstructed by vehicles or other objects.**
- G) **Sidewalks shall be made to be interconnected between properties and developments. Sidewalks shall extend to property lines.**
- H) **Sidewalk connections shall be made to extend along all streets adjoining each property as required in the Overlay District.**
- I) **Unless stated otherwise sidewalk minimum width shall be five (5) feet and must be constructed of concrete or brick pavers. Public park and greenway sidewalk or walkway material shall be as approved to Charlotte/Mecklenburg or Pineville development standards including asphalt, concrete, crushed gravel or similar adopted specification.**

## 7.24

### OUTDOOR DINING

- A) **Outdoor seating and dining within any public road right-of-way, sidewalk, or Town owned property requires a permit issued by the Town Manager excluding Town initiated events and approved short term temporary event permits per 7.8.2. The Town Manager or his/her designee may issue permits for outdoor dining areas pursuant to this section on sidewalks and public alleys within the Municipal limits of the Town of Pineville.**
- B) **Application. Any restaurant or establishment desiring to operate an outdoor dining area shall, before the issuance of a permit, prepare and file an application with the Town which shall contain the following information:**

- 1) The name, address, and telephone number of the restaurant desiring to operate an outdoor dining area;
  - 2) The name, address, and telephone number of each of the restaurant's operators;
  - 3) The type of food, beverage, and other products to be sold and served at the outdoor dining area;
  - 4) The hours of operation of the restaurant and the proposed hours of operation of the outdoor dining area;
  - 5) A scaled drawing or site plan illustrating the proposed outdoor dining area boundary and surrounding streetscape details covering six feet on either side of the frontage of the associated restaurant, including but not limited to property lines, sidewalks, curb lines, lighting, trees, tree size, tree grates, planters, street signs, bicycle parking, benches, trash cans, and fire hydrants. The drawing shall illustrate the section of sidewalk or public alley to be used for the outdoor dining area and the section including minimum width to be kept clear for pedestrian use, and depict the proposed materials and placement of tables, chairs, and barriers on the sidewalk or public alley;
  - 6) Evidence of a valid insurance policy that will indemnify the Town for any damage to the sidewalk or public alley, and for any damages for which the Town might incur liability because of property damage or personal injury arising out of the use of the sidewalk or public alley for seating purposes. The minimum liability limit of the policy shall be \$1,000,000.00;
  - 7) An indemnity statement, approved by the Town Attorney, whereby the restaurant owners agree to indemnify and hold harmless the City and its officers, agents, and employees from any claim arising from the operation of the outdoor dining area;
  - 9) Such additional information as may be requested by the Town Manager or his/her designee to determine compliance with this ordinance and State law;
  - 10) A verification fee as provided in the Town fee schedule to cover the cost of processing and investigating the application and issuing the permit.
- C) Issuance of permit. No permit for the operation of an outdoor dining area may be issued unless the application is complete and unless the following requirements are met:
- 1) The outdoor dining area must be an extension of a current valid and approved zoning compliant use. The outdoor area subject to these regulations must be under the same management as the indoor use and share the same food preparation facilities, restroom facilities, and other customer convenience facilities as the interior business. The outdoor dining area must be operated under the

same name as the restaurant or indoor business and may not be open or be operated at any time when the indoor business is not open.

- 2) The operation of the outdoor dining area must be clearly incidental, secondary, or minor to the associated restaurant or indoor business. The outdoor dining area must not exceed the exterior wall width of the indoor business.
- 3) Tables, chairs, and barriers, as shown in the drawing or plan submitted with the permit application, may be placed on the sidewalk or public alley, but must be located in such a manner so that a minimum five-foot-wide unobstructed pedestrian corridor shall be provided at all times through the sidewalk or public alley unless as otherwise approved. The outdoor dining area shall not block access to public amenities such as bicycle racks, benches, trash receptacles, and way finding or directional signs.
- 4) The business seeking to operate the outdoor dining area must be located at street level and must front on and open onto the sidewalk or public alley proposed for the outdoor seating area. An unobstructed pedestrian corridor of a minimum of five feet straight out must be maintained between any restaurant entrance and the pedestrian corridor.
- 5) The outdoor dining area may only be located adjacent to the building. A minimum clearance of five feet shall be maintained between the outdoor dining area and edge of driveways, alleys, and handicapped ramps. At street intersections, the outdoor dining area may not extend within sight triangles.
- 6) Wider pedestrian corridors or increased clearances may be required where warranted by pedestrian traffic or other circumstances or to comply with the North Carolina Building Code, Americans with Disabilities Act, or other laws.
- 7) The tables, chairs, and barriers used in the outdoor dining area shall be of a type that is easily movable. These items shall not be permanently affixed to the sidewalk or public alley and must remain within the approved boundaries.
- 8) Except as elsewhere permitted, the operation or furnishing of the outdoor dining area shall involve no permanent alteration to or encroachment upon any public street, sidewalk, or public alley or to the exterior of the associated restaurant.
- 9) No electrical cords may be run from restaurant or a Town receptacle to the outdoor dining area such that they cross any building entry or create a trip hazard.
- 10) Except as required by subsection (D)(4) below, signage in the outdoor dining area shall conform to the applicable sign provisions of the zoning ordinance.
- 12) Furniture must be made of durable outdoor rated material and substantial enough to not be subject to movement under wind events.

- D) Alcoholic beverages. Alcoholic beverages may be served at outdoor dining areas provided the following requirements are met:
- 1) The outdoor dining area shall be part of a standard restaurant as defined in G.S. § 18B-1000, and shall otherwise be authorized, permitted, or licensed under state laws and the Pineville Zoning to serve and sell alcoholic beverages for on premise consumption.
  - 2) The portion of the outdoor dining area where alcohol is or may be served shall be delineated by clearly visible barriers and shall not have more than two designated points of ingress and egress.
  - 3) The outdoor dining area must be included as part of the premises for which an ABC permit for a restaurant as defined in G.S. 18B-1000, is issued, pursuant to G.S. 18B-1001, for the purpose of applying and enforcing state laws regarding the sale and consumption of alcoholic beverages on premises.
  - 4) Signs shall be posted, visible at all designated exit points from the outdoor dining area, that it is unlawful to remove alcoholic beverages in open or unsealed containers from the premises. The restaurant operators shall be responsible for ensuring that no alcohol is served or consumed outside the designated area.
- E) Operation, appearance, and maintenance requirements. An outdoor dining area shall be operated in such a manner to comply with the following requirements:
- 1) Outdoor seating is limited to the area approved by the Town as specified on the permit application.
  - 2) No more patrons than can be accommodated by the actual seats provided in the outdoor dining area may occupy the outdoor dining area. This does not include patrons travelling through the outdoor dining area to enter or exit the restaurant.
  - 3) Except for planters and pots, all tables, chairs, barriers, and associated furnishings, including but not limited to signage, table top candles, and other accessory items, shall be removed from the sidewalk or public alley at closing and stored inside the restaurant unless otherwise provided in the approved permit. Pursuant to subsection (f), planters, pots, tables, chairs, barriers, and associated furnishings used in the operation of the outdoor dining area must be removed within 24 hours of notice from the City. If such items are not removed upon the 24 hours' notice, the City shall have the right to remove and dispose of these items and may assess the property owner for the cost of such removal and disposal. The City shall also have the right to remove such items immediately in emergency situations.
  - 4) Restaurant operators shall keep the outdoor dining area clean of all litter.



- 5) All tables, chairs, and barriers associated with the outdoor dining area shall be kept in good repair.
  - 6) Compliance with all conditions required for issuance of an outdoor dining area permit shall be maintained while operating pursuant to the permit.
  - 7) The Town shall not be responsible for damage to outdoor dining area tables, chairs, barriers, and associated furnishings of any kind under any circumstances.
  - 8) The restaurant operators shall be responsible for repairing any incidental damage to any sidewalk, streetlight, or Town property resulting from the operation of the associated outdoor dining area. Any repair work shall be in accordance with applicable federal, state, and local laws, regulations, and standards.
- F) Reservation of rights. The City reserves the right to require any outdoor dining area established pursuant to this section to cease part or all of its operation in order to allow for construction, maintenance, or repair of any street, sidewalk, utility, or public building by the City, its agents or employees, or by any other governmental entity or public utility; and to allow for use of the street or sidewalk in connection with parades, civic festivals, and other events of a temporary nature as permitted by the City.
- G) Transfer and revocation. The permit shall not be transferable. The permit may be revoked pursuant to violating the standards set forth in this article.
- H) Definitions. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Outdoor dining area means an area on a sidewalk or public alley whereon tables, chairs, barriers and other associated furnishings are placed for the purpose of consumption of food and beverages.

Public alley means a strip of land on public property or right-of-way, that is set aside primarily for vehicular service access or parking to the rear or side of properties otherwise abutting a primary street for which the property is addressed.

## 7.25

### **DAMAGE TO TOWN PROPERTY**

#### **Damage to Town Property**

The destruction, damage, or vandalism of Town property shall be prohibited and punishable by this ordinance or as otherwise permitted under state law. Fines plus costs incurred for repairs may be incurred.

## **CHAPTER 8 LIGHTING**

### **8.1 SITE LIGHTING**

#### **Purpose and Intent**

The provision of outdoor lighting heightens night time safety and visibility, and is used to enhance the security of property and people. Lighting is to be provided in areas of heavy vehicle and pedestrian use, and areas that are dangerous if unlit such as stairs, intersections, or changes in grade. Lighting should adequately **meet safety needs but also be minimized to prevent glare, light pollution, and other negative impacts of lighting oversaturation.**

#### **8.1.1 Lighting Plan**

Any development **except single family uses** that proposes exterior lighting shall include a detailed exterior lighting plan as part of the plan submission. This plan shall include:

- A) Specifications of Luminaire: type of unit, lamps (lumens, etc.), electrical load requirements, utility company involved, method of wiring, routing/location of lines, location, and mounting heights.
- B) An iso-footcandle plan that shows typical footcandle contours or a point photometric grid that indicates foot-candle levels measured at grade across the site. A point photometric plan is required for major site plans. Other information such as: maximum, average, and minimum site footcandles, uniformity ratio (average/minimum), and depreciation factors shall also be included. Footcandle levels must be shown at initial levels.
- B) Plan certification by a licensed lighting professional holding the PE, LC or CLEP certification or similar certification that indicates proficiency in the design of outdoor lighting, a lighting manufacturer, or the local electric utility. The certification must verify that the plans meet the Town's design requirements and illumination standards.
- C) **Required Town specification public street lights are excluded and/or exempt**

#### **8.1.2 Light Level Measuring**

Light levels unless specified otherwise; are calculated and measured in footcandles. All footcandles values are maintained footcandles. Measurements are to be made at ground level.

#### **8.1.3 Maximum levels permitted**

<b>AREA</b>	<b>MAXIMUM FOOTCANDLES</b>
<b>Automotive Sales (zoning conforming)</b>	<b>30</b>
<b>Automotive Sales (zoning non-conforming)</b>	<b>15</b>
<b>Gas Station Canopy</b>	<b>30</b>
<b>ATM's</b>	<b>30</b>

Parking Lots	20
All Site Lighting at Single Family (Uses and Zoning Districts) Property Lines	.03
All Other Site Lighting at Property Lines (Except Public Road Frontage)	1.0
All Site Lighting at Public Road Frontage	5
Building illumination	5

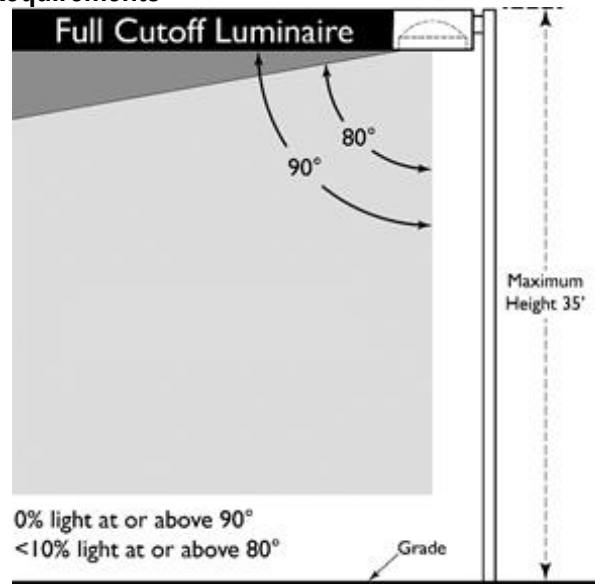
### 8.1.4 Design Requirements

All outdoor lighting shall conform to the following design standards:

#### A) Location

- 1) The layout of lighting shall be designed so that poles do not interfere with other elements of the approved site such as trees, landscaping, and parking.
- 2) The location of lighting shall be placed to adhere to the maximum and minimum footcandles of luminaire requirements

#### B) Luminaire Requirements



- 1) Mounting Height shall not exceed 35 feet from grade level
- 2) All luminaires shall be recessed full cutoff, directing light downwards and shielded to prevent spillover light and glare onto adjacent properties and right of ways
- 3) Maximum illumination measured in initial footcandles at the property line shall not exceed 0.3 footcandles onto adjacent residential sites and 1.0 footcandles onto adjacent non-residential sites.

- 4) Light source (bulb) shall not be visible from any point outside property. Shields must be appropriately sized to eliminate visibility of bulb outside of property and sufficiently limit visible glare from the light onto adjacent properties and right of ways. Additional internal shields or other devices may be required to direct the light away from residential properties.
- 5) Lighting shall be the uniform color throughout the development
- 6) Service connections for all freestanding luminaires must be installed underground

#### **8.1.5 Building/Ground Mounted Fixtures, and Accent Lighting**

Luminaires shall be located, aimed, and shielded so that light is directed only onto limited parts of the building façade, specimen landscape, and/or site features, so that spillover light is minimized. Must meet the following criteria:

- A) Luminaire must not be used to illuminate entire portions of building(s), landscape, or site features
- B) Building mounted lights shall be fully shielded, full cutoff type luminaires
- C) Ground mounted shall be positioned and **bulb or illumination** source shielded to minimize light spill into the sky **and glare onto any public road or adjacent property.**
- D) Shall be uniform, neutral white colored lighting

#### **8.1.6 Sports and Athletic Field Lighting**

- A) Mounting Height shall not exceed 80 feet from grade level
- B) Must be fitted with the manufacturer's glare control package
- C) Located and aimed so that their beams fall within the primary playing area
- D) Shall be extinguished no longer than one hour after the event ends
- E) Shall meet property boundary requirements specified in luminaire requirements
- F) Council may amend these requirements to fit a site specific zoning proposal.

#### **8.1.7 Building Perimeter or String Lighting**

- A) Only permitted in the DC and BP zoning districts by right. All others must be approved on a conditional site specific basis from Town Council.
- B) Lighting fixtures shall not exceed 1,600 lumens
- C) Lights color or hue shall be white only as approved by the Planning Director

- D) Bulbs can be visible in DC district, but shall be completely shielded (such as built into a cornice) in the BP district.
- E) String lights or perimeter edge lighting shall be maintained so as to be fully functional with no bulbs burned out or disused.
- F) String of lights must be parallel to building edges. Lights shall not sag and must be securely fastened along building edge perimeters only.
- G) Neon lighting prohibited
- H) Window perimeter rope style lighting prohibited
- I) Must be property permitted and meet all applicable building codes.

### **8.1.8 Lighting Hue**

- A) Lighting color shall be neutral white lighting between 2,700 and 3,500 Kelvin

### **8.1.9 Residential Site Lighting**

- A) Residential lighting less than 1,000 lumens exempt from full cut-off fixture requirement
- B) Residential single-family lighting shall not exceed 1,000 lumens, or be full cut-off type AND not exceed .03 foot candles at any property line.
- C) Residential lighting shall not exceed 1,600 lumens for any fixture.

### **8.1.10 Redevelopment, Change in Use, and Vacancy past 90 days**

Redevelopment, change in use, and vacancy past 90 days requires compliance with this article.

### **8.1.11 Inspection and Verification**

Conformance with standards required. Installation must meet ordinance standard and approved plans. Verification shall be required with any new lighting installation where a complaint has been received or violation of this ordinance is suspected by the Planning Director. The certification must include a report indicating that all site and exterior mounted building lighting was inspected and the light levels measured and recorded (including spillover lighting). Any irregularities or deviations from the approved site plan, Town standards, or applicable conditions must be pointed out in the report.

## **8.2 STREET LIGHTING**

### **8.2.1 Installation**

Street lights shall be installed by the developer or developers authorized agent on all streets in accordance with Town of Pineville adopted plans and specifications.

### **8.2.2 Maintenance**

Upon Town inspection and approval of approved fixtures; the Town may adopt and maintain streetlights within the public road right-of-way excluding NCDOT fixtures. Street lights not adopted by the Town of Pineville shall be maintained, illuminated, and in working order in the same manner as Town maintained streetlights by the property owner or authorized owner agent.

### **8.2.3 Fixture**

Default fixture type shall be decorative double-headed pedestrian fixture arranged perpendicular to the road. This shall be along all state-maintained roads, commercial, and industrial developments or as to adopted plans. Taller combined decorative pedestrian and vehicular lighting shall be used as required at intersections.

Fixture type for residential (R) zoned development such as subdivisions along Town maintained roads shall be adopted decorative single-headed fixture.

### **8.2.4 Other**

No light other than approved NCDOT, Town of Pineville, or legally required light shall be within any road right-of-way.

## **8.3 PROHIBITED LIGHTING**

- A) Lights that flash, scroll, move, revolve, rotate, scintillate, blink, or flicker
- B) Search lights for advertising or promotional purposes.
- C) Laser lights
- D) Colors other than neutral white light
- E) Tubing or strings of lights, except as approved 8.1.6
- F) Window perimeter lights
- G) Flood lights (unless approved by Planning Director and Police Chief as required for security)

### **8.3.1 EXCEPTIONS**

- A) Seasonal lighting that is part of customary holiday decorations during the month of December
- B) Special event lighting for municipal events
- C) Lighting associated with sign illumination as set forth in Chapter 5 Signage
- D) Town of Pineville public health, safety, welfare including traffic signs
- E) Railroad crossing signs and similar installed as required by a Railroad
- F) NCDOT lights including stop lights and similar traffic control

G) Governmental emergency response services such as fire, police, and medic

## 8.4

### LIGHTING DEFINITIONS

*Candela* - the luminous intensity of a source that emits monochromatic radiation of frequency  $540 \times 10^{12}$  hertz and that has a radiant intensity of 1/683 watt/steradian

*Full cutoff* - Zero intensity at or above horizontal ( $90^\circ$  above nadir) and limited to a value not exceeding 10% of lamp lumens at or above  $80^\circ$

*Footcandle* - a unit of illuminance or illumination, equivalent to the illumination produced by a source of one candela at a distance of one foot and equal to one lumen incident per square foot of a new lamp at installation

*Luminaire* - an electrical light and its components; wiring, base, bulb type, etc.

*Lumen* - a unit of luminous flux equal to the light emitted in a unit solid angle by a uniform point source of one candle intensity

*Nit* - A unit of measurement of luminance, or the intensity of visible light, where one nit is equal to one candela per square meter.

## CHAPTER 152: FLOODPLAIN REGULATIONS

### Section

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#### *Flood Damage Prevention; Generally*

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Appendix A: Flood map areas

### GENERAL PROVISIONS

#### **§ 152.001 SHORT TITLE.**

The regulations set out in this chapter (sometimes herein referred to as “this regulation” or “this chapter” shall be known and may be cited as the “Floodplain Regulations of Pineville, North Carolina.”



(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

## **FLOOD DAMAGE PREVENTION; GENERALLY**

### **§ 152.015 STATUTORY AUTHORIZATION.**

The Legislature of the State of North Carolina has in G.S. Chapter 143, Article 21, Part 6; G.S. Chapter 160A, Article 19, Parts 3, 5, and 8; and G.S. Chapter 160A, Article 8 delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety and general welfare.

(1995 Code, § 26-26) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

### **§ 152.016 FINDINGS OF FACT.**

(A) The flood hazard areas of the town are subject to periodic inundation which results in the loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures of flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(B) These flood losses are created by the cumulative effect of obstructions in floodplains, causing increases in flood heights and velocities and by the occupancy in flood hazard areas by uses vulnerable to floods or hazards to other lands which are inadequately elevated, floodproofed or otherwise unprotected from flood damages.

(1995 Code, § 26-27) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

### **§ 152.017 STATEMENT OF PURPOSE.**

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

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

(1995 Code, § 26-28) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

### **§ 152.018 OBJECTIVES.**

(A) The regulations of the special flood hazard herein set forth are intended to protect areas of designated floodplains subject to and necessary for regulating flood waters and to permit and encourage the retention of open-land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the city as provided in the comprehensive plans as they are adopted and amended from time to time.

(B) The specific intent in establishing the special flood hazard areas composed of floodway and floodway fringe districts includes the following:

- (1) To control in flood hazard areas, uses such as fill dumping, storage of materials, structures, buildings and any other works which, acting alone or in combination with other existing or future uses, would cause damaging flood heights and velocities by obstructing flows and reducing floodplain storage;
- (2) To protect human life and health;
- (3) To minimize the expenditure of public money for costly flood-control projects;
- (4) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (5) To permit certain uses which can be appropriately located in flood hazard areas and to assure those permitted uses will not impede the flow of flood waters or otherwise cause danger to life and property at or above or below their locations along the floodways;
- (6) To minimize prolonged business interruptions;
- (7) To provide sufficient drainage courses to carry abnormal flows of stormwater in periods of heavy precipitations;
- (8) To minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone and sewer lines and streets and bridges located in floodplains;
- (9) To meet the needs of the streams to carry flood waters and protect the creek channels and floodplains from encroachment so that flood heights and flood damage will not be increased;
- (10) To help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize flood-blight areas; and
- (11) To ensure that potential buyers are notified that property is in a flood area.

(C) This chapter is intended to permit only that development within the floodplain which is appropriate in light of the probability of flood damage and presents a reasonable social and economic use of land in relation to the hazards involved. The regulations hereinafter set forth shall apply to all property located within the special flood hazard area and the future conditions flood fringe area as shown on the Flood Insurance Rate Maps and the Floodplain Land Use Maps. It is the intent that these regulations combine with and coordinate with the zoning ordinance regulations for the zoning district in which the property is located. Any use not permitted by the zoning regulations shall not be permitted in the floodway districts or the floodway fringe districts, and any use permitted by the zoning regulations shall be permitted in these districts only upon meeting conditions and requirements as prescribed in this chapter.

(1995 Code, § 26-29) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

#### **§ 152.019 DEFINITIONS.**

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

**ACCESSORY STRUCTURE.** Structures which are located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Garages, carports and storage sheds are common urban **ACCESSORY STRUCTURES**. Pole barns, hay sheds and the like qualify as **ACCESSORY STRUCTURES** on farms, and may or may not be located on the same parcel as the farm dwelling or shop building.

**ADDITION (TO AN EXISTING BUILDING).** Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition which is connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.

**APPEAL.** A request for a review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.

**BASEMENT.** The lowest level or story of a building which has its floor subgrade on all sides.

**BUILDING.** Any structure built for support, shelter or enclosure for any occupancy or storage.

**COMMUNITY BASE FLOOD.** The flood, determined using future land use conditions, having a 1% chance of being equaled or exceeded in any given year.

**COMMUNITY BASE FLOOD ELEVATION.** The water surface elevation shown on the Flood Insurance Rate Map Flood Hazard Data Table and in the Flood Insurance Study, having a 1% chance of being equaled or exceeded in any given year, determined using future land use conditions.

**COMMUNITY CONDITIONAL LETTER OF MAP REVISIONS (CoCLOMR).** A letter from the Floodplain Administrator that provides conditional approval of a study that proposes to change the location of the community encroachment lines, and/or the location of the community flood fringe line and/or community base flood elevations.

**COMMUNITY ENCROACHMENT AREA.** The channel of a stream or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA base flood without cumulatively increasing the water surface elevation more than 0.1 foot (see [Appendix A](#) following this chapter).

**COMMUNITY ENCROACHMENT LINES.** Lateral limits of the community encroachment area, within which, in the direction of the stream or other body of water, no structure or fill may be added, unless specifically permitted by this chapter (see [Appendix A](#) following this chapter).

**COMMUNITY FLOOD FRINGE AREA.** The land area located between the community encroachment line and the community flood fringe line as defined herein (see [Appendix A](#) following this chapter).

**COMMUNITY FLOOD FRINGE LINE.** This is the line that depicts the outer limits of the community flood fringe area (outer limits of the community special flood hazard area).

**COMMUNITY LETTER OF MAP REVISION (CoLOMR).** A letter from the Floodplain Administrator that provides final approval of a study, based on as-built conditions, that changes the location of the community encroachment lines and/or the community flood fringe lines.

**COMMUNITY SPECIAL FLOOD HAZARD AREA.** This is the land subject to a 1% or greater chance of flooding in any given year from a community base flood. It includes the FEMA floodway, community encroachment area, FEMA flood fringe area and the community flood fringe area (see [Appendix A](#) following this chapter).

**CONDITIONAL LETTER OF MAP REVISION (CLOMR).** FEMA's comments on whether a project, if built as proposed, would meet the minimum NFIP standards.

**CRITICAL FACILITY.** Building uses including, hospitals, schools, day care facilities, nursing homes/assisted living centers, police/fire/medic facilities and other uses determined by the Administrator.

**DEVELOPMENT.** Any human-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations.

**DISPOSAL.** As defined in G.S. § 130A-290(a)(6), the discharge, deposit, injection, dumping, spilling, leaking or placing of any solid waste into or on any land or water so that the solid waste or any constituent part of the solid waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

**DRY PUBLIC STREET.** A public street at the intersection of an existing or proposed driveway where the surface of the pavement is at an elevation above the community base flood elevation.

**DRYLAND ACCESS.** A gravel, paved or concrete access route, at least 12 feet wide, which is above the community base flood elevation and connects a habitable building to a dry public street.

**EFFECTIVE DATE.** The date Flood Insurance Rate Maps and Flood Insurance Studies for a community are officially approved by FEMA and are to be used for local regulation and for compliance with NFIP sanctions.

**ELEVATED BUILDING.** A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

**ENCROACHMENT.** The advance or infringement of uses, fill, excavation, buildings, permanent structures or development into a floodplain, which may impede or alter the flow capacity of a floodplain. Building renovations contained within the existing building footprint area are not considered an encroachment.

**EXISTING MANUFACTURED HOME PARK OR MANUFACTURED HOME SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale for which the construction of facilities for servicing the lot on which the manufactured home is to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads and the construction of streets) is completed before the effective date of this chapter.

**EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.** The preparation of the additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and with final site grading or the pouring of concrete slabs).

**FEMA.** The Federal Emergency Management Agency.

**FEMA BASE FLOOD.** The flood, determined using land use conditions as of July 1999 having a 1% chance of being equaled or exceeded in any given year.

**FEMA BASE FLOOD ELEVATION (BFE).** The water surface elevation shown on the Flood Insurance Rate Map and the Flood Insurance Study having a 1% chance of equaling or exceeding that level in any given year determined using land use conditions present at the time of the study

**FEMA FLOOD FRINGE AREA.** The land area located between the FEMA floodway encroachment lines and the line depicting the maximum elevation subject to inundation by the FEMA base flood as defined herein (for illustration see Attachment A of Ord. 2009-03, which is hereby adopted by reference as if set out in full herein).

**FEMA FLOOD FRINGE LINE.** The line on a map that depicts the outer limits of the FEMA flood fringe area.

**FEMA FLOODWAY.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the FEMA base flood, without cumulatively increasing the water surface elevation more than 0.5 feet.

**FEMA FLOODWAY LINES.** The lateral limits of the FEMA Floodway (see Attachment A of Ord. 2009-03, which is hereby adopted by reference as if set out in full herein).

**FLOOD or FLOODING.** 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
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOOD INSURANCE.** The insurance coverage provided under the National Flood Insurance Program.

**FLOOD INSURANCE RATE MAP (FIRM).** An official map of a community, in both digital and printed format, on which the Federal Emergency Management Agency has delineated both the

areas of special flood hazard and the risk premium zones applicable to the community. The date of the town's original FIRM is March 18, 1987 and this date should be used to determine whether a structure is pre-FIRM or post-FIRM.

**FLOOD INSURANCE STUDY.** An examination, evaluation and determination of special flood hazard areas, corresponding water surface elevations, flood insurance risk zones and other flood data in a community. The study includes a Flood Insurance Study report and/or Flood Insurance Rate Map (FIRM).

**FLOOD PROTECTION ELEVATION.** The elevation to which all structures located within the community special flood hazard area must be elevated (or floodproofed if nonresidential). Within areas where base flood elevations (BFEs) have been determined, this elevation shall be the community base flood elevation plus one foot of freeboard. In areas where no BFE has been established, all structures and other development must be elevated (or floodproofed if nonresidential) to two feet above the highest adjacent grade.

**FLOODPLAIN.** The land subject to inundation by the community base flood and is encompassed by the community special flood hazard area.

**FLOODPLAIN ADMINISTRATOR (or ADMINISTRATOR).** The person, agent or his or her designees appointed to administer, implement and enforce the provisions of this chapter.

**FLOODPLAIN DEVELOPMENT PERMIT.** Either an individual floodplain development permit or a general floodplain development permit issued for development in the floodplain per the requirements of § 152.041.

**FLOODPLAIN MANAGEMENT.** The operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain.

**FLOODPLAIN REGULATIONS TECHNICAL GUIDANCE DOCUMENT.** A document developed by Charlotte-Mecklenburg Storm Water Services Staff to more clearly explain the application of the provisions of this chapter, specifically the floodplain development permit provisions, through the use of charts and related written materials. The *Technical Guidance Document* shall not be a part of this chapter, and shall be solely for illustrative and educational purposes. If there is any discrepancy between the Technical Guidance Document and this chapter, the provisions of this chapter shall control.

**FLOODPROOFING.** Any combination of structural and nonstructural additions, changes or adjustments to structures, which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitation facilities, or structures with their contents.

**FLOOD PROTECTION ELEVATION.** The elevation to which all structures located within the Community Special Flood Hazard Area or FEMA Special Flood Hazard Area must be elevated (or floodproofed if nonresidential). This elevation is the Community Base Flood Elevation plus one foot of freeboard.

**FLOODWALL.** A wall built along a shore or bank to protect an area from flooding.

**FLOODWAY.** Either the FEMA floodway or the community encroachment area.

**FLOOD ZONE.** A geographical area shown on a Flood Insurance Rate Map that reflects the severity or type of flooding in the area.

**FLOOR.** See definition of **LOWEST FLOOR**.

**FREEBOARD.** The height added to the base flood elevation (BFE) to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge openings, and the hydrological effect of urbanization of the watershed.

**FUNCTIONALLY DEPENDENT FACILITY.** A facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair or seafood processing facilities. The term does not include long-term storage, manufacture, sales or service facilities.

**FUTURE CONDITIONS FLOOD FRINGE AREA.** The land area located between the community encroachment lines and the line depicting the maximum elevation subject to inundation by the community base flood as defined herein (for an illustration, see Appendix A to this chapter).

**GENERAL FLOODPLAIN DEVELOPMENT PERMIT.** A permit issued for certain types of development in the floodplain per § 152.041.

**HABITABLE BUILDING.** A structure designed primarily for or used for human habitation. This includes but is not limited to houses, condominiums, townhomes, restaurants, retail establishments, manufacturing buildings, commercial buildings, office buildings, manufactured homes and similar uses. It does not include accessory structures (see definition above).

**HAZARDOUS WASTE MANAGEMENT FACILITY.** A facility for the collection, storage, processing, treatment, recycling, recovery or disposal of hazardous waste as defined in G.S. Chapter 130A, Article 9.

**HIGHEST ADJACENT GRADE.** The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of the structure.

**HISTORIC STRUCTURE.** Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of Interior as meeting the requirements for individual listing on the National Register;
- (2) 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;
- (3) Individually listed on a local inventory of historic landmarks in communities with a Certified Local Government (CLG) Program; or
- (4) 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 U.S. Department of the Interior in cooperation with the North Carolina Department of Cultural Resources through the State Historic Preservation Officer as having met the requirements of the National Historic Preservation Act of 1966 as amended in 1980.

**INDIVIDUAL FLOODPLAIN DEVELOPMENT PERMIT.** A permit for development in the floodplain that involves activities not listed in § 152.041(B)(1) and may not qualify for a general floodplain development permit.

**LETTER OF MAP AMENDMENT (LOMA).** A letter from FEMA that officially removes a property or building from the FEMA Special Flood Hazard Area (SFHA) that was inadvertently shown in the SFHA on the FIRM.

**LETTER OF MAP REVISION (LOMR).** An official amendment to the current effective FEMA FIRM based on as-built conditions and/or more accurate data. It is issued by FEMA and may change FEMA Base Flood Elevations, the location of the FEMA Floodway Lines and/or the location of the FEMA Flood Fringe line.

**LETTER OF MAP REVISION BASED ON FILL (LOMR-F).** A letter from FEMA that officially removes a property from the FEMA Special Flood Hazard Area (SFHA) as a result of placing fill on the property.

**LEVEE.** A human-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

**LEVEE SYSTEM.** A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

**LOWEST ADJACENT GRADE (LAG).** The elevation of the ground, sidewalk or patio slab immediately next to the building, or deck support, after completion of the building.

**LOWEST FLOOR.** The lowest floor of the lowest enclosed area (including the basement and/or attached garage; see definition of **FLOOR**). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's **LOWEST FLOOR** provided that the enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

**MANUFACTURED HOME.** A structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without permanent foundation when connected to the required utilities. The term **MANUFACTURED HOME** does not include a recreational vehicle.

**MANUFACTURED HOME PARK OR SUBDIVISION.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**MARKET VALUE.** The value of a building, excluding land value, that is determined by an appraiser certified in the state using the cost approach method. Use of the "income capitalization approach" is not acceptable. Market value must be determined based on the building condition prior to start of construction (for proposed improvements) or before damage occurred (for damage repair). The value of the land and site improvements (landscaping, driveways, detached accessory structures, and the like) is not included. The values of the use and occupancy (business income) are not included. The Floodplain Administrator may use the tax value of the building in lieu of other methods described herein. **MARKET VALUE** also means the actual cash value (ACV) of a building minus depreciation. Actual cash value is the cost to replace a building on the same parcel with a new building of like-kind quality, minus depreciation due to age, use, and neglect. ACV does not consider loss in value mainly due to outmoded design or location factors. Depreciation accounts for the physical condition of a structure. Depreciation does not take into account functional obsolescence or factors that are external to the structure.

**MEAN SEA LEVEL.** The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with the **NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD 88)**.

**NATIONAL FLOOD INSURANCE PROGRAM.** A federal program that provides insurance coverage for flood damage to qualified buildings in communities that agree to adopt and enforce ordinances that meet or exceed FEMA requirements to reduce the risk of flooding.

**NEW CONSTRUCTION.** Construction of a replacement structure commenced after total demolition, or renovation/rehabilitation of an existing structure that results in the partial or complete removal of two external walls and has a total cost equal to or exceeding 50% of the market value of the structure before the start of construction of the improvement. For flood insurance purposes, **NEW CONSTRUCTION** also means structures for which the start of construction commenced on or after March 18, 1987, and includes subsequent improvements to such structures (see definition of **FLOOD INSURANCE RATE MAP**).

**NEW MANUFACTURED HOME PARK OR SUBDIVISION.** 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 slabs) is completed on or after June 25, 1987.

**NONCONFORMING BUILDING OR USE.** Any legally existing building or use which fails to comply with the provisions of this chapter.

**NON-SOLID FENCE.** A fence with at least 75% open area and with vertical supports each no more than 25 square inches in cross sectional area.

**NORTH AMERICAN VERTICAL DATUM (NAVD).** As corrected in 1988, a vertical control used as a reference for establishing varying elevations within the floodplain. If a datum other than NAVD 88 is used, then use the datum listed as the reference datum on the applicable FIRM panel for use on elevation certificate completion. See Flood Insurance Administration (FIA)-20 part 1, 8.

**OPEN HOUSE FORUM.** A public meeting held by the owner of the proposed levee and the Director of Mecklenburg County Storm Water Services, or his or her designee. The purpose of the **OPEN HOUSE FORUM** is to provide an opportunity for discussion between the owner that has submitted an application for the construction of a levee, nearby property owners and other interested parties.

**PLOT PLAN.** A scaled drawing of a parcel of land showing the location of significant natural features and existing and proposed manmade features.

**POST-FIRM.** Construction or other development for which the start of construction occurred on or after the effective date of the initial Flood Insurance Rate Map.

**PRE-FIRM.** Construction or other development for which the start of construction occurred before the effective date of the initial Flood Insurance Rate Map.

**PRELIMINARY FLOOD INSURANCE RATE MAP (PFIRM).** A map(s) released by the Federal Emergency Management Agency (FEMA) for public comment prior to the effective date of the FIRM as established by FEMA. The map may be in both digital and printed format and shows the Community and FEMA Special Flood Hazard Areas, Community Encroachment Areas and FEMA Floodways, FEMA and Community Base Flood Elevations, flood insurance risk premium zones and other data. The data and maps are subject to change prior to the effective date.

**PRELIMINARY FLOOD INSURANCE STUDY (PFIS).** A narrative report released by the Federal Emergency Management Agency for public comment prior to the effective date. Information contained in the PFIS includes a description of past flooding and studies, the study area, engineering methods, Community and FEMA Base Flood Elevations, other community and FEMA flood data. The Flood Insurance Rate Maps are also included as part of the Flood Insurance Study. The data and maps are subject to change prior to the effective date.

**PRINCIPALLY ABOVE GROUND.** At least 51% of the actual cash value of the structure is above ground.

**PROJECT.** A development activity that is physically separate, functionally independent and not constructed at the same time as another development activity.

**PUBLIC SAFETY AND/OR NUISANCE.** Anything which is injurious to the safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal or basin.

**RECREATION VEHICLE.** A vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a car or light-duty truck; and



(4) Designed primarily not for use as a permanent dwelling, but as temporarily living quarters for recreational, camping, travel or seasonal use.

**REFERENCE LEVEL.** The top of the lowest floor, for regulatory purposes, of structures in the FEMA and/or Community Special Flood Hazard Area.

**REMEDY A VIOLATION.** To bring the structure or other development into compliance with this chapter or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impact may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of this chapter or otherwise deterring future similar violations, or reducing federal financial exposure with regard to the structure or other development.

**REPETITIVE LOSS.** Flood-related damages sustained by a structure on two separate occasions during any ten-year period for which the cost of repairs at the time of each flood event, on the average, equals or exceeds 25% of the market value of the structure before the damage occurred.

**RIVERINE.** Relating to, formed by or resembling a river (including tributaries), stream, brook and the like.

**SALVAGE YARD.** Any nonresidential property used for the storage, collection and/or recycling of any type of equipment, and including but not limited to vehicles, appliances and related machinery.

**SOLID WASTE DISPOSAL FACILITY.** Any facility involved in the disposal of solid waste, as defined in G.S. § 130A-290(a)(35).

**SOLID WASTE DISPOSAL SITE.** As defined in G.S. § 130A-290(a)(36), any place at which solid wastes are disposed of by incineration, sanitary landfill or any other method.

**SPECIAL FLOOD HAZARD AREA.** The FEMA Special Flood Hazard Area.

**START OF CONSTRUCTION.** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (including a manufactured home) on a site, such as pouring of slabs or footing, installation of piles, construction of columns or any work beyond the state of excavation or the placement of a manufactured home on a foundation. Permanent construction does not 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 parts of the main structure. For substantial improvement, the actual **START OF CONSTRUCTION** means the first alteration of any wall, ceiling, floor or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE.** For floodplain management purposes, a walled and roofed building, a manufactured home, a gas or liquid storage tank, or other human-made facilities or infrastructures that are principally above ground.

**SUBSTANTIAL DAMAGE.** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damages occurred. **SUBSTANTIAL DAMAGE** also means flood-related damages sustained by a structure on two separate occasions during a ten-year period where the cost of repairs at the time of each flood event equals or exceeds 25% of the market value of the structure before the damage occurred. See definition of **SUBSTANTIAL IMPROVEMENT**.

**SUBSTANTIAL IMPROVEMENT.**

(1) Any repairs, reconstruction, rehabilitation, addition, or other improvement of a structure, or combination thereof, where the total cost equals or exceeds 50% 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.

(2) **SUBSTANTIAL IMPROVEMENT** also means any repair, reconstruction, or improvement to a structure on two separate occasions during a ten-year period, for which the total cost of repairs, reconstruction or improvement at the time of each alteration, equals or exceeds 25% of the market value of the structure before the damage occurred or the substantial improvement began. The Floodplain Administrator may determine if separate actions constitute a single project (§ 152.042(P)).

(3) For the purposes of this definition, **SUBSTANTIAL IMPROVEMENT** is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

**SUBSTANTIALLY IMPROVED EXISTING MANUFACTURED HOME PARK OR SUBDIVISION.**

Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

**TECHNICALLY MEASURABLE.** An activity and/or condition that can be modeled within the stated or commonly known accuracy of the FEMA approved hydraulic models or other engineering computations, and may have an impact on base flood elevations. The Floodplain Administrator will determine if a proposed activity and/or condition meets the **TECHNICALLY MEASURABLE** definition.

**VARIANCE.** A grant of relief to a person from the requirements of this chapter.

**VIOLATION.** The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in §§ 152.040 through 152.062 is presumed to be in violation, until such time as the documentation is provided.

**WATER SURFACE ELEVATION (WSE).** The height, in relation to mean sea level, of floods of various magnitudes and frequencies in the floodplains of riverine areas.

**WATERCOURSE.** A lake, river, creek, stream, channel or other topographic feature within a special flood hazard area on or over which waters flow at least periodically. **WATERCOURSE** includes specifically designated areas in which substantial flood damage may occur.

(1995 Code, § 26-30) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.020 LANDS TO WHICH THIS CHAPTER APPLIES.**

This chapter shall apply to all lands in the land use jurisdiction of the town within the area shown on the Flood Insurance Rate Maps (FIRMs) or any FEMA and/or locally approved revisions to data shown on the FIRMs, as being located within the FEMA and Community Special Flood Hazard Areas or land adjacent to the Special Flood Hazard Areas if it is affected by the work that is taking place.

(1995 Code, § 26-31) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.021 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.**

(A) The FEMA and Community Special Flood Hazard Areas are those identified in the effective Flood Insurance Study (FIS) dated September 2, 2015 and the accompanying Mecklenburg County Flood Insurance Rate Maps (FIRM), and local or FEMA approved revisions to the FIRM and/or FIS, are adopted by reference and declared to be part of this chapter.

(B) In areas where a Preliminary FIRM and Preliminary FIS exist, Community Base Flood Elevations shown on the Preliminary FIRM and Preliminary FIS shall be used for local regulatory purposes, if they are higher than those shown on the effective FIRM and FIS.

(C) Maps are as follows for the jurisdictional areas at the initial date:

(1) Town of Pineville dated March 18, 1987.

(2) City of Charlotte dated August 15 1978.

(3) Mecklenburg County Unincorporated Area, dated June 1, 1981.

(1995 Code, § 26-32) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

#### **§ 152.022 FLOODPLAIN DEVELOPMENT PERMIT REQUIRED.**

A floodplain development permit shall be required in conformance with the provisions of this chapter prior to the commencement of any development activities. The Floodplain Regulations Technical Guidance Document may be used for illustrative purposes to assist in determining the applicable type of floodplain development permit required.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

#### **§ 152.023 COMPLIANCE.**

No structure or land shall hereafter be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations.

(1995 Code, § 26-33) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

#### **§ 152.024 ABROGATION AND GREATER RESTRICTIONS.**

It is not intended by this chapter to repeal, abrogate, annul or in any way impair or interfere with any existing provisions of laws or ordinances or any rules, regulations or permits previously adopted or issued, or which shall be adopted or issued, in conformity with law, relating to the use of buildings or premises; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that, where this chapter imposes a greater restriction upon the use of buildings or premises or requires larger yards, courts or other open spaces than are imposed or required by the existing provisions of laws or ordinances, or by the rules, regulations or permits or by the easements, covenants or agreements, the provisions of this chapter shall control.

(1995 Code, § 26-34) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

#### **§ 152.025 INTERPRETATION.**

In the interpretation and applications of this chapter, all provisions shall be:

(A) Considered as minimum requirements;

(B) Liberally construed in favor of the governing body; and

(C) Deemed neither to limit nor repeal any other powers granted under state statutes.

(1995 Code, § 26-35) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

#### **§ 152.026 WARNING AND DISCLAIMER OF LIABILITY.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger floods can and will occur

on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the town or by any officer or employee thereof for any flood damages that result from reliance on this chapter or by any administrative decision lawfully made hereunder.

(1995 Code, § 26-36) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

## ADMINISTRATION

### § 152.040 DESIGNATION OF FLOODPLAIN ADMINISTRATOR.

The town designates the Planning Director or his or her designee as the Floodplain Administrator and the County Floodplain Administrator or his or her designated agent to administer and implement the provisions of this chapter through a properly executed, legally binding interlocal agreement.

(1995 Code, § 26-51) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

### § 152.041 FLOODPLAIN DEVELOPMENT PERMIT AND CERTIFICATION REQUIREMENTS.

(A) A floodplain development permit is required for any development within the community special flood hazard area (CSFHA) and is subject to the conditions below. The Floodplain Administrator is authorized to create, and amend from time to time as necessary, a *Floodplain Regulations Technical Guidance Document* to help explain the application of the provisions of this chapter, specifically the floodplain development permit provisions, through the use of charts and related written materials. The *Floodplain Regulations Technical Guidance Document* shall not be a part of this chapter, and shall be solely for illustrative and educational purposes. If there is any discrepancy between the *Floodplain Regulations Technical Guidance Document* and this chapter, the provisions of this chapter shall control.

(B) Floodplain development permits fall into one of two types: general floodplain development permits (GFDP) and individual floodplain development permits (IFDP). If the proposed development activities meet the requirements of the general floodplain development permit, an individual floodplain development permit is not required.

(1) *General floodplain development permit.* The intent of the general floodplain development permit (GFDP) is to allow uses or activities in the community special flood hazard area (including the FEMA floodway and community encroachment area) which inherently will not increase FEMA and/or community base flood elevations. The following uses and activities are permitted under a GFDP, without the need for an individual floodplain development permit, flood study or variance, as long as they result in no technically measurable increases in FEMA and/or community base flood elevations:

- (a) General farming, pasture, horticulture, forestry, wildlife sanctuaries, gardens, lawns, landscaping, mulch 12 inches or less in depth, and other similar activities;
- (b) Utility infrastructure (poles, sewer manholes, vent pipes, underground utilities and the like), sign poles, non-solid fences and other similar activities;
- (c) On-grade driveways, trails, sidewalks, boardwalks, roads and road maintenance; storm drainage system construction, repairs and maintenance (major and minor system) and other similar activities. The Floodplain Administrator must be notified in writing, including a project description and sketch plan, prior to commencement of these activities;

(d) Interior renovations with a value of less than \$10,000, to a structure with its lowest floor below the Flood Protection Elevation must meet the requirements of § 152.061(G); and

(e) Interior renovations of any value, to a structure with its lowest floor at or above the flood protection elevation.

(2) *Individual floodplain development permits.* Individual floodplain development permits are required for projects that do not meet the requirements of a general floodplain development permit. Application for an individual floodplain development permit (IFDP) shall be made to the Floodplain Administrator on forms furnished by him or her prior to any development activities proposed to be located within the community special flood hazard area. Requirements for submittal are available from the Floodplain Administrator.

(3) *Certification requirements.*

(a) Final as-built elevation certificate (FEMA Form 086-0-33) (for either residential or nonresidential buildings) or floodproofing certificate (FEMA Form 086-0-34) is required after construction is completed and prior to the issuance of a certificate of occupancy or a temporary certificate of occupancy. 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 or floodproofed elevation of the reference level and all attendant utilities. The certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is utilized, the 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 submitted. Deficiencies detected by this review shall be corrected by the permit holder immediately and prior to the issuance of a certificate of occupancy or temporary certificate of occupancy. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make the corrections required shall be cause to withhold the issuance of a certificate of occupancy or temporary certificate of occupancy.

(b) For proposed development to be located in the Community or FEMA Special Flood Hazard Area outside of the community encroachment area and the FEMA floodway, a certification from a registered land surveyor or professional engineer that states that no fill material was placed within the FEMA floodway or community encroachment area of any watercourse will be required prior to issuance of a certificate of occupancy or temporary certificate of occupancy.

(c) For proposed development within the community encroachment area or the FEMA floodway, an as-built topographic map prepared by a registered land surveyor or professional engineer will be required prior to issuance of a certificate of occupancy or temporary certificate of occupancy. This is in addition to the requirements of § 152.061(F).

(d) If a manufactured home is placed within the floodplain and the elevation of the chassis is 36 inches or higher above adjacent grade, an engineered foundation certification is required.

(e) Certification exemptions. The following structures, if located within the floodplain, are exempt from the elevation/floodproofing certification requirements specified in items (B)(3)(a) and (B)(3)(b) above:

1. Recreational vehicles meeting requirements of § 152.061(K);
2. Temporary structures meeting requirements of § 152.061(L); and
3. Accessory structures less than 150 square feet meeting requirements of § 152.061(M).

(4) *Permit application requirements.*

(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:

1. 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;
  2. The location of the community flood fringe line, community encroachment line, FEMA flood fringe line and FEMA floodway line as shown on the FIRM or other flood map, or a statement that the entire lot is within the special flood hazard area;
  3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map;
  4. The FEMA base flood elevation (BFE), community base flood elevation (CBFE), and the Flood Protection Elevation (FPE);
  5. The existing and proposed location of any watercourse that will be altered or relocated as a result of proposed development; and
  6. The certification of the plot plan by a registered land surveyor or professional engineer as deemed necessary by the Floodplain Administrator.
- (b) Proposed elevation of all development within the community or FEMA special flood hazard area, including but not limited to:
1. Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
  2. Elevation in relation to mean sea level to which any nonresidential structure in Zone AE will be floodproofed; and
  3. Elevation in relation to mean sea level to which any proposed utility systems will be elevated or floodproofed.
- (c) If floodproofing, a floodproofing certificate (FEMA Form 81-65) with supporting data and an inspection and operational plan that includes but is 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 chapter are met. These details include but are not limited to:
1. 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
  2. Openings to facilitate automatic equalization of hydrostatic flood forces on walls when solid foundation perimeter walls are used in community or FEMA special flood hazard area (see § 152.061(D)).
- (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.
1. Certification that all other local, state and federal permits required prior to floodplain development permit issuance have been received.
  2. Documentation for proper placement of recreational vehicles and/or temporary structures, when applicable, to ensure that the provisions of § 152.061(K) and (L) are met.
- (g) 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.
- (5) *Permit requirements.* The floodplain development permit shall include, but not be limited to:
- (a) A description of the development to be permitted under the floodplain development permit;
  - (b) The special flood hazard area determination for the proposed development;
  - (c) The flood protection elevation required for the reference level and all attendant utilities;

- (d) The 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 community and/or FEMA Floodway of any watercourse, as applicable; and
- (g) The flood openings requirements per § 152.061(E) (1).  
(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.042 DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR.**

Duties of the Floodplain Administrator or his or her designated agent shall include but not be limited to:

- (A) Reviewing, approving and issuing all floodplain development permits in a timely manner to assure that the permit requirements of this chapter have been satisfied;
- (B) Reviewing, approving and issuing all documents applicable to Letters of Map Change;
- (C) Advising the permittee that additional federal or state permits may be required; and if specific federal or state permits are known, requiring that copies of the permits be provided and maintained on file with the floodplain development permit;
- (D) Notifying 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 submitting evidence of the notification to the Federal Emergency Management Agency;
- (E) Assuring that within available resources, maintenance is provided within the altered or relocated portion of any altered watercourse so that the flood-carrying capacity is maintained;
- (F) Not issuing a floodplain development permit for encroachments within the community encroachment area and/or the FEMA floodway unless the certification and flood hazard reduction provisions of §§ 152.060 through 152.062 are met;
- (G) Reviewing and recording the actual elevation (in relation to mean sea level) of the reference level (including basement) of all new or substantially improved structures, in accordance with § 152.061(C);
- (H) Reviewing and recording the actual elevation (in relation to mean sea level) to which the new or substantially improved nonresidential structures have been floodproofed, in accordance with § 152.061(C);
- (I) Obtaining certifications from a registered professional engineer or architect in accordance with § 152.061(B) when floodproofing is utilized for a particular nonresidential structure;
- (J) Making the interpretation of the exact location of boundaries within the FEMA special flood hazard area or the community special flood hazard area when, for example, there appears to be conflict between a mapped boundary and actual field conditions. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this chapter. Procedures for changing flood hazard area boundaries and lines depicted on the Flood Insurance Rate Maps are identified in the National Flood Insurance Program regulations (44 C.F.R. pts. 59-78);
- (K) Permanently maintain all records that pertain to the administration of this chapter and make these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974 being 5 U.S.C. § 552a, as amended;
- (L) Making on-site inspections of projects;
- (M) Serving notices of violation, issuing stop-work orders, revoking permits and taking corrective actions;

- (N) Maintaining a copy of the Letter of Map Amendment issued from FEMA when a property owner has received a Letter of Map Amendment (LOMA). (A LOMA is typically applied for and approved when the exact location of boundaries of the FEMA special flood hazard area conflicts with the current, natural topography information at the site);
- (O) Determining the required information to be submitted with an application for approval of an individual floodplain development permit;
- (P) Reviewing information provided by a property owner or his or her designated agent for the purpose of making a determination of the total cost of repairs as it relates to a substantial improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration;
- (Q) Reviewing information provided by a property owner or his or her designated agent for the purpose of making a determination of whether the proposed construction activities constitute new construction for purposes of this chapter;
- (R) Reviewing and acknowledging FEMA Conditional Letters of Map Revision and FEMA Letters of Map Revision;
- (S) Reviewing and approving Community Conditional Letters of Map Revision and Community Letters of Map Revision;
- (T) Making 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;
- (U) Issuing stop-work orders. Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of this chapter, 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 the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage and the conditions under which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor;
- (V) Revoking floodplain development permits. The Floodplain Administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentation made in securing the permit. Any permit mistakenly issued in violation of an applicable state or local law may also be revoked. Revoked permits may be resubmitted for approval using the requirements of the ordinance in effect at the time of the original submittal unless they were revoked because of the intentional submission of incorrect information by the permittee or his or her agent, or under other circumstances where allowing resubmittal using the requirement of the ordinance in effect at the time of the original submittal would not be equitable or consistent with public policy. However, base flood elevations that govern the elevation to which the structure is built must comply with the regulations and flood elevations in effect at the time of application for the building permit;
- (W) Making periodic inspections. 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; and
- (X) Providing owners of structures in the floodplain with information concerning their flood risk, and (for structures with the lowest floor below the flood protection elevation) inform potential buyers of



substantial improvement restrictions through the recordation of a notice in the property chain of title or other similar notice.

(Y) Obtain actual elevation (in relation to mean sea level) of the reference level (including basement) and all attendant utilities of all new and substantially improved structures.

(Z) Obtain actual elevation (in relation to mean sea level) of all public utilities.

(1995 Code, § 26-52) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

#### **§ 152.043 ADMINISTRATIVE PROCEDURES.**

(A) *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 each immediately remedy the violation of law in the property he or she owns or occupies.

(B) *Actions in event of failure to take corrective action.* If the owner or occupant of a building or property shall fail to take prompt corrective action, the Administrator shall give him or her written notice, by certified or registered mail to his or her last known address or by personal service that:

(1) The building or property is in violation of the floodplain regulations;

(2) A hearing will be held before the Floodplain Administrator at a designated place and time, not later than 20 days after the date of the notice; at which time the owner or occupant shall be entitled to be heard in person or by counsel and to present floodplain regulations arguments and evidence pertaining to the matter; and

(3) Following the hearing, the Floodplain Administrator may issue an order to alter, vacate or demolish the building, or to remove fill or unauthorized encroachment, as appears appropriate.

(4) *Order to take corrective action.* If, upon a hearing held pursuant to the notice prescribed above, the Administrator shall find that the building or development is in violation of the floodplain ordinance, he or she shall make an order in writing to the owner, requiring the owner to remedy the violation within such period, not less than 60 days, nor more than 180 calendar days. If the Floodplain Administrator determines there is imminent danger to public health, safety, or welfare, or other property, he or she may order that immediate corrective action be taken and if no corrective action is taken as ordered, the Floodplain Administrator, with the written authorization of the Town Manager, shall have the authority to enter upon the property to perform the work necessary to correct the condition and the owner or occupant shall be responsible for the actual costs incurred.

(C) *Appeal.* Any owner who has received an order to take corrective action may appeal from the order to the Town Council by giving notice of appeal in writing to the Administrator and the Clerk within ten days following issuance of the final order. In the absence of an appeal, the order of the Administrator shall be final. The Town Council shall hear an appeal within a reasonable time and may affirm, modify and affirm or revoke the order. All such decisions of the Town Council are subject to review by the county superior court as provided in G.S. § 143-215.57(c), as the statute may be amended from time to time.

(D) *Failure to comply with order.* If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the Town Council following an appeal, he or she shall be guilty of a misdemeanor and shall be punished in the discretion of the court. In addition, the owner or occupant shall be subject to civil enforcement as described in § 152.999.

(1995 Code, § 26-55) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014) Penalty, see § 152.999

#### **§ 152.044 VARIANCE PROCEDURES.**

(A) The Board of Adjustment of Pineville shall hear and decide appeals from any order, decision, determination or interpretation made by the Floodplain Administrator pursuant to or regarding these regulations.

(B) The Board of Adjustment shall hear and decide petitions for variances from the requirements of this chapter.

(C) Variances may be issued for 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 the variance is the minimum necessary to preserve the historic character and design of the structure.

(D) In passing upon such application, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter and the:

(1) Danger that materials allowed to be placed in the floodway as a result of the variance may be swept onto other lands to the injury of others during a base flood;

(2) Danger to life and property due to flooding or erosion damage from a base flood;

(3) Susceptibility to the proposed facility and its contents to flood damage and the effect of such damage during the base flood;

(4) Importance of the services provided by the proposed facility to the community;

(5) Necessity to the facility of a waterfront location, where applicable;

(6) Availability of alternative locations, not subject to flooding or erosion damage during a base flood, for the proposed use;

(7) Compatibility of the proposed use with existing and anticipated development;

(8) Relationship of the proposed use to the Town Land Use Plan, *County Floodplain Management Guidance Document*, County Flood Hazard Mitigation Plans, the County Greenway Plan and any other adopted land use plans for that area;

(9) Safety of access to the property in times of a community base flood for ordinary and emergency vehicles;

(10) Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters during a base flood and the effects of wave action, if applicable, expected at the site; and

(11) 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.

(E) Upon consideration of the factors listed above and the purposes of this chapter, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this chapter.

(F) A written report addressing each of the above factors shall be submitted with the application for a variance.

(1995 Code, § 26-56) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

#### **§ 152.045 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 if the variance would result in any increase in flood levels during the community and/or FEMA base flood discharge unless the requirements of § 152.061(G) are met.

(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 approval of a floodplain development permit.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.046 STANDARDS FOR GRANTING VARIANCE.**

Variances shall only be issued upon:

- (A) A showing of good and sufficient cause;
- (B) A determination that the difficulty or exceptional hardship resulting from the application of this chapter would prevent the owner from securing a reasonable return or making a reasonable use of the property. The fact that the property could be utilized more profitably or conveniently with the variance than without the variance shall not be considered as grounds for granting the variance; and
- (C) A determination that the granting of a variance will not result in increased flood heights (unless the requirements of § 152.060(D) are met), additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.047 MISCELLANEOUS CONDITIONS.**

(A) In addition to consideration of the items in § 152.044(D)(1) if dryland access cannot be obtained, a variance to the requirement for dryland access may be granted by the Board of Adjustment upon consideration of the following conditions:

- (1) A determination that all possible alternatives have been investigated in an attempt to provide the safest access from a proposed habitable building to a dry public street; and
- (2) The existence of a site plan prepared by a licensed land surveyor or professional engineers indicating that the proposed access to habitable buildings on the property poses the least risk from flooding.

(B) In addition to consideration of the items in § 152.044(D)(1), a variance may be issued for solid waste disposal facilities, hazardous waste management facilities, salvage yards and chemical storage facilities that are located in areas of special flood hazard, provided that all of the following criteria apply:

- (1) The use serves a critical need in the community;
- (2) No feasible location exists for the use outside the area of special flood hazard;
- (3) The lowest floor of any structure is elevated above the base flood elevation or is designed to be watertight with walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy;
- (4) The use complies with all other applicable laws and regulations;
- (5) The Floodplain Administrator has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 days prior to granting the variance; and
- (6) There will be no storage of materials or tanks which could flood within the special flood hazard area unless they are contained in a structure as defined in (B)(3) above.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.048 NOTIFICATION AND RECORDKEEPING.**

(A) Any applicant to whom a variance from the FEMA base flood elevation is granted shall be given written notice specifying the difference between the FEMA base flood elevation and the elevation to which the structure is to be built and a written statement that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation. Such notification shall be maintained with a record of all variance actions.

(B) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances regarding FEMA minimum standards to the Federal Emergency Management Agency and the state upon request.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.049 APPEAL FROM BOARD OF ADJUSTMENT.**

(A) Any person aggrieved by the final decision of the Board of Adjustment to grant or deny a floodplain development permit shall have 30 days to file an appeal to the county superior court, as provided in G.S. § 143-215.57(c).

(B) Any party aggrieved by the decision of the Board of Adjustment related to any other order, decision, determination or interpretation of these regulations, including the granting or denial of a variance, shall have 30 days from the receipt of the Board's decision to file a petition for review in the nature of certiorari in the county superior court.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**FLOOD HAZARD REDUCTION**

**§ 152.060 GENERAL REQUIREMENTS.**

In all areas of special flood hazard, the following provisions are required:

(A) All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure;

(B) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to the use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces;

(C) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;

(D) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(E) Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed, constructed, installed and/or located at least one foot above the flood protection elevation. These include but are not limited to HVAC equipment, water softener units, bath/kitchen fixtures, electric meter panels/boxes, utility/cable boxes, appliances (i.e., washers, dryers, refrigerator and the like), hot water heaters, electric wiring and outlets/switches;

(F) New and replacement sanitary sewage systems shall be designed to minimize or eliminate the infiltration of flood waters into the system and discharges from the systems into flood waters;

(G) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding;

(H) Any alteration, repair, reconstruction or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of new construction as contained in this chapter;

(I) Construction of new solid waste disposal facilities, hazardous waste management facilities, salvage yards and chemical storage facilities shall not be permitted, except by variance, in areas of special flood hazard. 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 an area of special flood hazard only if the structure or tank is either elevated above base flood elevation or designed to be watertight with walls substantially impermeable to the passage of water

and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

(J) Any new critical facility must be located outside of the 500-year (0.2%) flood fringe area and elevated at least one foot above the 500-year (0.2%) base flood elevation or the community base flood elevation, whichever is greater. The determination of this flood fringe area and elevation will be provided by the Floodplain Administrator.

(K) For the purpose of determining substantial improvement, the Floodplain Administrator shall make a determination of the total cost of repairs as it relates to a substantial improvement, including a determination of whether a series of repairs, reconstructions or improvements constitute one single alteration such that the total cost of the repairs, reconstructions or improvements will be the cumulative cost from the first alteration.

(L) All development proposals submitted for review and approval in accordance with the Subdivision Ordinance of the town shall also comply with the following provisions:

(1) Locate and construct public utilities and facilities, such as sewer, gas, electrical and water systems, to minimize flood damage;

(2) Construct all new streets located in a community special flood hazard area in accordance with the applicable provisions of the subdivision ordinance;

(3) Design and construct adequate drainage to reduce exposure to flood hazards; and

(4) Take any other appropriate measures needed to minimize flood damage.

(M) When a structure is partially located in a community or FEMA special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.

(N) When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation shall apply.

(1995 Code, § 26-66) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

#### **§ 152.061 SPECIFIC STANDARDS.**

In all community and FEMA special flood hazard areas where community and FEMA base flood elevation data have been provided, as set forth in §§ 152.021 and 152.060(J), the following provisions are required.

(A) *Residential construction.*

(1) New construction or substantial improvement of any residential structure shall have the lowest floor, including basement, and attached garages elevation elevated no lower than one foot above the community base flood elevation.

(2) *Nonsubstantial improvements notice.* Renovations/rehabilitations costing between 25% and 50% of the market value of the existing building and the building having the lowest floor below the flood protection elevation, will require the property owner to record a Notice of Floodplain Improvements (provided in the *Floodplain Regulations Technical Guidance Document*) with the County Register of Deeds office prior to the issuance of a building permit.

(B) *Nonresidential construction.* New construction or substantial improvement of any commercial, industrial or nonresidential structure shall have the lowest floor, including basement, elevated no lower than one foot above the level of the community base flood elevation, or be floodproofed in lieu of elevation, provided that all areas of the structure below the required 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 effects of buoyancy. A

registered professional engineer or architect shall certify that the standards of this division are satisfied. This certification shall be provided to the Floodplain Administrator.

(C) *New buildings removed from the FEMA special flood hazard area by fill.* When new buildings have been constructed on land that has been removed from the FEMA special flood hazard area by the placement of fill, they must have the lowest floor (including basement) elevated at least one foot above the community base flood elevation.

(D) *Non-substantial Improvements Notice.* Renovations/rehabilitations costing between 25% and 50% of the market value of an existing building having the lowest floor below the flood protection elevation, will require the property owner to record a Notice of Floodplain Improvements (provided in the *Floodplain Regulations Technical Guidance Document*) with the Mecklenburg County Register of Deeds Office prior to the issuance of a building permit.

(E) *Elevated buildings.* New construction or substantial improvement of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of flood waters to automatically equalize hydrostatic flood forces on exterior walls.

(1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:

(a) Provide a minimum of two openings, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;

(b) The bottom of all openings shall be no higher than one foot above grade;

(c) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided they permit the automatic flow of flood waters in both directions;

(d) Openings must be on different sides of the enclosed area if possible; and

(e) If the building has more than one enclosed area, each must have openings.

(2) Foundation enclosures:

(a) Vinyl or sheet metal skirting is not considered an enclosure for regulatory and flood insurance rating purposes. Therefore this skirting does not require hydrostatic openings as outlined above.

(b) Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires hydrostatic openings as outlined above to comply with this chapter.

1. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or enter to the living area (stairway or elevator).

2. The interior portion of the enclosed area shall not be partitioned or finished into separate rooms, except to enclosed storage areas.

3. The enclosed area shall be constructed entirely of flood resistant materials at least to the flood protection elevation.

(F) *Dryland access.* Access to habitable buildings during a flood event is extremely hazardous. Dryland access must be provided to new or substantially improved habitable buildings according to the following criteria.

(1) Dryland access is required if any portion of either the habitable building or vehicular access route, connecting the habitable building to a public street, is within the floodplain. If dryland access cannot be obtained, a variance to the requirement for dryland access may be granted by the Board of Adjustment. Plans and details for the dryland access must be submitted by a registered professional engineer or surveyor and approved by the Floodplain Administrator.

(2) The following are exempt from the dryland access requirement.

(a) Substantial improvement to an existing habitable building where the property does not have any access to a dry public street.

(b) Construction of a new habitable building where both the habitable building and the access route connecting it to a public street are located entirely outside the community encroachment area and where the property does not have any access to a dry public street. Under this exemption, access from the habitable building to the public street must:

1. Connect to the highest point of the public street adjacent to the property;
2. Be constructed of gravel, pavement or concrete and be at least 12 feet wide; and
3. Be constructed entirely at or above the elevation of highest point of the public street adjacent to the property.

(G) *FEMA floodway and community encroachment area.* The FEMA floodway and the community encroachment area are very hazardous areas due to the velocity of flood waters which carry debris and potential projectiles and have erosion potential. The following provisions shall apply within these areas.

(1) *Community encroachment area.*

(a) No encroachments, requiring an individual floodplain development permit, including fill, new construction, substantial improvements and other development shall be permitted within the community encroachment area unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the encroachment would not result in increased flood heights of greater than 0.10 foot during the occurrence of a community base flood. The certification and associated technical data by a registered engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise of more than 0.10 foot in the community base flood elevation will require notification of impacted property owners, and a Community Conditional Letter of Map Revision (CoCLOMR) from the Floodplain Administrator. If approved and constructed, as-built plans must be submitted and approved by the Floodplain Administrator and a Community Letter of Map Revision (CoLOMR) issued. A certificate of occupancy will not be issued without the above stated Community Letter of Map Revision.

(b) Projects impacting existing habitable buildings that increase the community base flood elevation more than 0.00 feet will not be allowed without a variance.

(2) *FEMA floodway.* No encroachments requiring an individual floodplain development permit, including fill, new construction, substantial improvements and other development shall be permitted within the FEMA floodway unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the encroachment would not result in any (0.00 feet) increase in the FEMA base flood elevations during the occurrence of a FEMA base flood and no increase in the community base flood elevations during the occurrence of the community base flood. Such analysis performed by a registered professional engineer shall be approved by the Floodplain Administrator. Any change which would cause a rise in the FEMA base flood elevation or an increase in the FEMA floodway width during the occurrence of the FEMA base flood will require notification of impacted property owners, and a Conditional Letter of Map Revision from FEMA. If approved and constructed, as-built plans must be submitted by the property owner and approved by FEMA and a Letter of Map Revision issued. A certificate of occupancy will not be issued without the above stated Conditional Letter of Map Revision.

(a) Any change which would cause a rise in the community base flood elevation or an increase in the width of the community encroachment area during the occurrence of the community base flood will require notification of impacted property owners, and a Community Conditional Letter of Map Revision (CoCLOMR).

(b) Projects which cause a rise of greater than 0.00 feet in the FEMA base flood elevation and impact an existing habitable building will not be allowed.

(H) *Manufactured homes.* No manufactured homes shall be permitted, except in an existing manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivisions, provided the anchoring and the elevation standards of § 152.060(A) are met.

(I) *Additions/improvements.*

(1) Additions and/or improvements to non-compliant areas of pre-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:

(a) Are not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure; or add additional nonconforming enclosed area to the structure.

(b) Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards of § 152.061.

(2) Additions to post-FIRM structures with no modifications to the existing structure shall require only the addition to comply with the standards of § 152.061.

(3) Additions and/or improvements to post-FIRM structures whereas the addition and/or improvements in combination with any interior modifications to the existing structure:

(a) Are not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction; or

(b) Are a substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards of § 152.061.

(c) Customary maintenance and/or repair are not considered additions or improvements.

(J) *Manufactured homes.*

(1) New and replaced manufactured homes must be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated at least one foot above the community base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Manufactured homes that are to be placed or substantially improved on sites in an existing manufactured home park or subdivision that are not subject to the provisions of § 152.061(C) must be elevated so that the lowest floor of the manufactured home is elevated at least one foot above community base flood elevation, and be securely anchored to an adequately anchored foundation to resist flotation, collapse and lateral movement.

(2) Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. For the purpose of this requirement, manufactured homes must be anchored to resist flotation, collapse or lateral movement in accordance with the Regulations for Mobile Homes and Modular Housing adopted by the Commissioner of Insurance pursuant to G.S. § 143-143.15. Additionally, when the elevation would be met by raising the chassis at least 36 inches or less above the grade at the site, the chassis shall be supported by reinforced piers or other foundation elements of at least equivalent strength. When the elevation of the chassis is above 36 inches in height, an engineering certification is required.

(3) An evacuation plan must be developed for evacuation of all residents of all new, substantially improved or substantially damaged manufactured home parks or subdivision located within the area of special flood hazard. This plan shall be filed with and approved by the Floodplain Administrator and the local Emergency Management Coordinator.

(4) All enclosures or skirting below the lowest floor shall meet the requirements of § 152.061(D).

(K) *Recreational vehicles.* A recreational vehicle is ready for highway use if it is on wheels or jacking system, is attached to the site only by quick-disconnection type utilities and security



devices, and has no permanent attached additions. Recreation vehicles placed on sites shall either:

- (1) Be on site for fewer than 180 days;
- (2) Be fully licensed and ready for highway use; or
- (3) Meet the requirements of §§ 152.042, 152.061 and 152.062.

(L) *Temporary structures*. Prior to issuance of a floodplain development permit for a temporary structure the following requirements must be met:

(1) All applicants must submit to the Floodplain Administrator a plan for removal of such structure(s) in the event of a hurricane or flash flood notification. The plan must include the following information:

- (a) The name, address and phone number of the individual responsible for the removal of the structure;
- (b) The time frame prior to the event at which a structure will be removed. The time specified may not exceed three months, and is renewable up to one year;
- (c) A copy of the contract or other suitable instrument with a trucking company to insure the availability of removal equipment when needed;
- (d) Designation, accompanied by documentation, of a location outside the floodplain to which the temporary structure will be removed; and
- (e) A specified time period for which the temporary use will be permitted. The time specified may not exceed three months, and is renewable up to one year.

(2) The above information shall be submitted in writing to the Floodplain Administrator for review and written approval.

(M) *Accessory structures*. When accessory structures (sheds, detached garages and the like), are to be placed in the floodplain, the following criteria shall be met:

- (1) Accessory structures shall not be used for human habitation (including working, sleeping, living, cooking or restroom areas);
- (2) Accessory structures shall be designed to have a low flood damage potential;
- (3) Accessory structures shall be firmly anchored in accordance with § 152.061(A);
- (4) Service facilities such as electrical shall be elevated in accordance with § 152.061(C);
- (5) Accessory structures shall have hydrostatic openings per § 152.061(D);
- (6) Accessory structures under 150 square feet do not require an elevation or floodproofing certificate; and
- (7) Accessory structures shall not be temperature-controlled.

(N) *Parking spaces*. The lowest elevation of any parking space required for new or substantially improved non-single-family habitable buildings must be no more than 0.5 feet below the Community Base Flood Elevation.

(O) *Levees*. Levees will be treated as development in the floodplain and are subject to all applicable sections of this chapter.

(1) A levee shall not be constructed solely to protect vacant property from flooding.

(2) With the exception of a levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, levees require the approval of the Director of Mecklenburg County Storm Water Services, or his or her designee, regardless of their location within the community special flood hazard area (entire floodplain).

(3) With the exception of a levee that protects a building or feature that must be located in the vicinity of a stream to be functional such as a stream monitor, water/sewer facility or other uses approved by the Floodplain Administrator, the owner of the levee and the Director of Mecklenburg

County Storm Water Services, or his or her designee, shall conduct an open house forum prior to consideration of approval. The open house forum initiates a 30-day comment period for the Director or his or her designee to receive comments from the public.

(4) Owners of land adjacent to a proposed levee shall be notified of the open house forum and be provided an opportunity to submit written comments during the 30-day comment period. Notification is to occur through regular mail, as well as a sign being placed at a conspicuous place at the creek and along the public and private road(s) of the properties that would be protected by the proposed levee.

(5) After the end of the 30-day comment period, but no more than 60 days from the end of the comment period, the Director shall approve or disapprove the application or request more information from the owner of the levee. If the Director determines that the additional information is sufficiently significant, the Director may offer an additional 30-day comment period to all parties involved. Consistent with § 152.049, the Director's decision may be appealed to the Zoning Board of Adjustment.

(6) Regardless of whether the proposed levee would meet FEMA certification requirements, floodplain lines and flood elevations will not be modified based on the location, performance or any other aspects of the levee.

(7) An instrument must be recorded in the chain of title for all parcels protected by a levee indicating the level of protection provided by the levee and the maintenance requirements as described in (8)(g) below.

(8) *Levee permitting requirements.* Prior to the issuance of a floodplain development permit for construction of a proposed levee, the applicant must submit the following information in writing to the Floodplain Administrator for review and written approval:

(a) Plans and/or specifications showing the location of the proposed levee is as far away from the adjacent creek as reasonably possible;

(b) Copy of the written approval for the levee received from the Director of County Storm Water Services;

(c) Verification of notification to owners of land adjacent to the proposed levee (those within 500 feet of the property lines of the parcel on which the proposed levee is to be located or within a distance equal to the length of the proposed levee, whichever is greater). Notification is also to include properties that are in the community special flood hazard area and within the hydraulic modeling limits as described below;

(d) Copies of all written comments received from property owners referenced above;

(e) Hydrologic and hydraulic flood models showing the proposed conditions if the levee is proposed to be located within the community encroachment area and:

1. Show no increase in water surface elevations on any existing habitable building using the current and future discharges for the ten, 25, 50, 100-year frequency flows;

2. Account for all feasible future levees in the area as deemed appropriate by the Floodplain Administrator;

(f) A copy of the contract with the entity responsible for construction of the proposed levee; and

(g) A copy of the maintenance plan for the levee which has been certified by a state professional engineer, which shall include a description of the process by which the levee will be inspected annually and provide for updated plans to be provided annually to property owners and residents intended to benefit from the levee.

(h) Levees constructed on an individual single family residential parcel are exempt from the requirements of § 152.061(M)(2)-(5), (7).

(1995 Code, § 26-67) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.062 STANDARDS FOR STREAMS WITH DRAINAGE AREAS OF ONE SQUARE MILE OR GREATER NOT HAVING ESTABLISHED BASE FLOOD ELEVATIONS AND/OR FLOODWAYS.**

All streams in the town and the county with drainage areas of one square mile or greater have established community and FEMA base flood elevations and community encroachment areas and FEMA floodways.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

## **LEGAL STATUS PROVISIONS**

**§ 152.075 EFFECT ON RIGHTS AND LIABILITIES UNDER THE EXISTING FLOODWAY REGULATIONS.**

This chapter in part comes forward by re-enactment of some of the provisions of the Floodplain Regulations enacted June 25, 1987, as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption those existing provisions, so that all rights and liabilities that have accrued there under are reserved and may be enforced. The enactment of this chapter shall not affect any action, suit or proceeding instituted or pending. All provisions of the Floodplain Regulations of Town of Pineville enacted on June 25, 1987, as amended, which are not reenacted herein, are repealed.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.076 EFFECT UPON OUTSTANDING FLOODPLAIN DEVELOPMENT PERMITS.**

(A) 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 before the time of passage of this Floodplain Regulation chapter; provided, however, that when construction is not begun under the outstanding permit within a period of two years subsequent to passage of this chapter or any revision thereto, the permit shall become void and construction or use shall be in conformity with the provisions of this chapter.

(B) Any application(s) for a floodplain development permit received prior to the effective date of these Floodplain Regulations shall be reviewed under the regulations in effect at the time of the initial application. Any incomplete application(s) for a floodplain development permit will be valid only for 90 days after the Floodplain Administrator has requested additional information from the applicant or his or her agent. If 90 days after the owner or his or her agent has received the request for additional information the applicant has failed to submit reasonably complete information that demonstrates a good-faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.077 EXPIRATION OF FLOODPLAIN DEVELOPMENT PERMITS ISSUED AFTER ADOPTION OF THIS CHAPTER.**

(A) Individual floodplain development permits issued pursuant to this chapter expire two years after the date of issuance unless the work has commenced within two years after the date of issuance, or the issuance of the permit is legally challenged, in which case the permit is valid for two years after the challenge has been resolved.

(B) Any incomplete application(s) for an individual floodplain development permit will be valid only for 90 days after the Floodplain Administrator has requested additional information from the applicant or his or her agent. If, 90 days after the owner or his or her agent has received the request for additional information, the applicant has failed to submit reasonably complete information that demonstrates a good-faith effort to provide all the additional information requested, as determined by the Floodplain Administrator, the application will become void. Any subsequent submittals will be considered as new applications and reviewed under the regulations in effect on the date the subsequent submittal is received by the Floodplain Administrator.

(Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**§ 152.999 PENALTY.**

Violation of the provisions of this chapter or failure to comply with any of its requirements including violation of conditions and safeguards established in connection with grants of floodplain development permits, variances or special exceptions, shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500 or imprisoned for not more than 30 days. Each day the violation continues shall be considered a separate offense. Nothing herein contained shall prevent the town or the Floodplain Administrator from taking such other lawful action as is necessary to prevent or remedy any violation, including but not limited to seeking injunctive relief, orders of abatement or other similar equitable relief.

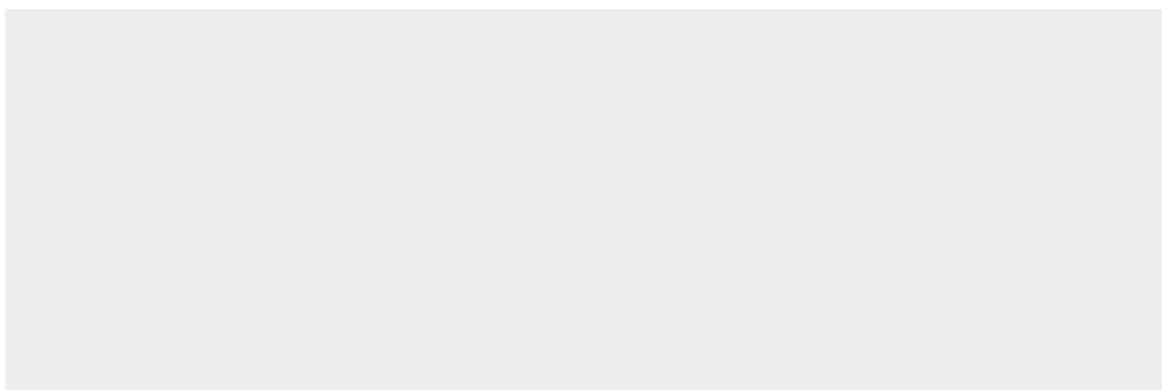
(1995 Code, § 26-37) (Ord. 2009-03, passed 2-10-2009; Ord. 2013-02, passed 3-12-2013; Ord. 2014-00, passed 2-11-2014)

**SEVERABILITY.**

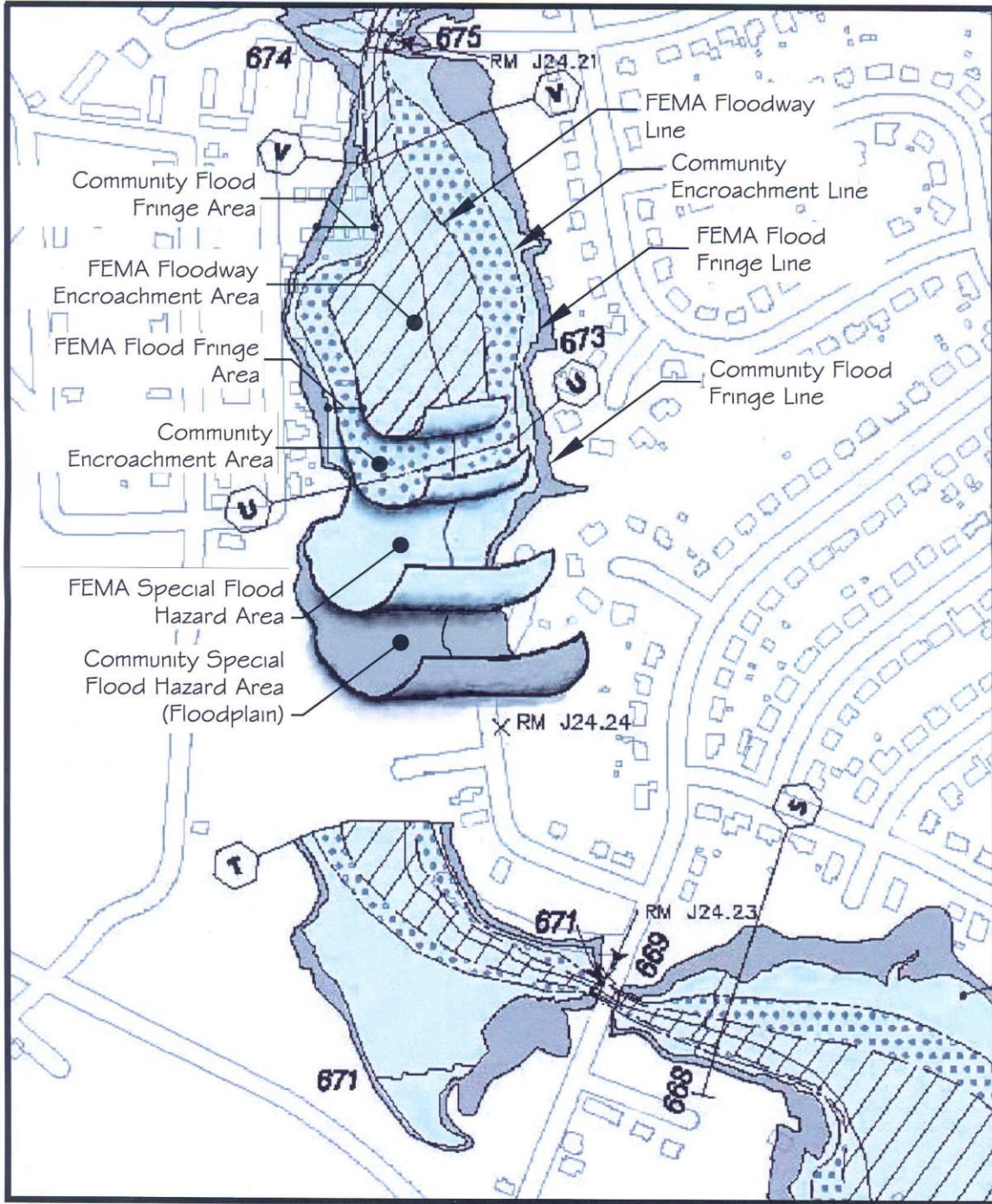
If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

**EFFECTIVE DATE**

This ordinance shall become effective upon adoption.



**APPENDIX A: FLOOD MAP AREAS**



(Ord. 2009, passed 2-10-2009; Ord. 2013, passed 3-12-2013; Ord. 2014, passed 2-11-2014; Ord 2015, passed 10-13-2015)

## **CHAPTER 153: Surface Water Improvement & Management (S.W.I.M.) Buffers**

**Ratified on April 11, 2000**

### Section

- 153.001 Purpose
- 153.002 Definitions
- 153.003 Applicability
- 153.004 Buffer Standards
- 153.005 Incentives
- 153.006 Mitigation
- 153.007 Appeals and Variances

### 153.001 Purpose

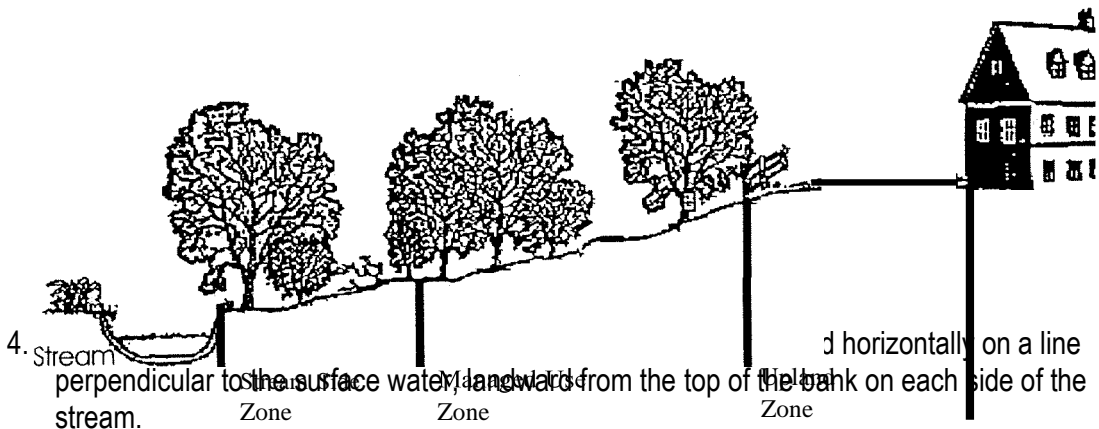
The purpose of the stream buffer network in Pineville is to ensure that the stream and adjacent lands will fulfill their natural functions. Stream systems are comprised of the stream and their drainage basins. Streams have the primary natural functions of conveying storm and ground water, storing floodwater and supporting aquatic and other life. Vegetated lands adjacent to the stream channel in the drainage basin serve as a "buffer" to protect the stream system's ability to fulfill its natural functions. Primary natural functions of the buffer include:

- Protect water quality by filtering pollutants;
- Provide storage for floodwaters;
- Allow channels to meander naturally; and
- Provide suitable habitats for wildlife.

### 153.002 Definitions

For the purposes of this Section, the following words and phrases shall be defined as specified below.

1. Best Management Practices (BMPs): A structural or nonstructural management-based practice used singularly or in combination to reduce non-point source input to receiving waters in order to achieve water quality protection goals.
  - Non-structural BMPs: Non-engineered methods to control the amount of non-point source pollution. These may include land-use controls and vegetated buffers.
  - Structural BMPs: Engineered structures that are designed to reduce the delivery of pollutants from their source or to divert contaminants away from the water supply. These may include wet detention ponds, detention basins, grass swales and ditches, and infiltration devices, as allowed elsewhere in this Ordinance.
2. Buffer: 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.
3. Buffer Zones: The stream buffer is comprised of three (3) zones as shown below.



5. Drainage Basin: The area of land which drains to a given point on a body of water.
6. Mitigation: Actions taken either on-site or off-site as allowed by this Part to offset the effects of temporary or permanent loss of the buffer.
7. Stream: A drainage feature on the land surface for conveying water.
8. Top of Bank: The landward edge of the stream channel during high water or bankfull conditions at the point where the water begins to overflow onto the floodplain.

### **153.003 Applicability**

1. All properties shall be subject to the buffer requirements of this Section except those properties which, as of the effective date of April 11, 2000, fit into one of the following categories:
  - (a) Have been issued a Certificate of Building Code Compliance.
  - (b) Have a valid building permit or fill permit.
  - (c) Have been subdivided by a recorded subdivision plat.
  - (d) Have been described by metes and bounds in a recorded deed which:
    - If to be used for residential purposes:  
Are 1 acre or less in size.
    - If to be used for nonresidential purposes:  
Are 4 acres or less in size if located on a non-FEMA regulated floodway,  
or  
Are 7 acres or less in size if located on a FEMA regulated floodway.
  - (e) Are included on a valid preliminary subdivision plan.
  - (f) Have otherwise secured a vested property right under State law or local ordinance, ***including a fill permit.***
2. Redevelopment or expansions to uses included in the above categories are not subject to the buffer requirements of this Section unless it would result in an increase in the total impervious area within the buffer.
3. In the event that stream buffers are required by another Section of this Ordinance, the more stringent stream buffer requirements apply.

### **153.004 Buffer Standards**

Required stream buffer widths vary based on the size of the upstream drainage basin. Mecklenburg County's Geographic Information System (GIS) will serve as a tool to delineate the size of drainage basins and specify the corresponding buffer widths. S.W.1.M. stream buffer requirements specified in this Section begin at the point where the stream drains 100 acres or greater. Refer to the Charlotte-Mecklenburg Storm Water Design Manual for optional buffers on streams that drain less than 100 acres.

1. Buffer widths for streams draining equal to and greater than 100 acres



Buffers are required for streams draining areas equal to or greater than 100 acres as specified below. Buffer widths for these streams are measured horizontally on a line perpendicular to the surface water, landward from the top of the bank on each side of the stream.

Drainage Area Designation	Stream Side Zone	Managed Use Zone	Upland Zone	Total Width of Buffer on each side of Stream
> 100 acres	20 feet	None	15 feet	35 feet
> 300 acres	20 feet	20 feet	10 feet	50 feet
≥ 640 acres <sup>(1)</sup>	30 feet	45 feet	25 feet PLUS 50% of the FEMA Flood Fringe Area beyond 100 feet	100 feet PLUS 50% of the FEMA Flood Fringe Area beyond 100 feet

Footnotes:

- (1) Buffer widths for drainage areas of ≥ 640 acres:
1. If the floodplain is less than 100 feet wide, the total width of the buffer on that side of the stream will be 100 feet except as provided in 4. below.
  2. The landowner/developer has discretion to designate the buffer zone beyond the 100-foot minimum. The additional buffer area beyond 100 feet must be contiguous with at least a portion of the required 100-foot buffer and be configured in such a manner as to benefit water quality.
  3. So long as the total buffer width is maintained, the buffer may vary in width on either side of the stream based on individual stream side topography provided that the owner(s) control both sides of the stream and the stream side zone is maintained on both sides of the stream.

## 2. Buffer description

Buffer function, vegetation and use vary according to the different buffer zones as described in the following table.

Characteristics	Stream Side Zone	Managed Use Zone	Upland Zone
Function	Protect the integrity of the ecosystems	Provide distance between upland development and the stream side zone	Prevent encroachment and filter runoff
Vegetative Targets <sup>(1)</sup>	<b>Undisturbed (no cutting or clearing allowed)</b> - If existing tree density is inadequate, reforestation is required	<b>Limited clearing</b> - Existing tree density must be retained to a minimum of 8 healthy trees of a minimum 6 inch caliper per 1000 square feet - If existing tree density is inadequate, reforestation is required	<b>Grass</b> or other herbaceous ground cover allowed - Forest is encouraged

Characteristics	Stream Side Zone	Managed Use Zone	Upland Zone
Uses <sup>(2)</sup>	<b>Very restricted</b> - Permitted uses limited to: flood control structures and bank stabilization as well as installation of utilities and road crossings with stabilization of disturbed areas	<b>Restricted</b> - Permitted uses limited to: all uses allowed in the Stream Side Zone, as well as storm water best management practices (BMPs), bike paths, and greenway trails (not to exceed 10 feet in width)	<b>Restricted</b> – Permitted uses limited to: all uses allowed in the Stream Side and Managed Use Zones, as well as grading for lawns, gardens, and gazebos and storage buildings (non-commercial and not to exceed 150 square feet)

Footnotes:

- (1) Re-vegetation of disturbed buffers is required as specified in the Charlotte-Mecklenburg Land Development Standards Manual when such disturbances result in the failure of the buffer system to comply with the vegetative targets specified above. The manual also contains recommended tree densities for each zone.
- (2) Fill material cannot be brought into the buffer **unless a valid fill permit exists**. Grading is allowed only in the Upland Zone. Commercial buildings or occupied structures are not allowed in the buffer. Permitted uses within the buffer zones should be coordinated to ensure minimal disturbance of the buffer system. For example, if it is necessary to install utilities within the buffer, every attempt should be made to build greenway trails so they follow the cleared areas instead of additional clearing.

3. Diffuse flow requirement

Diffuse flow of runoff shall be maintained in the buffer by dispersing concentrated flow and reestablishing vegetation. Techniques for providing diffuse flow are specified in the Charlotte-Mecklenburg Land Development Standards Manual.

- (a) Concentrated runoff from ditches or other manmade conveyances shall be converted to diffuse flow before the runoff enters the buffer.
- (b) Periodic corrective action to restore diffuse flow shall be taken by the property owner as necessary to prevent the formation of erosion gullies.

4. Ponds

Ponds which intersect the stream channel shall have the same buffers as the original stream measured from the top of the bank of the pond. Buffer requirements shall not apply to wet ponds used as structural BMPs.

5. Buffer delineation

The following buffer delineations are required:

- (a) Streams and buffer boundaries including all buffer zones must be clearly delineated on all construction plans, including grading and clearing plans, erosion, drainage and sediment control plans and site plans.
- (b) Outside buffer boundaries must be clearly marked on-site prior to any land disturbing activities.
- (c) The outside boundary of the buffer must be permanently marked at highway stream crossings.
- (d) Streams and buffer boundaries including the delineation of each buffer zone must be specified on all surveys and record plats.
- (e) Buffer requirements must be referenced in homeowners' association documents.

**Section 153.005          Incentives**

1. Rear setback requirements

For all lots within a residential development requiring a SWIM buffer, rear setbacks can be 100% within a SWIM buffer.

2. Open space

SWIM buffer areas can be used toward satisfying all or a portion of the required open space minimums for the development if Town Council determines it is in the best interest of the Town.

**153.006 Mitigation**

1. Purpose

The purpose of this Section is to set forth the basis on which mitigation is required for unavoidable or approved buffer impacts within any of the buffer zones. This mitigation basis shall allow the property owner or other entity the opportunity to disturb a buffer, provided that steps are taken to offset the buffer loss. Prior to any buffer impact, any person or entity seeking approval of a buffer impact shall submit the requisite site and mitigation information for review to the Charlotte-Mecklenburg Storm Water Services and approval by Town Council as specified below, to the extent approval is required by this Section.

2. Buffer impacts not requiring mitigation

The following buffer impacts do not require mitigation or specific plan approval but are required to comply with the specifications provided in the Charlotte-Mecklenburg Land Development Standards Manual for stabilization of disturbed areas to minimize negative water quality impacts.

- (a) Road crossings for connectivity or transportation links where the Pineville Planning Board has granted site plan approval.

- (b) Utility crossings.
- (c) Parallel water and sewer utility installation as approved by Charlotte-Mecklenburg Utilities.
- (d) Public paths and trails parallel to the stream outside the Stream Side Zone and stream crossings. Pathways must use existing and proposed utility alignments or previously cleared areas and minimize tree cutting to the maximum extent practicable. To the extent possible, pathways shall preserve existing drainage patterns and avoid drainage structures that concentrate storm water.
- (e) Incidental drainage improvements/repairs for maintenance.
- (f) Individual pedestrian paths connecting homeowners to the stream in the form of narrow, pervious footpaths with minimal tree disturbance.
- (g) New domesticated animal trails (farming) where existing trails are lost as a result of action beyond the farmer's control. Stream crossings should be constructed and maintained to minimize impacts to the Stream Side Zone with fencing perpendicular and through the buffer to direct animal movement.
- (h) Mitigation approved by a State or federal agency acting pursuant to Sections 401 or 404 of the federal Clean Water Act.

### 3. Buffer impacts requiring mitigation

Impacts to stream buffers not specified in Section 153.006.2, proposed to allow development or other land use in a buffer, shall be required to mitigate or offset the proposed impact in accordance with this Section. Buffer impacts requiring mitigation and plan approval include:

- (a) Filling or piping of streams
- (b) Removal of vegetation from the Stream Side or Managed Use Zones other than as specified by Section 153.004.2 "Vegetative Targets."
- (c) Paths proposed within the Stream Side Zone
- (d) Stream relocations
- (e) Fences and walls requiring tree removal in the Stream Side or Managed Use Zones
- (f) Other buffer impacts not permitted under Section 153.004.2.

The landowner or other entity proposing any of the impacts specified above shall prepare and submit for review a site specific plan to Charlotte-Mecklenburg Storm Water Services and for approval by Town Council. This site plan shall show the extent of the proposed impact and clearly specify the proposed mitigation technique.

### 4. Pre-approved mitigation techniques

The following techniques are available to landowners for mitigation of buffer impacts, upon review and approval of a specific site mitigation plan by Charlotte-Mecklenburg Storm

Water Services. Specifications for these pre-approved mitigation techniques are provided in the Charlotte-Mecklenburg Land Development Standards Manual.

- (a) Installation of Structural BMPs: The installation of an on-site structural BMP designed to achieve specified pollutant removal targets will allow for stream buffer impacts on the specific site. The BMP should remain outside the Stream Side Zone if practical. A detailed BMP design plan must be submitted to Charlotte-Mecklenburg Storm Water Services for approval based on specifications and pollutant removal targets contained in the Charlotte-Mecklenburg Land Development Standards Manual or the Pineville Zoning Ordinance. This plan must also include a long-term maintenance strategy for the BMP complete with the establishment of adequate financing to support the proposed maintenance practices.
- (b) Stream Restoration: The owner may restore and preserve the buffer area on any stream of equivalent or greater drainage area the condition of which is determined to be qualified for restoration by Charlotte-Mecklenburg Storm Water Services on a 1:1 basis in linear feet of stream. This restoration shall include stream bank improvements and Stream Side and Managed Use Zone re-vegetation, in accordance with the Charlotte-Mecklenburg Land Development Standards Manual.
- (c) Stream Preservation: The owner may purchase, fee simple, other stream segments at equivalent or greater drainage area on a 1:1 linear foot basis and convey fee simple and absolute title to the land to the City/County or other conservation organization.
- (d) Wetlands Restoration: On a 2:1 acreage basis for disturbed stream and buffer area (2 acres of wetland for each acre of disturbed area), the owner may provide a combination of the preservation and/or restoration of wetlands with protective easements, and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area as specified in the Charlotte-Mecklenburg Land Development Standards Manual.
- (e) Bottom Land Hardwood Preservation: On a 2:1 acreage basis for impacted stream and buffer area (2 acres of bottomland hardwood for each acre of disturbed area), the owner may provide a combination of the preservation of existing bottom land hardwood forest or other specifically approved natural heritage area by conservation easement or other legal instrument, and the implementation of structural or non-structural BMPs to achieve specific pollutant removal targets within the impacted area as specified in the Charlotte-Mecklenburg Land Development Standards Manual.
- (f) Controlled Impervious Cover: The owner may commit to, and provide, a specific site development plan that limits overall site impervious cover equal to or less than 24%. Development on this basis shall allow for stream buffer impacts on the specific site. Preservation of the Stream Side Zone is encouraged.
- (g) Open Space Development: The submission of a specific site development plan which preserves 50% of the total land area as undisturbed open space shall allow for stream buffer impacts on the specific site.

(h) Mitigation Credits: The purchase of mitigation credits on a 1:1 basis utilizing linear feet of stream impacted and the prevailing rate of purchase as established by Charlotte-Mecklenburg Storm Water Services shall allow for stream buffer impacts on the specific site. Mitigation credits purchased under any other program (i.e., U.S. Army Corp of Engineers) shall not cover this requirement unless the issuing agency agrees to relinquish the funds to the appropriate Town/County agency.

5. Other mitigation techniques

No provision of this Section shall prevent the creative development of alternative mitigation plans. The owner shall submit such plan with proposed buffer impacts and detailed mitigation information to Charlotte-Mecklenburg Storm Water Services for review and to Town Council for approval. The criteria used to judge the acceptability of any alternative plan shall be the degree to which the plan addresses the preservation of the four primary natural functions of stream buffers. Such plans may be submitted in conjunction with a mitigation plan submission to the U.S. Army Corp of Engineers and N.C. Department of Environment and Natural Resources for proposed stream or wetland impacts. Charlotte-Mecklenburg Storm Water Services and the Town Council, when considering proposed mitigation alternatives, shall give equal weight to proposals that utilize the preservation of unique or endangered habitat or natural areas against proposed buffer impacts.

6. Posting of financial security required for structural BMPs

When structural BMPs (wet detention ponds and other BMPs) are approved for mitigation of a buffer disturbance, the approval shall be subject to the owner filing a surety bond or letter of credit or making other financial arrangements which are acceptable to Charlotte-Mecklenburg Storm Water Services, in a form which is satisfactory to the Town Attorney, guaranteeing the installation and maintenance of the required structural BMPs until the issuance of certificates of occupancy for seventy-five percent (75%) of all construction which might reasonably be anticipated to be built within the area which drains into the BMPs, allowing credit for improvements completed prior to the submission of the final plat. At such time that this level of occupancy is achieved, written notice thereof must be given by the owner to Charlotte-Mecklenburg Storm Water Services. The owner must also verify the adequacy of the maintenance plan for the BMPs including the necessary financing to support the proposed maintenance practices. Charlotte-Mecklenburg Storm Water Services will inspect the structural BMPs and verify the effectiveness of the maintenance plan and if found satisfactory, will within 30 days of the date of the notice notify the owner in writing.

7. Maintenance responsibilities for structural BMPs - Civil Penalties

Maintenance of all structural BMPs shall be the responsibility of the property owner or his designee. Any person who fails to maintain the required BMPs in accordance with the approved maintenance plan shall be subject to a civil penalty of not more than \$500. Each day that the violation continues shall constitute a separate violation. No penalties shall be

assessed until the person alleged to be in violation has been notified in writing of the violation by registered or certified mail, return receipt requested, or by other means which are reasonably calculated to give actual notice. The notice shall describe the nature of the violation with reasonable particularity, specify a reasonable time period within which the violation must be corrected, and warn that failure to correct the violation within the time period shall result in assessment of a civil penalty or other enforcement action.

### **153.007 Appeals and Variances**

Appeals and variances from this Section shall be subject to the provisions of Chapter 2 of these regulations.