

ZONING ORDINANCE

Town of Woodfin



Table of Contents

ARTICLE I. - GENERAL PROVISIONS.....	1
Sec. 54-1. - Short title.....	1
Sec. 54-2. – Purpose and Authority.	1
Sec. 54-3. - Introduction.....	1
Sec. 54-4. - Interpretation, purpose, and conflict.	1
Sec. 54-5. - Intent.....	1
Sec. 54-6. - Zoning affects every building and use.....	1
Sec. 54-7. - Reduction of lot and yard areas	2
Sec. 54-8. - Relationship of building to lot.....	2
Sec. 54-9. Relationship to the Comprehensive Plan.....	2
Sec. 54-10. - Definitions.....	2
Sec. 54-11. - Bona fide farms exempt	10
Sec. 54-12. - Traffic visibility.....	10
Sec. 54-13. - On-site sewage service.....	10
Sec. 54-14. - Cemeteries.....	10
Sec. 54-15. - Projection and encroachments.....	10
ARTICLE II. - ADMINISTRATION.....	11
Sec. 54-32. - Zoning administrator	11
Sec. 54-33. - Duties.....	11
Sec. 54-34. - Certificate of zoning compliance	11
Sec. 54-35. - Building permit required	11
Sec. 54-36. - Health department approval	11
Sec. 54-37. – Permit Choice.....	12
Sec. 54-38. - Site Plans.....	12
Sec. 54-39. - Completeness Review.....	12
Sec. 54-40. Site Specific Vesting Plan.....	12
Sec. 54-41. – Notice(s) of Violation	13
Sec. 54-42. - Remedies available	13
Sec. 54-43. –Performance Guarantees.....	13
Sec. 54-44 – Conflicts of Interest.....	14
ARTICLE III. - BOARDS.....	15

Sec. 54-69. – Planning Board	15
Sec. 54-70 – Alternate members	15
Sec. 54-71 – Proceedings.....	15
Sec. 54-72 – Powers and Duties of the Board.....	15
Sec. 54-73 – Amendments and Changes	15
Sec. 54-74. Conflicts of Interest.....	16
Sec. 54-75. - Board of Adjustment	16
Sec. 54-76. - Alternate members.....	17
Sec. 54-77. - General Process and Duties.....	17
Sec. 54-78. - Powers and Duties of the Board	17
Sec. 54-79 – Notice.	18
Sec. 54-80 – Quorum.	18
Sec. 54-81 – Proceedings.....	18
Sec. 54-82 – Decisions	19
Sec. 54-83 – Reapplication.....	19
Sec. 54-84. - Appeals of board decision.....	19
Sec. 54-85 – Conflicts of Interest.....	19
ARTICLE IV. – ESTABLISHMENT OF DISTRICTS	21
Sec. 54-119. - Districts.	21
Sec. 54-120. - District boundaries.	21
Sec. 54-121. - Due consideration.	21
Sec. 54-122. - Rules governing interpretation.	21
ARTICLE V. – USES, DISTRICT REGULATIONS, AND CONSIDERATIONS.....	23
Sec. 54-143 – Uses Allowed.	23
Sec. 54-144. - General Requirements for All Districts.	23
Sec. 54-145. R-43 Residential District.....	24
Sec. 54-146. - R-21 Residential District.	25
Sec. 54-147. - R-10 Residential District.	26
Sec. 54-148. - R-7 Residential District.....	27
Sec. 54-149. - Transitional District.	28
Sec. 54-150. – Mountain Village District (CZ).....	30
Sec. 54-151. - C-S Community Shopping Districts.....	32
Sec. 54-154. - L-I Light Industrial District.	40

Sec. 54-155. - H-I Heavy Industrial Districts.	42
Sec. 54-156. – Conditional Districts.	45
Section 54-158. Development Agreements.	49
ARTICLE VI -SPECIAL USES	51
Sec. 54-158 – Special Uses.	51
ARTICLE VII. - PARKING REQUIREMENTS.....	57
Sec. 54-176. - Off-street parking, storage and access.....	57
Sec. 54-177. - Certification.	57
Sec. 54-178. - Combination of required parking space.....	57
Sec. 54-179. - Remote parking space.	57
Sec. 54-180. - Requirements in residential districts.	57
Sec. 54-181. - Minimum parking requirements.	58
Sec. 54-182. - Off-street loading and unloading.	59
ARTICLE X. - FLOODWAY DISTRICT REGULATIONS	60
Sec. 54-203. - Statutory authorization, finding of fact, purpose and objective.	60
Sec. 54-204. - Definitions.....	60
Sec. 54-205. - General provisions.....	63
Sec. 54-206. - Administration.	64
Sec. 54-207. - Local administrator.....	65
Sec. 54-208. - Variance procedures.	66
ARTICLE IX. - EXCEPTIONS AND MODIFICATIONS	68
Sec. 54-315. - Front yard setback.	68
Sec. 54-316. - Height limitations.....	68
Sec. 54-317. - Fences, retaining walls.....	68
Sec. 54-319 – Administrative Minor Modifications	68
ARTICLE X. - NONCONFORMING USES.....	70
Sec. 54-340. - Definition.....	70
Sec. 54-341. - Limitation on nonconforming use.....	70
Sec. 54-342. - Continuance.....	70
Sec. 54-146. - Preexisting substandard lot.	70
APPENDIX A – PERMITTED USES TABLE	72

ARTICLE I. - GENERAL PROVISIONS

Sec. 54-1. - Short title.

This chapter shall be known as and may be cited as "The Zoning Ordinance for the Town of Woodfin, North Carolina," and the map referred to, which is identified by the title "The Official Zoning Map, Town of Woodfin, North Carolina," shall be known as the "Zoning Map." (Code 1995, § 150.002; Ord. of 9-16-1973)

Sec. 54-2. – Purpose and Authority.

The purpose of the zoning regulations and districts as set forth in this chapter is to promote the health, safety, morals and general welfare of the inhabitants of the town. This chapter is adopted pursuant to the authority granted in Chapter 160D and Chapter 160A Article 8. (Code 1995, § 150.003; Ord. of 9-16-1973)

Sec. 54-3. - Introduction.

As the proper regulation of the use of certain structures, land, waters, and air is neither feasible nor adequate through the use of the zoning districts alone, the following restrictions and regulations, which shall be applied in addition to the district regulations are necessary to accomplish the intent of this chapter. The provisions of this chapter shall apply to all structures, lands, waters, and air within the jurisdiction of the town.

Sec. 54-4. - Interpretation, purpose, and conflict.

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of public safety, health, morals, and general welfare. It is not 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 greater restrictions upon the use of buildings or premises, upon the height of buildings or premises or requires larger open spaces than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this chapter shall be construed to amend or repeal any other existing ordinance of the town.

Sec. 54-5. - Intent.

It is the general intent of this chapter to:

- (1) Lessen congestion in the streets;
- (2) Secure safety from fire, panic and other danger;
- (3) Promote health and the general welfare;
- (4) Provide adequate light and air;
- (5) Prevent the overcrowding of land;
- (6) Avoid undue concentration of population; and
- (7) Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. (Code 1995, § 150.005; Ord. of 9-16-1973)

Sec. 54-6. - Zoning affects every building and use.

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 for the district in which it is located except hereinafter provided in this article. (Code 1995, § 150.050; Ord. of 9-16-1973)

Sec. 54-7. - Reduction of lot and yard areas.

No yard or lot existing on September 16, 1973, shall be reduced in size or area below the minimum requirements set forth herein, except for street widening. Yards or lots created after September 16, 1973 shall meet at least the minimum requirements established by this article. (Code 1995, § 150.051; Ord. of 9-16-1973)

Sec. 54-8. - Relationship of building to lot.

Every building hereafter erected, moved or structurally altered shall be located on a lot, and in no case shall there be more than one principal building and its customary accessory building on the lot, except in the case of a specially designed group development of institutional, residential, commercial or industrial building in an appropriate zoning district, i.e., school campus, cluster housing, shopping center, industrial park, and so forth, as permitted by section 54-318(4). (Code 1995, § 150.004; Ord. of 9-16-1973)

Sec. 54-9. Relationship to the Comprehensive Plan.

It is the intention of the Town Board of Commissioners that this ordinance implement the planning policies adopted by the Board as reflected in the Comprehensive Plan and other planning documents. While the Town Board of Commissioners reaffirms its commitment that this ordinance and any amendment to it be in conformity with adopted planning policies, the Town Board of Commissioners hereby expresses its intent that neither this ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any planning document.

When acting on any proposed zoning amendment, the Town of Woodfin shall carefully consider its adopted plans and policies. In accordance with the State Law, the Town, including the Planning Board, when such zoning requests are heard, and the Town Board of Commissioners when such requests are acted upon, shall note in written statements from each Board whether such amendment is consistent with these plans.

Sec. 54-10. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use or structure - A use or detached structure subordinate to the principal use of a structure or land and located on the same lot or parcel serving a purpose customarily incidental to the principal use or the principal structure.

Agriculture and Horticulture (any form) – The use of land for agricultural purposes including farming, silviculture, viticulture, fish culture, animal and poultry husbandry and/or horticultural purposes including the growing and production for income of fruits, vegetables, flowers, nursery stock, or ornamental plants.

Air conditioning and heating equipment manufacturing - Companies in this industry manufacture residential, commercial, and industrial heating, ventilation, air conditioning and refrigeration (HVACR) equipment. Industry revenue includes miscellaneous receipts for the resale of products without further manufacturing, contract work done for others on respective items and acknowledgements for repair, scrap and refuse sales. Automotive units are excluded from this industry.

Alcohol and alcohol beverage manufacturing – A manufacturer engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer or malt beverage.

Alley - A special public right-of-way affording only secondary access to abutting properties.

Amusement, recreational and sporting goods manufacturing – Processing, fabrication, assembly, treatment and packaging of amusement, recreational and sporting goods products and incidental storage, sales and distribution of such products.

Animal Hospitals – Any building or portion of a building designed or used for the care, observation, or treatment of domestic animals.

Assembly Halls, coliseums, armories, ballrooms, and similar structures - A building or portion of a building in which facilities are provided for civic, educational, political, religious, or social purposes.

Auction Sales - Any sale where tangible personal property is sold by an auctioneer who is either the agent for the owner of such property or is in fact the owner thereof.

Automobile parts supplies, retail - Stores that sell new automobile parts, tires, and accessories. May also include minor parts installation.

Automobile repair garages - Any building structure, improvements, or land used for the repair and maintenance of automobiles, motorcycles, trucks, trailers, or similar vehicles including but not limited to body, fender, muffler, or upholstery work, or oil change and lubrication painting, tire service and sales, or installation of CB radios, car alarms, stereo equipment, or cellular telephones.

Automobile sales (new and used) - Storage and display for sale of more than two motor vehicles or any type of trailer provided the trailer is unoccupied, and where repair or body work is incidental to the operation of the new or used vehicle sales includes motor vehicles retail or wholesale sales.

Automobile wrecking and junking yards - Any lot or place that is exposed to the weather and upon which more than five motor vehicles of any kind incapable of being operated and not currently licensed are placed, located, or found.

Bakeries, manufacturing - A place for prepping, cooking, baking, and selling of products intended for off premise distribution.

Bakeries, retail - A place for preparing, cooking, baking, and selling of products on the premises.

Banks and other financial institutions - A financial institution that is open to the public and engaged in deposit banking, and that performs closely related functions such as making loans, investments, and fiduciary activities.

Barber and beauty shop - Any establishment where cosmetology services are provided including hair care, nail care and skin care on a regular basis for compensation.

Boat and trailer repairs and manufacturing - A facility, including a boat repair garage or boat storage yard where boats are repaired and stored until repairs are completed.

Bowling alleys and skating rinks - An establishment that provides indoor facilities for the sport of ten-pin or duck-pin bowling or participant skating, with customary accessory uses such as snack bars.

Buffer strip - A buffer strip shall consist of a planted strip at least ten feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than 20 feet apart and not less than one row of dense shrubs, spaced no more than five feet apart.

Building - Any structure used or intended for supporting or sheltering any use or occupancy.

Building frontage - The linear length of only that portion of a building used by an individual tenant in a multiple tenant development and which faces a public street or alley.

Building setback line - A line delineating the minimum allowable distance between the property line and a building on a lot, within which no building or other structure shall be placed except as otherwise provided. If the property line extends into a roadway or highway itself, then the setback line shall be measured from the edge of the traveled way (which is the edge of the road or the actual area that vehicles travel upon) when computing setback requirements on lots abutting highways.

Canopy - A permanent attached structure which projects from and is supported by a building, which serves as a cover providing shelter or decoration and which extends beyond the building.

Car wash - The use of a site for washing and cleaning of passenger vehicles, recreational vehicles, or other light duty equipment.

Churches - A building wherein persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities.

Clubs and lodges (nonprofit) – Any person(s), partnership, association, corporation, or other group whose activities are conducted for civic or humanitarian motives and not for the gain of any private individual or group and may include, but shall not be limited to, social service, welfare, education, civic, fraternal, or cultural activities.

Contractors' offices - Any land or buildings used primarily for the storage of equipment, vehicles, machinery (new or used), building materials, paints, pipe, or electrical components used by the owner or occupant of the premises in the conduct of any building trades or building craft.

Channel - Those flood lands normally occupied by a stream of water under average annual high-water flow conditions while confined within generally well-established banks.

Customary incidental home occupations - Any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for residential purposes and does not change the character thereof, and in connection with which there are no retail sales or display on the premises and no person not a resident of the premises is employed by the following home occupations: lawyer, physician, optometrist, dentist, osteopath, and chiropractor. Provided further that no mechanical equipment is installed or used except such as normally used for domestic or professional purpose, and that not over 25 percent of the total floor space of any structure is used for home occupations.

Dry cleaning and laundry pickup stations - An establishment which launders or dry cleans articles dropped off on the premises directly by the customer or where articles are dropped off, sorted, and picked up but where laundering or cleaning is done elsewhere.

Dwelling - A building that contains one or two dwelling units used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

Dwelling, detached - A dwelling entirely surrounded by open space on the same lot.

Dwelling, multiple-family - A dwelling containing three or more dwelling units.

Dwelling, single-family - A dwelling containing one dwelling unit either attached, semi-attached, or detached.

Dwelling unit - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, eating, sleeping, eating, cooking and sanitation.

Eave line - The extension of a roof line beyond the vertical wall of a building.

Efficiency - A dwelling unit consisting of one principal room with no separate sleeping rooms.

Erect - To construct, build, raise, assemble, install, place, locate, relocate, affix, attach, display, alter, use, create, paint, draw, illuminate or in any other way bring into being or establish.

Facade - Building sides including parapet and wing wall.

Familial relationship, close – A spouse, parent, child, brother, sister, grandparent, or grandchild. The term includes the step, half, and in-law relationships.

Farm machinery, sales, and repairs - Establishments selling, renting, or repairing agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and process pertaining to farming and ranching.

Feed and seed stores - A retail store selling primarily agricultural products, including the bulk storage of fertilizers and related agrichemicals.

Florist – A retail business whose principal activity is the selling of plants which are not grown on the site and conducting business within an enclosed building.

Funeral homes and mortuaries – A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral supplies funeral urns, and other related funeral supplies; (e) facilities for cremation where funeral home is permitted, a funeral chapel shall also be permitted.

Game and amusement rooms, including pool halls – A place or facility where pinball or other similar electronic games are played for amusement only. Shall not be construed to include gambling devices prohibited by law.

Grade - The average level of the finished surface of the ground adjacent to the exterior walls of the building.

Gross floor area - the total floor area of all buildings in a project including basements, mezzanines, and upper floors, exclusive of stairways and elevator shafts. Gross floor area excludes separate service facilities outside the main building such as boiler rooms and maintenance rooms.

Group development - A group of two or more principal structures built on a single lot, tract, or parcel of land not subdivided into the customary streets and lots and which will not be subdivided, and designed for occupancy by separate families, businesses, or other enterprises. Examples would be:

- (1) Cluster-type subdivisions;
- (2) Row houses;
- (3) Apartment courts;
- (4) Housing projects;
- (5) School and hospital campuses;
- (6) Shopping centers; and
- (7) Industrial parks.

Height (building) - The height of any building shall be the average maximum vertical height measured at a minimum of three equidistant points from finished grade to the highest point on the building along each building elevation. Chimneys, ventilators, antennas, skylights, tanks, bulkheads, or solar panels shall not be considered part of the height of the building if they do not extend more than four feet above the specific height limit. Domes, towers, or spires which are the integral part of churches or religious buildings shall not be subject to these limitations, provided that such features shall in no way be used for living purposes.

Hotels, inns and motels - An establishment providing, for a fee, sleeping accommodations and customary lodging services, including maid service, the furnishing and upkeep of furniture and bed linens, and telephone and desk service, related ancillary uses may include but shall not be limited to conference and meeting rooms, restaurants, bars, and recreational facilities.

Jewelry repair and pawn shops - Any place of business which is regularly engaged in the business of making pawns but does not include a financial institution or any business that regularly loans money or any other thing of value on stocks, bonds, or other securities.

Junkyard - A lot, land, or structure or part thereof, used primarily for the collecting, storage, and sale of waste paper, rags, scrap metal, or discarded material; or for the collecting, dismantling, storage and/or salvaging of machinery or vehicles not in operating condition and for the sale of parts thereof.

Kennel - The boarding, breeding, raising, grooming, or training of two or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/ or for commercial gain.

Kindergarten or day nursery – Any day care center which receives children between the ages of two and six years and which is established and professionally operated primarily for educational purposes to meet the development needs of the children served.

Launderette and Laundromat - A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.

Libraries, museums and art galleries - A room or building for exhibiting, or an institution in charge of, a collection of books, artistic, historical, or scientific objects.

Lot - A parcel of land occupied or intended for occupancy for a building together with its accessory building. For the purposes for this chapter, the term "lot" means any number of contiguous lots or portions thereof, upon which one or more main structures for a single use are to be erected.

Lot, corner - A lot abutting two or more streets at their intersection, provided that the corner of such intersection has an angle of 135 degrees or less, measured on the lot side.

Lot coverage - The area under a roof and enclosed by the exterior permanent walls.

Manufactured home – A transportable structure suitable for year-round single-family occupancy and having water, electrical, sewage connections similar to those of conventional dwellings.

Manufactured home park – Any parcel of land under one ownership that has been planned and improved for the placement of two or more mobile homes for rental purposes for non-transient use.

Meat Market - A building where live animals are killed and processed; and/or a building where meat, poultry, or eggs are cooked, smoked, or otherwise processed or packed but does not include a butcher shop or rendering plant.

Medical and dental clinics - An establishment where human patients who are not lodged overnight are admitted for examination and treatment by a group of physicians, dentists, other health care professionals, or similar professions.

Metal fabricating plants - The assembly of metal parts including blacksmith and welding shops, sheet metal shops, machine shops, that produce metal duct work, tanks, towers cabinets, and enclosures, metal doors and gates, and similar products.

Mini storage warehouses - The operation of warehousing and storage wherein the storage capacity of individual units is less than 1,000 square feet of floor area and individual keys are provided to lock each unit during the term of a rental agreement.

Multiple-tenant development - A development in which there exists a number of individual and or separate activities and in which there are appurtenant shared facilities (such as parking areas or pedestrian mall areas).

Newspaper office - A publication, printed on newsprint, intended for general circulation, and published regularly at short intervals, containing information and editorials on current events and news of general interest. The events and news of general interest. The term "newspaper" does not include magazines, trade publications or journals, credit bulletins, and advertising inserts, circulars, directories, maps, racing programs, reprints, newspaper clipping and mailing services or listings, publications that include an updating or revision service, or books or pocket editions of books.

Noncommercial parks, playgrounds, and community centers (public and private) - A place, structure, area, or facility used for and providing religious, fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant segments of the community. Also includes clubs, lodges, golf courses, swimming pools and fishing lakes.

Nonconforming sign - Any sign which was allowed when erected or displayed, but which does not conform with the standards of this chapter, and any sign which was not allowed, but was nonetheless impermissible erected or displayed before September 16, 1973.

Nonconforming structure - Any structure, by virtue of the use to which it is put, which does not comply with the use provisions of this chapter for the district in which it is located.

Nonconforming use - Any land lawfully used or occupied at the time of September 16, 1973 which does not conform to the regulations of this chapter or amendments thereto pertaining to uses.

Nonconforming lot - A lot that lawfully existed prior to the enactment of the requirements of this chapter, but which does not meet the minimum lot size or lot width requirements of the zoning district in which it is located.

Offices (Business, Professionals, and Public) - Administrative, executive, professional, research, or similar organizations, and laboratories having only limited contact with public, provided that no merchandising services are sold on the premises, except such as are incidental or accessory to the principal permissible use.

Outdoor recreation - Recreational uses conducted almost wholly outdoors, including golf driving ranges, go-cart track, riding stables, miniature golf, firing ranges, water parks, amusement parks, and similar uses.

Paper products manufacturing - The manufacturing of paper and paperboard, from both raw and recycled materials, and their conversion into products including paper bags, boxes, envelopes, wallpaper etc.

Parapet - That portion of a building wall that rises above the roofline.

Parking space - A graded and surfaced area of at least nine feet wide and 19 feet long, either enclosed or open, for the parking of a motor vehicle, having adequate ingress or egress to a public street or alley.

Permanently affixed - Anchored to a foundation.

Photographic studios and camera supply stores - A facility primarily engaged in the retail sale, lease, and service of photography equipment and supplies, including limited on-site processing or development.

Plastic products manufacturing - The manufacturing of rubber products including rubber footwear; mechanical rubber goods; heels and soles; flooring; and rubber sundries from natural, synthetic, or reclaimed rubber. Also includes establishments engaged in molding primary plastics for the trade and manufacturing miscellaneous finished plastics products; fiberglass manufacturing; and fiberglass application services.

Printing and reproduction establishments - A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing.

Public and private elementary schools - A public or private schools offering instruction at the elementary school level in the branches of learning and study required to be taught in schools within the state.

Public safety facilities - A government facility for public safety and emergency services, including a facility that provides police or fire protection and related administrative facilities.

Public works and public utility facilities - Any improvement facility or service, together with its associated public site or right of way necessary to provide transportation, drainage, public or private utilities, energy, or similar essential services.

Radio and television station - Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished using electronic and telephonic mechanisms excluded are facilities classified as major utility services or broadcasting or communication towers typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

Restaurants - Any establishment, however designated, at which food is sold for consumption on the premises to patrons seated within an enclosed building, or elsewhere on the premises. Also includes drive-in restaurants.

Retail establishment - A commercial enterprise that provides goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser, where products include but are not limited to clothing, fabric, shoes, varieties, notions, drugs, hardware, furniture, appliances, floor coverings, paints, antiques, art goods, jewelry, gifts, music, toys, sporting goods, books and stationary, magazines, candy, tobacco, pets, hobbies, and crafts.

Sawmills - A facility where logs or partially processed cants are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products, not including the processing of timber for use on the same lot by the owner or resident of that lot.

Service stations - Any establishment whose primary activity is the provision of assistance, as opposed to products, to individuals, business, industry, government, and other enterprises.

Setback - The horizontal distance between the leading face of the curb of a street and the closest point of a sign or sign structure on such lot. Where there is no curb, the measurement shall be made from the edge of the pavement.

Single tenant - A single business establishment, activity or use.

Site plan - A scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking, access points, roads and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision, and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

Skirting - As related to manufactured homes, skirting shall be of noncombustible material or material that will not support combustion. Skirting material shall be durable and suitable for exterior exposures. Any wood framing used to support the skirting shall be of approved moisture resistant treated wood. Skirting manufactured specifically for this purpose shall be installed in accordance with the manufacturer's specifications.

Small electric and appliance repair shops - Establishments primarily engaged in the provision of repair services to individuals and households, rather than businesses, but excluding automotive and equipment repair use types. Typical uses include appliance repair shops, shoe repair, watch or jewelry repair shops, or repair of musical instruments.

Soffit - The underside of a structural component such as an arch, beam or cornice.

Street frontage - That portion of a lot abutting a publicly-maintained street or alley.

Structure - Any erection or construction, such as buildings, towers, masts, poles, booms, signs, decorations, carports, machinery, and equipment excluding utility lines and appurtenances.

Taxicab business - A service that offers transportation in passenger automobiles and vans to persons including those who are handicapped in return for remuneration. The business may include facilities for servicing, repairing, and fueling taxicabs or vans.

Temporary health care structure - A transportable residential structure providing an environment facilitating a caregiver's provision of care for a mentally or physically impaired person that (i) is primarily assembled at a location other than its site of installation, (ii) is limited to one occupant who shall be the mentally or physically impaired person, (iii) has no more than 300 gross square feet, and (iv) complies with applicable provisions of the State Building Code and G.S. 143-139.1(b).

Theatres, indoor - A building or part of a building devoted to showing motion pictures, or for dramatic, dance, musical, or other live performances.

Trademark - A name, symbol, or other device identifying a product which is officially registered and legally restricted to the use by its owner.

Truck stop - An establishment engaged primarily in the fueling, servicing, repair or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers, or restaurant facilities primarily for the use of truck crews.

Use - The purpose or activity for which the land or building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

Utilities - Public, quasi-public or private facilities such as water well water and sewage pumping stations, water storage tanks, power and communications transmission lines, electrical power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, gas regulation stations, sewage disposal plants, sludge incinerators, warehouses, shops, and storage yards.

Vision clearance - An unoccupied triangular space at the intersection of highways or streets with other highways or streets or at the intersection of highway or streets with railroads. Such vision clearance triangle shall be bounded by the intersection highway, street, or railroad right-of-way lines and a setback line connecting points located on such right-of-way lines by measurements from their intersection as specified in this chapter.

Warehouse - A building used primarily for the storage of goods and materials.

Wholesale establishments - An establishment or place of business primarily engaged in selling and/or distributing merchandise to retailers; to industrial, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies this is not considered a general commercial use.

Yard - A space on the same lot with a principal building, open, unoccupied and unobstructed by buildings or structures from ground to sky, except where encroachments and accessory buildings are expressly permitted.

Yard, front - An open, unoccupied space on the same lot with a principal building, extending a full width of the lot and situated between the street or property line and the front line of the building projected to the side lot lines of the lot.

Yard, rear - An open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lot lines of the lot.

Yard, side - An open, unoccupied space on the same lot with a principal building, situated between the building and the side lot line extending from the rear line of the front yard to the front line of the rear yard.

(Code 1995, § 150.006; Ord. of 9-16-1973; Ord. of 7-17-2001)

Sec. 54-11. - Bona fide farms exempt.

The provisions of this chapter shall not apply to bona fide farms. This chapter does not exercise any controls over crop lands, timber lands, pasture lands, apple orchards, idle or other farmlands, nor over any farmhouse, barn poultry house, or other farm buildings including tenant or other houses for a person working on the farms as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this chapter without the need for regulations. Residences for non-farm use or occupancy and other non-farm uses shall be subject to the provisions of this chapter.

Sec. 54-12. - Traffic visibility.

No obstruction, such as structures, parking, or vegetation, shall be permitted in any district above the height of three feet above the plane, through the mean centerline roadway grades, within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located 50 feet from their point of intersection. (Code 1995, § 150.010; Ord. of 9-16-1973)

Sec. 54-13. - On-site sewage service.

The width and area of all lots not served by a public sanitary sewer system or other approved system shall be sufficient to permit the use of an on-site soil absorption sewage disposal system designed in accordance with the county health department regulations. (Code 1995, § 150.011; Ord. of 9-16-1973)

Sec. 54-14. - Cemeteries.

Expansion of present cemeteries and new cemeteries may be allowed as a special use. The planning board of adjustment shall determine the district, location, size and number of cemeteries in the town. Consideration shall be given to topography, soil, groundwater, erosion, health hazards, and other such conditions before issuance of a special use permit for a cemetery. (Code 1995, § 150.014; Ord. of 9-16-1973)

Sec. 54-15. - Projection and encroachments.

- (a) Every part of a required yard shall be kept open and unobstructed from its lowest level to the sky, except for the ordinary projection of sills, belt courses, chimneys, flues, buttresses, ornamental features and eaves; provided, however, that none of the aforesaid projections shall project into a minimum side yard more than one-third of the width of such yard and in any case more than 24 inches. Chimneys or flues may be erected within a rear yard, provided they do not exceed five square feet in the aggregate and do not obstruct ventilation.
- (b) Open or lattice-enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers projecting into a required yard not more than five feet shall be permitted where so placed as not to obstruct light and ventilation.
- (c) Unenclosed porches not more than one story in height shall be allowed to project not more than ten feet into the setback of the front yards and rear yards.
- (d) Steps for entrance to a building may project into any yard. An oriel or bay window may project not more than three feet into any required yard. (Code 1995, § 150.015; Ord. of 9-16-1973)

Secs. 54-16—54-31. - Reserved.

ARTICLE II. - ADMINISTRATION

Sec. 54-32. - Zoning administrator.

The board of commissioners shall appoint a zoning administrator to enforce the zoning and general provisions of the land use regulations. The assistance of other persons may be provided as the board of alderman may direct. Add to other development ordinances.(Code 1995, § 150.200; Ord. of 9-16-1973)

Sec. 54-33. - Duties.

If the zoning administrator finds that any of the provisions of this article are being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this article to ensure compliance with or to prevent violation of its provisions. (Code 1995, § 150.201; Ord. of 9-16-1973)

Sec. 54-34. - Certificate of zoning compliance.

No building, sign or other structure shall be erected, moved, added to, or structurally altered until an application for a zoning compliance permit is approved by the zoning administrator and a zoning compliance permit is issued. No zoning compliance permit shall be issued except in conformity with the provisions of this chapter. All applications for a zoning compliance permit shall be accompanied by two sets of plans showing the dimensions and shade of the parcel to be built upon, the exact sizes, uses, and location of the parcel or buildings already existing, if any, and the locations and dimensions of the proposed building or alterations. The application shall include such other information as may be necessary to determine conformance with and provide for the enforcement of this article. An application fee shall be charged for processing of each such application. Prior to issuance of a Certificate of Zoning Compliance, the Zoning Administrator may consult with qualified personnel for assistance to determine if the application meets the requirements of this Ordinance. Zoning compliance permits, and all other development permits are valid for twelve (12) months from the date of issuance. (Code 1995, § 150.203; Ord. of 9-16-1973.

Sec. 54-35. - Building permit required.

Upon receiving a zoning compliance permit a building permit shall be obtained from the county building inspection officer for the construction or alteration of any building, structure or mobile home. Stormwater and erosion control permits may be required prior to issuance of a building permit. Building permits are valid for six months beginning from the day issued, if the work authorized by the permit has not been commenced. If, after commencement, the work is discontinued for a period of 12 months, the permit therefor shall immediately expire. No work authorized by any building permit that has expired shall thereafter be performed until a new permit has been secured. (Code 1995, § 150.204; Ord. of 9-16-1973)

Sec. 54-36. - Health department approval.

Where applicable, the zoning administrator shall not issue an application for a zoning compliance permit for any use, building, or purpose proposed for location inside of the incorporated municipality without written preliminary approval of any proposed water supply and sewage disposal facilities as required from the Metropolitan Sewerage District, Woodfin Water and Sanitary District, and appropriate state agency. Issuance and use of a certificate of zoning compliance shall be subject to all terms and qualifications imposed by the regulatory agencies. (Code 1995, § 150.205; Ord. of 9-16-1973)

Sec. 54-37. – Permit Choice.

If an application is made in accordance with this chapter and a development regulation changes between the time the application was submitted and a decision is made, the applicant may choose which version of the development regulation will apply to the application as provided in 160D-108(b).

Sec. 54-38. - Site Plans.

A site plan is a formal application submittal containing very detailed information, including engineering and construction drawings. All applications requiring a site plan shall submit two sets of plans drawn to scale with the following information:

- a. The actual dimensions of the lot to be built upon;
- b. Accurate dimensions and the use of the proposed building or structure;
- c. The location on the lot of the building or structure proposed to be erected or altered, including an outline of all proposed structures and the distances from all structures to adjoining property lines;
- d. The location of all underground and above ground utilities;
- e. All utilities, rights-of-way, culverts and drainage ways;
- f. The parcel identification number consistent with Buncombe County tax records;
- g. Such other information as may be necessary to provide for the enforcement of the provisions of this ordinance, including the architectural or building plans of the structure proposed to be erected or altered.

Sec. 54-39. - Completeness Review.

An application for a site plan shall be deemed complete if it is submitted on the required form, includes all requested information, and is accompanied by the applicable fee. A determination of application completeness shall be made within five (5) working day of application filing. If an application is determined to be incomplete, the planning director shall provide written notice to the applicant along with the explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. If the deficiencies are not corrected by the applicant within twenty (20) working days, the application shall be considered withdrawn.

Sec. 54-40. Site Specific Vesting Plan.

- A. *Establishment.* An approved site-specific vesting plan precludes any zoning action by the Town of Woodfin, 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 and in accordance with the applicable limitation and exceptions. Such plan may be in the form of any of the following plans or approvals: conditional zoning site plan, special use permit, preliminary plat for a minor or major subdivision, or any other land-use approval designation as may be utilized by the Town of Woodfin.
- B. *Process.* Each site-specific vesting plan shall include information required by the Town of Woodfin for the underlying type of development plan and shall provide the notice and hearing required. An approved site-specific vesting plan and its conditions may be amended with the approval of the owner and the local government in the same manner as the original approval.
- C. *Permit Period.* A vested right established pursuant to this article shall run for a period of two years from the effective date of the approval. Upon following the same process as required for the original approval, the decision-making board or official may extend the vesting of a site-specific vesting plan up to three years upon finding that the permit has not yet expired, conditions have not changed so substantially as to warrant a new application, and the extension is warranted in light of all other relevant circumstances including but not limited to the size and phasing of the development, the level

of investment, the need for the development, economic cycles, and market conditions or other considerations.

- D. Limits of Site-Specific Vesting Plans. Nothing in this article shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval of the zoning ordinance. New and amended zoning regulations that would be applicable to certain property but for the establishment of a vested right shall become effective upon the expiration or termination of the vested rights period provided by this article. Any vested rights for a site-specific vesting plan are subject to the exceptions specified at N.C.G.S §160D-108.

Sec. 54-41. – Notice(s) of Violation.

- A. Notice of Violation Procedures. Whenever the Zoning Administrator determines that a person is violating any of the provisions of this ordinance or any plan, order, or condition issued pursuant to this ordinance, a written notice of violation may be issued. The notice of violation shall be delivered by personal delivery, electronic delivery, or first-class mail to the holder of the development approval or occupant and the landowner of the property involved, if the landowner is not the occupant or holder of the development approval. The notice of violation may be posted on the property. The zoning administrator shall certify that the notice was provided.
- B. Appeal. Any owner or occupant who has received a notice of violation may appeal in writing the decision of the Zoning Administrator to the Board of Adjustment within thirty (30) days following the date of the notice of violation. The Board of Adjustment shall hear an appeal within a reasonable time and it may affirm, modify, or revoke the notice of violation. In the absence of an appeal, the remedies and penalties sought by the Zoning Administrator in the notice of violation shall be final.
- C. Penalties. Violations of this Code shall subject the offender to a civil penalty upon the issuance of a citation for a violation. The Town may recover the civil penalty, if not paid to the Town Administrator within thirty (30) days of the date the citation was issued, in a civil action in the nature of a debt pursuant to N.C.G.S. § 160A-175. Each day that any violation of the provisions of this Code continues shall constitute a separate and distinct offense. The civil penalty shall be fifty dollars (\$50.00) for each violation unless otherwise provided in this Code.
- D. Continuing Violation – For each day the violation is not corrected, the violator will be guilty of an additional and separate offense and subject to additional civil penalty. For purposes of determining the amount of the civil penalty pursuant to this Section, the failure to pay the fifty-dollar (\$50) civil penalty shall not constitute a separate and distinct offense that subjects the offender to an additional fifty dollar (\$50) civil penalty.

Sec. 54-42. - Remedies available.

In case any building is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building or land is used in violation of this article, the zoning administrator or any other appropriate county authority, or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction, or mandamus, or other appropriate action or proceeding to prevent such violation. (Code 1995, § 150.208; Ord. of 9-16-1973)

Sec. 54-43. –Performance Guarantees.

For group developments, mixed use developments and cottage clusters, the Town may enter into an agreement with the petitioner, whereby the petitioner shall agree to complete all required improvements. The requirements for performance guarantee agreements are found in Section 46-81(b) of the Town of Woodfin Code of Ordinances.

Sec. 54-44 – Conflicts of Interest.

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 ordinance.

No staff member shall be financially interested or employed by a business that is financially interested in a development subject to the 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.

Secs. 54-45—54-68. - Reserved.

ARTICLE III. - BOARDS

Sec. 54-69. – Planning Board.

The Planning Board shall consist of five members appointed by the Board of Commissioners. All appointments to vacancies on the board shall be for three-year terms. The members of the planning board shall be residents of the town. Planning board members must take an oath of office prior to commencing duties.

Sec. 54-70 – Alternate members.

The board of commissioners shall also appoint two alternate members to serve on the planning board in the absence, for any cause, of any regular members. Such alternate members shall be appointed for three-year terms. Such alternate members, while attending any regular or special meeting of the board and serving in the absence of any regular members, shall have and exercise all the powers and duties of such regular member so absent.

Sec. 54-71 – Proceedings.

A quorum shall consist of three members for the purpose of taking an official action required by the Ordinance. The alternate member may vote in the absence of a regular member but his/her presence shall not be counted when establishing a quorum. All meetings of the Planning Board shall be open to the public.

Sec. 54-72 – Powers and Duties of the Board.

In addition to its powers and duties under the Subdivision Ordinance, it shall be the duty of the Planning board:

- a. To prepare and recommend a comprehensive plan to the board of commissioners, and to conduct ongoing related research, data collection, mapping and analysis.
- b. To facilitate and coordinate citizen engagement and participation in the planning process.
- c. To advise the board of commissioners on all zoning text and map amendments with review and comment
- d. To develop and recommend policies, ordinances, development regulations and other means of carrying out plans
- e. To review all major subdivision plats and make recommendations to the board of commissioners
- f. To perform any other duties that the governing board may direct

Sec. 54-73 – Amendments and Changes.

- A. *General.* Every proposed amendment, supplement, change, modification, or repeal to this article shall be referred to the planning board for its recommendation and report. Any development regulation other than a zoning regulation may be referred to the planning board for review and comment. Failure of the planning board to make recommendations for a period of 60 days after the amendment has been referred to shall constitute a favorable recommendation. All petitions for a change in the zoning map shall include a legal description of the property involved and the names and addresses of current abutting property owners.

- B. *Notice.* The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land, including properties separated by a street, railroad, or other transportation corridor, shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last address listed for such owners on the county tax abstracts. The notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. In addition, notice of the hearing shall be prominently posted on the site proposed for the amendment or on an adjacent public street or highway right-of-way within the same time period specified for mailed notices.
- C. *Optional Notice for Large Scale Rezoning.* If the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, the town may elect to either make the mailed notice provided for in subsection (a) of this section or may as an alternative elect to publish notice of the hearing, as required by G.S.160D-602, but, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper which publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of subsection (b) of this section.
- D. *Planning Consistency.* When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted. The planning board shall provide a written recommendation to the governing board that addresses plan consistency.
- E. *Governing Board Review.* If no written report is received from the planning board within 30 days of referral of the amendment, the governing board may act on the amendment without the planning board report. 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 and the minutes should provide that the governing board was aware of and considered the planning board's recommendation.
- F. *Third-Party Initiated Map Amendment.* Unless initiated by the Town of Woodfin, no down zoning amendments to zoning regulations or the zoning map are enforceable without written consent of all property owners whose property is subject to the down zoning amendment. Down zoning is defined as decreasing development density to be less dense or reducing the range of permitted uses of the property to fewer allowed uses.
- G. *Citizen Comments.* Citizen comments and amendments in zoning ordinances may follow the provisions of G.S.160D-603.

Sec. 54-74. Conflicts of Interest.

Members of the Planning board shall not vote on any advisory or legislative decision where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. Members 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.

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.

Sec. 54-75. - Board of Adjustment.

The Board of Adjustment shall consist of five members who shall be appointed by the board of commissioners. All appointments to vacancies on the board shall be for three-year terms. The members

of the board of adjustment shall be residents of the town. Board of Adjustment members must take an oath of office prior to commencing duties.(Code 1995, § 150.225; Ord. of 9-16-1973)

Sec. 54-76. - Alternate members.

The board of commissioners shall also appoint two alternate members to serve on the board of adjustment in the absence, for any cause, of any regular members. Such alternate members shall be appointed for three-year terms. Such alternate members, while attending any regular or special meeting of the board and serving in the absence of any regular members, shall have and exercise all the powers and duties of such regular member so absent. (Code 1995, § 150.226; Ord. of 9-16-1973)

Sec. 54-77. - General Process and Duties.

It is the intention of this article that:

- (1) All questions arising in connection with the enforcement of this article shall be presented first to the zoning administrator.
- (2) Such questions shall be presented to the board of adjustment only on appeal from the zoning administrator.
- (3) From the decision of the board of adjustment, recourse shall be to the courts as provided by law.
- (4) The duties of the board of commissioners in connection with this article shall include considering and passing upon any proposed amendments or repeal of this article as provided by law.

Sec. 54-78. - Powers and Duties of the Board.

The Board of Adjustment shall have the authority to rule on matters of interpretation of this ordinance, consider appeals from decisions of the zoning administrator, issue special use permits, grant variances and perform other duties as defined in this ordinance. Any appeal from a decision of the board of adjustment shall be subject to review by the superior court pursuant to G.S. 160D-1402.

1. *Variances* – When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:
 - a. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
 - b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
 - c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship.
 - d. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.
2. *Special Use Permits* - It shall be the duty of the board to decide requests for permits for special uses and grant them in particular cases and subject to appropriate conditions and safeguards, where they meet the findings listed in Sec. 54-157. The uses permitted only as a special use are identified with a “S” in the permitted uses chart, located in Appendix A. In addition, the board of adjustment shall find the following to exist:
 - a. The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;

- b. The special uses will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood;
- c. The establishment of the special use will be in harmony with or compatible with its neighbors and generally consistent with the comprehensive plan; and
- d. Adequate utilities, access roads, drainage, and or other necessary facilities have been or are being provided;
- e. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
- f. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

In granting such a permit, the board of adjustment may designate such conditions in connection therewith as will, in its opinion, are reasonable and appropriate to ensure that the proposed use will conform to the requirements and spirit of this chapter, but only those conditions consented to by the petitioner in writing may be incorporated into the zoning regulations. If at any time after a special use permit has been issued the zoning administrator finds that the conditions imposed and agreements made have not been or are not being fulfilled by the holder of a special use permit, a zoning violation notice shall be issued to the permit holder. Upon issuance of a zoning violation notice, the permit shall be terminated and the operation of such use discontinued. If a special use permit is terminated for any reason, it may be reinstated only after a public hearing is held.

- 3. *Appeals* – The board shall hear and decide all appeals from and review any order, requirement, decision or determination made by the zoning administrator. It shall also hear and decide upon all matters referred to it or upon which it is required to pass, in accordance with zoning ordinance of the town. No appeal shall be heard by the board unless notice thereof is filed within 30 days after the interested party receives notice of the order, requirements, decision or determination by the zoning administrator.

Sec. 54-79 – Notice.

The Board of Adjustment shall mail a notice of hearing (i) to the party whose appeal, application, or request is the subject of the hearing; (ii) to the owner of the property that is the subject of the hearing; (iii) to the owners of all parcels of land within 150', including properties separated from the subject property by street, railroad, or other transportation corridor, of land that is the subject of the hearing; and (iv) to any other persons entitled to receive notice under this Ordinance. The notice of hearing must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. The Town shall also prominently post a notice of the hearing on the property that is the subject of the hearing or on an adjacent street right-of-way at least 10 days, but not more than 25 days, prior to the date of the hearing.

Sec. 54-80 – Quorum.

A quorum shall consist of three members of the board, but the board shall not decide, upon any question relating to an application for a variance when there are less than four members present.

Sec. 54-81 – Proceedings.

- A. After receipt of notice of appeal, variance, special use, or other matters requiring a hearing before the board, staff shall schedule a hearing which shall be at a regular or special meeting within a reasonable time from the filing of such notice. Any party may appear in person or by agent or by attorney at the hearing.
- B. Staff shall transmit to the board all applications, reports and written materials relevant to the matter being considered. The materials shall become part of the hearing record and may be provided in written or electronic form. At the same time they are distributed to the board a copy shall also be provided to the applicant and to the landowner if that person is not the applicant.

- C. The applicant, local government and any person who would have standing to appeal the decision shall have the right to participate as a party at the hearing. Other witnesses may present competent, material, and substantial evidence that is not repetitive as allowed by the board.
- D. Objections to administrative materials or jurisdictional issues, may be made to the board. The board chair shall rule on any objections and the chair's rulings may be appealed to the full board.
- E. The chair to the board and the clerk to the board are authorized to administer oaths to witnesses in any matter coming before the board.

Sec. 54-82 – Decisions.

Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record, and shall be made within a reasonable time. The decision shall be reduced to writing and shall reflect the board's determination of contested facts and their application to the applicable standards, and be signed by the chair. The written decision shall be given to the applicant by first-class mail, electronic mail or personal delivery as soon as practicable after the case is decided. Also, written notice shall be given to owners of the subject property and to other persons who have made written request for such notice.

Where a variance is granted, the concurring vote of four out of five of the total members shall be necessary. the record shall state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the board finds to exist.

When hearing an appeal, the decision may reverse or affirm, wholly or partly, or modify the decision which was appealed from.

Where a special use is granted, the record shall state in detail any facts supporting the findings required to be made prior to the issuance of such permit. The record shall state in detail what, if any, conditions and safeguard are imposed by the board in connection with the decision.

The decisions of the board, as filed in its minutes, shall be a public record available for inspection at all reasonable times.

Unless otherwise specified, any order or decision of the board granting a special use or variance shall expire if a building permit or certificate of occupancy for such use is not obtained by the applicant within two years from the date of the decision.

Sec. 54-83 – Reapplication.

An application for a rehearing may be made in the same manner as provided for an original hearing. Evidence in support of the application shall initially be limited to that which is necessary to enable the board to determine whether there has been a substantial change in the facts, evidence, or conditions in the case. The application for rehearing shall be denied by the board if from the record it finds that there has been no substantial change in facts, evidence or conditions. If the board finds that there has been a change, it shall thereupon treat the request in the same manner as any other application.

Sec. 54-84. - Appeals of board decision.

Appeals from the board of adjustment decision may be taken to the superior court pursuant to G.S. 160D-406(k). (Code 1995, § 150.229; Ord. of 9-16-1973)

Sec. 54-85 – Conflicts of Interest.

Members of the Board of Adjustment 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 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 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.

Secs. 54-86—54-118. - Reserved.

ARTICLE IV. – ESTABLISHMENT OF DISTRICTS

Sec. 54-119. - Districts.

For the purpose of this article the town is hereby divided into the use districts with the designations and purposes as listed below:

- (1) R-43 Residential District;
- (2) R-21 Residential District;
- (3) R-10 Residential District;
- (4) R-7 Residential District;
- (5) T-R Transitional District;
- (6) M-V Mountain Village District;
- (7) C-S Community Shopping District;
- (8) C-S-2 Community Shopping District;
- (9) C-S-3 Community Shopping District;
- (10) L-I Light Industrial District;
- (11) H-I Heavy Industrial District.
- (12) CZ Conditional District

(Code 1995, § 150.030; Ord. of 9-16-1973; Ord. of 3-21-2006; Ord. of 2-19-2008)

Sec. 54-120. - District boundaries.

The boundaries of the districts are shown on the map entitled "The Official Zoning Map, Town of Woodfin, North Carolina," on file in the office of the town administrator. The zoning map and all the notations, references and amendments thereto, and other information shown thereon are hereby made a part of this article the same as if such information set forth on the map were all fully described as set out herein. The zoning map, properly attested, is posted at the town hall and is available for inspection by the public.

(Code 1995, § 150.031; Ord. of 9-16-1973)

Sec. 54-121. - Due consideration.

In the creation, by this article, of the respective districts, careful consideration is given to the peculiar suitability of each district for the particular uses and regulations applied to it, and the necessary and proper grouping and arrangements of various uses and densities of population in accordance with a well-considered comprehensive plan for the physical development of the town. (Code 1995, § 150.032; Ord. of 9-16-1973)

Sec. 54-122. - Rules governing interpretation.

Where uncertainty exists as to the boundaries of any of the aforesaid districts, as shown on the zoning map, the following rules shall apply:

- (1) Where such district boundaries are indicated as approximately following street, alley, or highway lines, such lines shall be construed to be such boundaries.
- (2) Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- (3) Where district boundaries are so indicated that they are approximately parallel to the centerline of streets, alleys, or highways, or the right-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the zoning map.

- (4) Where a district boundary line divides a lot or tract in single ownership, the district requirements for the least restricted portion of such lot or tract shall be deemed to apply to the whole thereof provided such extensions shall not include any part of a lot or tract more than 35 feet beyond the district boundary line. The term "least restricted" means use restrictions, not lot or tract size.
- (5) Where physical features existing on the ground are at variance with those shown on the zoning map, or in other circumstances not covered previously in this section, the board of adjustment shall interpret the distinct boundaries. (Code 1995, § 150.033; Ord. of 9-16-1973)

Secs. 54-123—54-142. - Reserved.

ARTICLE V. – USES, DISTRICT REGULATIONS, AND CONSIDERATIONS

Sec. 54-143 – Uses Allowed.

Only the following uses and their essential services may be allowed in any district:

- (1) Permitted uses specified for a district.
- (2) Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Uses accessory to residential district developments shall not involve the conduct of any business, trade, or industry except for customary incidental home and professional occupations defined as any use:
 - a. Conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of dwelling for residential purposes and does not change the character thereof, and in connection with which there are no retail sales or display on the premises and no person, not a resident on the premises, is employed specifically in connection with the activity, except that not more than one assistant may be employed by the following home occupations: lawyer, physician, optometrist, dentist, osteopath, and chiropractor.
 - b. Provided, further, that no mechanical equipment is installed or used except such as is normally used for domestic or professional purposes and that not over 25 percent of the total floor space of any structure is used for home occupations.
- (3) Special uses and their accessory uses shall be permitted in specified districts after review and approval by the board of adjustment in accordance with procedures and standards established in section 54-72.
- (4) Temporary uses, such as real estate sales field offices or shelter for materials and equipment being used in the construction of a permanent structure, may be permitted by the zoning administrator, provided they do not create health, safety or nuisance hazards. Temporary uses shall be removed within thirty days following the end of necessity.
- (5) A temporary health care structure is permitted in R-43, R-21, R-10, and R-7 zoning districts. One temporary structure is allowed per lot and must meet all setback requirements of the applicable district. The temporary health care structure must be removed within thirty days after the need for the use ceases. (Code 1995, § 150.013; Ord. of 9-16-1973)

Sec. 54-144. - General Requirements for All Districts.

The following general requirements shall pertain to all zoning districts and any structure or building therein:

- (1) Accessory buildings shall not be erected in any required front yard.
- (2) Building height.
 - a. Heights of buildings shall not exceed 35 feet unless written permission is first secured from the appropriate district or town fire chief in order to determine:
 1. If the height of the structure exceeds the firefighting capability of the fire department.
 2. To determine if the structure meets fire safety standards (including fire escapes, etc.).
 - b. In all cases, the depth of the front yard and total width of the side yards required herein shall be increased by one foot for each two feet, or fraction thereof, building height in excess of 35 feet.
- (3) Off-street parking shall be provided as required in section 54-176.

- (4) The maximum permissible lot coverage by the principal building and all accessory buildings shall not exceed the following requirements:
 - a. 30 percent of the total lot area for one unit;
 - b. 35 percent of the total lot area for a duplex; or
 - c. 50 percent of the total lot area for three or more units.
- (5) Customary accessory uses and structures including private garages, swimming pools, and other accessory structures shall not be erected in:
 - a. Any required front yard or side yard setback;
 - b. Within 20 feet of any street or highway line; or
 - c. Within ten feet of any lot line not a street or highway line.
- (6) An accessory use or structure may be located in a rear yard provided it is located not less than ten feet from any property line. The accessory use or structure shall not cover more than 30 percent of the rear yard.

(Code 1995, § 150.127; Ord. of 9-16-1973)

Sec. 54-145. R-43 Residential District.

- a. *Purpose.* This district, characterized by steep slopes, is intended to be a quiet, low-density neighborhood consisting of single-family residences along with limited home occupations and limited private and public community uses. It is expected that public water and sewer facilities may not be available to each lot.
- b. *Uses.* The chart below indicates the uses generally permitted in the R-43 zoning district. Also see Appendix A. *Permitted Uses Table*.

Permitted by Right	Special Uses
Any form of agriculture or horticulture, including the sale of products on the property where produced	Churches and their customary related uses
Customary incidental home occupation	Public safety facilities such as fire and police stations and rescue squad headquarters
Noncommercial, public or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools and fishing lakes	Public works and public utility facilities such as transformer stations, pumping stations, water towers and telephone exchanges
Public elementary schools and private schools having curricula approximately the same as ordinarily given in public schools	
Residential: Single-family	

- c. Dimensional Requirements. Within the R-43 Residential District, as shown on the zoning map, the following dimensional requirements per dwelling unit shall be complied with:

Min. Yard Requirements		Setbacks		
Min. Lot Size (sq. ft).	Min. Lot Width at Building Line (feet)	Front Setback (feet)	Side Setback (feet)	Rear Setback (feet)

43,000	100	30	15	20% mean lot depth, or 30
--------	-----	----	----	---------------------------

(Code 1995, § 150.129; Ord. of 9-16-1973)

Sec. 54-146. - R-21 Residential District.

- a. *Purpose.* This district is intended to be a quiet, low density neighborhood consisting of single-family residences and limited home occupations and limited private and public community uses. It is expected that public water and sewer facilities will be available to each lot, providing a healthful environment.
- b. *Uses.* The chart below indicates the uses generally permitted in the R-21 zoning district. Also see Appendix A. *Permitted Uses Chart.*

Permitted Uses	Special Uses
Any form of agriculture or horticulture, including the sale of products on the property where produced	Churches and their customary related uses
Customary incidental home occupation	Public safety facilities such as fire and police stations and rescue squad headquarters
Noncommercial, public or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools and fishing lakes	Public works and public utility facilities such as transformer stations, pumping stations\, water towers and telephone exchanges
Public elementary schools and private schools having curricula approximately the same as ordinarily given in public schools	Rest and convalescent homes
Residential: Single-family dwelling	

- c. Dimensional Requirements. Within the R-43 Residential District, as shown on the zoning map, the following dimensional requirements per dwelling unit shall be complied with:

Min. Yard Requirements		Setbacks (feet)			
Lot Size (sq. ft).	Lot Width at Building Line (feet)	Front	Side	Side-abutting street/right-of-way	Rear (whichever is less)
21,000	90	30	15	20	20% mean lot depth, or 30

(Code 1995, § 150.130; Ord. of 9-16-1973)

Sec. 54-147. - R-10 Residential District.

- a. *Purpose.* The R-10 Residential District is intended to be a quiet medium density residential district in which the principal use of the land is for residential purposes, with provisions for limited group residential areas and limited private and public community uses. It is expected that public water and sewer facilities will be available to each lot.
- d. *Uses.* The chart below indicates the uses generally permitted in the R-10 zoning district. The chart below indicates the uses generally permitted in the R-43 zoning district. Also see Appendix A. *Permitted Uses Chart.*

Permitted Uses	Special Uses
Any form of agriculture or horticulture, including the sale of products on the property where produced	Churches and their customary related uses
Customary incidental home occupation	Group Development
Noncommercial, public or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools and fishing lakes	Kindergartens and day nurseries
Public elementary schools and private schools having curricula approximately the same as ordinarily given in public schools	Public safety facilities such as fire and police stations and rescue squad headquarters
Residential: Single-family dwelling	Public works and public utility facilities such as transformer stations, pumping stations, water towers and telephone exchanges
Residential: Two-family dwelling	Rest and convalescent homes
Residential: Multi-family dwelling	
Residential: Class A double wide mobile homes	

- b. *Dimensional Requirements.* Within the R-10 Residential District, as shown on the zoning map, the following dimensional requirements per dwelling unit shall be complied with:

# of units	Min. Yard Requirements		Setbacks (feet)		
	Lot Size (sq. ft.)	Lot Width At Building Line (feet)	Front	Side	Rear (whichever is less)
First unit	10,000	70	25	10 (15 if abutting street)	20% mean lot depth or 30 feet
Second unit	6,000	90	25	20	20% mean lot depth or 30 feet
Three units or more	4,500 (each add. unit; max. 8 units)	100	25	25	20% mean lot depth or 30 feet

Sec. 54-148. - R-7 Residential District.

- a. *Purpose.* The R-7 Residential District is established as a district where two-family and multifamily dwellings will be permitted along with single-family dwellings. It is expected that public water and sewerage facilities will be available to each lot in such districts.
- e. *Uses.* The chart below indicates the uses generally permitted in the R-7 zoning district. The chart below indicates the uses generally permitted in the R-43 zoning district. Also see Appendix A. *Permitted Uses Chart.*

Permitted Uses	Special Uses
Any form of agriculture or horticulture, including the sale of products on the property where produced	Churches and their customary related uses
Customary incidental home occupations	Group Development
Noncommercial, public or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools and fishing lakes	Kindergartens and day nurseries
Office supplies and equipment, sales and service	Public safety facilities such as fire and police stations and rescue squad headquarters
Public elementary schools and private schools having curricula approximately the same as ordinarily given in public schools	Public works and public utility facilities such as transformer stations, pumping stations, water towers and telephone exchanges
Residential: Single-family dwelling	Rest and convalescent homes
Residential: Two-family dwelling	
Residential: Multi-family dwelling	
Residential: Class A double-wide mobile homes	

- b. *Dimensional Requirements* - Within the R-7 Residential District, as shown on the zoning map, the following dimensional requirements per dwelling unit shall be complied with:

# of units	Min Yard Requirements		Setbacks (feet)		
	Lot Size (sq. ft.)	Lot Width at Building Line (feet)	Front	Side	Rear
First Unit	7,000	50	20	10	20% mean lot depth or 30 feet
Second Unit	6,000	80	20	20	20% mean lot depth or 30 feet
Three Units or More	5,000	100	20	25	20% mean lot depth or 30 feet

(Code 1995, § 150.132; Ord. of 9-16-1973)

Sec. 54-149. - Transitional District.

- a. *Purpose.* The Transitional District serves as a transition between residential and commercial land uses. Within this district, dwellings and businesses have an equal priority and are encouraged to coexist. Commercial uses should primarily serve the neighborhood or local community rather than the region. Square footage limitations ensure that the scale of overall development is kept moderate. It is expected that properties within this district will have above average access to roads and that public water and sewer are available.
- b. *Uses.* The chart below indicates the uses generally permitted in the Transitional zoning district. The chart below indicates the uses generally permitted in the R-43 zoning district. Also see Appendix A. *Permitted Uses Chart.*

Permitted Uses (Residential)	Permitted Uses (Commercial)	
Single-Family Dwellings	Banks	Medical and dental clinics
Two-Family Dwellings	Barber and beauty shops	Office supplies and equipment sales
Multi-Family Dwellings	Bicycle sales and service	Business, professional and public offices with no outside storage of materials or equipment
	Catalog sales	Opticians
Special Uses	Clothing stores	Photos and camera sales and service
Churches	Crafts retail and supplies	Physical culture, such as dance studios, martial arts, bodybuilding and aerobics facilities
Group Developments	Dairy bars or ice cream shops	Public Safety Facilities
	Floral shops	Public works and public utilities facilities
	Electronics retail stores	Grocery stores and specialty food shops
	Kindergartens	Restaurants without drive thru facilities
	Libraries and museums	Radio and TV repair
	Medical and dental clinics	Shoe sales
	Office supplies and equipment sales	Tailors and dressmaking
	Business, professional and public offices with no outside storage of materials or equipment	

- c. *Access requirements.* Adjacent residential land uses and adjacent residential zoning districts shall be protected from excessive traffic generated by uses within this district. All commercial developments permitted within this district must place their entrances and exits in the front yard of their lot. Entrances and exits from parking areas shall not be provided alongside and rear lot lines.

- d. *Buffer strip.* All commercial developments in the Transitional District shall establish a buffer strip along property lines that abut adjacent residential land uses and adjacent residential zoning districts. A solid, opaque privacy fence eight feet in height may be used in place of vegetative buffers.
- e. *Dimensional Requirements.* Within the Transitional District, as shown on the zoning map, the following dimensional requirements per dwelling unit shall be complied with:

# of units	Min Yard Requirements		Setbacks (feet)		
	Lot Size (sq. ft.)	Lot Width at Building Line (feet)	Front	Side	Rear
First Unit	7,000	50	20	10	20% mean lot depth or 30 feet
Second Unit	6,000	80	20	20	20% mean lot depth or 30 feet
Three Units or More	5,000	100	20	25	20% mean lot depth or 30 feet
Density: Maximum residential density is eight dwelling units per acre.					

- f. *Parking.* C-S parking requirements. 75 percent of the parking must be provided in the side or rear of the structure.
- g. *Drive thru facilities.* Drive thru facilities are prohibited for all approved uses.
- h. *Hours of operation.* Hours of operation for any business or service provided on the site are limited to 7:00 a.m. to 11:30 p.m. All illuminated signs shall be limited to these hours of operation.
- i. *Outside storage of materials or equipment.* Outside storage of materials or equipment is prohibited. Materials and equipment may be stored in approved accessory buildings.

(Code 1995, § 150.133)

Sec. 54-150. – Mountain Village District (CZ).

- (a) *Established.* The Mountain Village (MV) District is established as a district to permit a range of mixed high density single-family and multifamily housing types along with limited office, public, civic, and retail uses appropriate within higher density residential areas. It is intended that this district be located near employment centers, shopping facilities, roads and other urban infrastructure capable of handling the demand generated by higher density residential development and/or capable of being upgraded to handle the demands. The Mountain Village District may only be established in accordance with the procedure in Section 54-255 Conditional Zoning.
- b. *Uses.* The Mountain Village District shall be structured to provide a mix of uses, like residential, retail, employment, civic, and recreational uses. In addition, a variety of housing options is required to allow a greater diversity of residents within the neighborhood.

A minimum of 15 percent of the land area within a Mountain Village District should be devoted to nonresidential uses. Residential uses are allowed on the upper floors of these uses, as appropriate.

- (e) *Development standards.*
 - (1) *Density standards.* Mountain Village districts shall maintain a minimum average density of at least eight units per acre.
 - (2) *Structure size standards.* None required.
 - (3) *Lot size standards.*
 - a. There is no minimum lot size for the Mountain Village Residential District. It is expected that any property zoned Mountain Village will be five acres or more in size. Layout and configuration of the (buildings, structures, amenities, roads, etc.) actual dwelling units will be in the form of a master plan approval that will guide the placement and development of residences, commercial buildings, and amenity areas.
 - b. Significant changes to an approved conditional zoning will need approval from the planning board and will be subject to public hearing and review as outlined elsewhere in this Code for conditional zoning districts. The master plan shall provide all information indicated in the conditional zoning provisions. Shall be submitted to the town for approval.
 - (4) *Lot width standards.* Lots in the MV District shall have no minimum width.
 - (5) *Setback standards.* There are no setback requirements imposed by the Mountain Village zoning classification. Landscaping and buffering requirements between the Mountain Village and adjacent properties may result in setbacks from adjacent properties; if so, the landscaping and buffering requirements shall be met. Within the village center, buildings shall be located no further than five feet from the edge of the sidewalk, with the exception of buildings that provide a courtyard or green. Buildings providing a courtyard or green may be setback up to 25 feet from the edge of the sidewalk and the main facade of these buildings shall face the green. The minimum spacing between structures shall, in addition, be as per the county fire code.
 - (6) *Impervious surface standards.* A maximum of 70 percent of the total land area in the Mountain Village shall be impervious. The amount of impervious surface may be increased provided that a stormwater management plan that incorporates low impact development standards is provided for the entire development. The stormwater management plan shall provide for, and guarantee, zero stormwater runoff for the impervious surfaces that exceed 70 percent of the total land area of the Mountain Village.
 - (7) *Height standards.* As described elsewhere in this Code.
 - (8) *Landscaping/buffering standards.* Landscaping and/or buffering shall be provided as part of an approved master plan. Such plan will be designed by a licensed state landscape architect and must be approved as part of the master plan. At a minimum the landscape plan shall provide for a landscape buffer between the Mountain Village and adjacent uses; street trees on both sides of new and existing streets at a ratio of one tree per 40 feet of street frontage; buffering of parking areas from streets and adjacent uses with a minimum ten foot wide planting strip planted with trees

and shrubs; interior landscaping of parking lots at a ratio of one tree and two shrubs per five parking spaces with the landscaping evenly distributed throughout the parking area with no parking space located more than 60 feet from a tree; and buffering of residential uses from nonresidential uses with a landscaped buffer with a minimum width of 15 feet except when these uses are located in the village center. A minimum of 75 percent of the plant material used to meet the landscaping and buffering requirements shall be native plants.

- (9) *Parking/loading standards.* Parking and loading facilities shall be provided as required by section 54-176. Parking areas with more than 100 parking spaces shall have a landscape aisle with a minimum width of ten feet within the parking area that separates the parking area into subareas of approximately equal size. On street parking provided within the Mountain Village may provide up to 50 percent of the required parking for the uses in the Mountain Village. Parking for bicycles, in the form of bike racks or other device, shall be provided by all nonresidential uses.
- (10) *Recreational/open space standards.* Open space shall be provided as a requirement of the master plan. Options for recreational/open space shall include passive parks, playgrounds, and public sports facilities. The recreational/open space shall be accessible and useable by residents of and visitors to the Mountain Village. Recreational/open space shall be provided at a ratio of 300 square feet per residential dwelling unit and 100 square feet per 1,000 gross square feet of nonresidential uses. Recreational/open space and public spaces shall be provided in the Mountain Village to provide opportunities for recreation, public gathering, stormwater infiltration, and enhanced aesthetics. Recreational/open space areas may be developed for active and/or passive recreational purposes or left in their natural state. Rooftop gardens accessible to the public may be counted toward recreational/open space requirements. Public spaces may be landscaped, hardscaped, or a combination of these treatments. Recreational/open space and public space shall be provided at the ratio of 500 square feet per residential unit and 100 square feet per 1,000 square feet of nonresidential gross floor area.
- (11) *Sidewalks/trails.* Pedestrian connectivity is required throughout the Mountain Village. Sidewalks and/or trails shall be provided to connect all sections of the development and uses within the Mountain Village. Sidewalks, greenways, and/or trails shall provide pedestrian connectivity and access to all sections of the Mountain Village. Where provided, sidewalks shall be located adjacent to streets and roads and separated from the street by a planting strip with a minimum width of four feet. Sidewalks in residential areas shall have a minimum width of five feet and meet all standards of the town; sidewalks in mixed use and nonresidential areas shall have a minimum width of six feet and meet all standards of the town. Greenways and/or trails may be constructed in lieu of and/or in addition to sidewalks. The minimum width for greenways and trails shall be six feet and they must meet all standards of the town. Greenways, trails, and sidewalks shall connect to existing greenways, trails, and sidewalks on adjacent property and/or shall provide for future connections to adjacent properties and public ways. All sidewalk, greenway, and trail locations and design shall be shown on the master plan for the Mountain Village and must be approved by the planning board.
- (12) *Building design.*
 - a. The design of buildings in the Mountain Village should reflect the character of western North Carolina and should be designed and constructed to achieve the goal of creating sustainable buildings that can serve multiple uses as the village grows and changes over time. Applications and master plans for Mountain Villages shall be accompanied by urban and architectural design guidelines to be prepared by the applicant. Building materials within the Mountain Village should be quality, sustainable materials that contribute to the long-term economic viability of the Mountain Village. Vinyl and similar artificial materials should be avoided when possible. Architecture within the Mountain Village should reflect and enhance the natural and manmade environment found in western North Carolina. Guidelines for structures include:
 1. Front porches should be located on small scale multifamily residential structures.
 2. It is suggested that pitched roofs of single-family residential structures should have a minimum 6-in-12 pitch with a central ridge and flat roofs of single-family residential structures be designed and constructed as a green roof or other energy saving design.

3. Front doors should be located on the street side of small scale multifamily residential structures.
- b. Guidelines for nonresidential structures include:
1. Buildings should front on the street, with parking located beside or behind the building.
 2. Doors should be located on the street side of buildings.
 3. A pedestrian connection should be provided from the sidewalk to the front door of the building.
 4. Safe pedestrian connections should be provided from and through parking areas to the entrances of all buildings and to sidewalks.

Sec. 54-151. - C-S Community Shopping Districts.

- (a) *Purpose.* The C-S Community Shopping District is established as the district in which retail trade and consumer services uses will expand as the community's and region's population increases.
- (b) *Uses.* The chart below indicates the uses generally permitted in the C-S Community Shopping zoning district.

Permitted Uses	
Any form of agriculture or horticulture	Libraries, museums and art galleries
Assembly halls, coliseums, armories, ballrooms	Locksmiths and gunsmiths
Automobile parts and supplies, retail	Meat markets, retail only
Automobile repair garages, excluding body works and open storage of wrecked cars	Medical and dental clinics
Automobile sales, new and uses	Miniature golf
Bakeries, retail	Newspaper offices
Banks and other financial institutions	Noncommercial parks, playgrounds, community centers
Barber and beauty shops	Office supplies and equipment, sales and service
Boat and trailer sales	Offices, businesses, professional and public
Bowling alleys and skating rinks	Opticians and optical goods
Business colleges, barber and beauty colleges, music and dance studios	Photographic studios and camera supply
Car wash	Physical culture and reducing salons
Catalogue sales	Public and private elementary schools
Clubs and lodges, fraternities, sororities	Public works and utility facilities, excluding service and storage yards
Contractors' offices with interior storage	Radio and television stations
Dairy bars and ice cream manufacturing for retail sales	Radio and television repair shops

Dry cleaning and laundry pickup stations	Restaurants, including drive-ins
Floral shops	Retail establishments
Funeral homes and mortuaries	Shoe repair and shine shops
Furriers and fur storage	Small electric and appliance repair shops
Hotels, inns and motels	Tailor, dressmaking and millinery shops
Industrial trade schools and research laboratories	Taxicab stands
Jewelry repair and pawn shops	Telephone and telegraph offices
Launderette and laundromats	Theatres, indoors
	Warehousing
Special Uses	
Alcohol and alcohol beverage manufacturing	Group development
Animal Hospitals	Kennels
Auction sales, except livestock	Kindergartens and day nurseries
Churches	Public safety facilities
Game and amusement rooms	Public works and utility facilities such as transformer stations, pumping stations and water towers
	Service stations

(c) *Dimensional Requirements.* Within the C-S Community Shopping District the following dimensional requirements shall be complied with:

Density	Parking and Loading	Landscaping and Buffering
No yards are required except that where a lot abuts a residential district there shall be a side and rear yard clearance of at least 15 feet.	Off-street loading and unloading. Buildings constructed or converted to commercial use after September 16, 1973 shall provide off-street loading and unloading berths as required in section 54-182.	A densely planted and maintained buffer strip shall be planted on any side or rear yard which abuts a residential area. Such a buffer need not extend nearer to a street right-of-way line than the established building line of the adjoining lot. No buffer shall be required on any side or rear yard which abuts a public street. All buildings and apparatus shall be designed and landscaped in such a way as to blend in with the surrounding area.

(Code 1995, § 150.135; Ord. of 9-16-1973)

Sec. 54-152. - *Community Shopping Type 2 Zone.*

- (a) *Purpose.* The Community Shopping Type 2 Zone (C-S-2) is intended to accommodate a small number of commercial activities along with complementary public uses, residential and services concentrated in mixed-use developments along strategic points of the secondary transit system.

The purpose of the Community Shopping Type 2 Zone will be to minimize the distance individuals will need to travel between home, work, and necessary services. The mixture of acceptable uses will include a core group of non-invasive commercial, medical and educational uses distinctly different from normally accepted commercial applications and in deference to existing and proposed residential uses. In addition, to reducing dependence upon our increasingly stressed transportation system, the

Community Shopping Type 2 Zone will allow maximum developmental value to be achieved along designated strategic corridors. It is the intention of the Community Shopping Type 2 Zone to enhance and diversify development of the town's strategic corridors and to prevent commercial, residential and industrial uses that are incompatible with the long-range development goals of the town.

The proposed definition will read as follows: Community Shopping Type 2 Zone (C-S-2). The following mixed-use district is established:

The purpose of the Community Shopping Type 2 Zone is to provide for a significant and steady increase in the economic development of the town in key areas while protecting and safeguarding existing and future residential development from encroachment by incompatible uses. This zone will allow a degree of latitude for potential development along designated strategic corridors in close proximity to major transportation corridors that is unavailable in transitional zoning districts. The C-S-2 Zone will allow for controlled development with a mixture of uses that are designed for their compatibility with residential development. It is also expected that the C-S-2 Zone will reduce demands on local transportation infrastructure, thereby preserving quality of life within the town.

1. The Community Shopping Type 2 Zone is intended to provide for commercial and limited high-density residential uses in specific areas that are in close proximity to major transportation corridors and residential development.
2. Suitable development of a residential nature will be allowed as a special use within the Community Shopping Type 2 Zone within the confines developed by the planning board of adjustment.
3. This article will allow for the specific prohibition of certain residential and commercial applications within the Community Shopping Type 2 Zone.

- (b). *Uses.* The chart below indicates the uses generally permitted in the C-S Community Shopping Type 2 zoning district.

Permitted Uses	
Any form of agriculture or horticulture	Miniature golf
Banks and other financial institutions	Newspaper offices
Barber and beauty shops	Offices, businesses, professional and public
Business colleges, barber and beauty colleges, music and dance studios	Opticians and optical goods
Catalogue sales	Photographic studios and camera supply
Customary incidental home occupation	Physical culture and reducing salons
Floral shops	Printing and reproduction establishments
Jewelry repair and pawn shops	Printing, engraving and publishing establishments
Libraries, museums and art galleries	Radio and television repair shops
Locksmiths and gunsmiths	Shoe repair and shine shops
Meat markets, retail only	Small electric and appliance repair shops
Medical and dental clinics	Tailor, dressmaking and millinery shops
Office supplies and equipment, sales and service	Telephone and telegraph offices
	Theatres, indoors
Special Uses	
Animal hospitals	Kindergartens and day nurseries

Bakeries and other establishments manufacturing prepared food products for wholesale distribution	Launderette and laundromats
Bakeries, retail	Musical instrument manufacturing
Car wash	Noncommercial parks, playgrounds, community centers
Churches and their customary related uses	Paper products and manufacturing
Clubs and lodges, fraternities, sororities, and social, civic, and other similar organizations	Printing plants
Dairy bars and ice cream manufacturing	Public and private elementary schools
Dry cleaning and laundry pickup stations	Public safety facilities
Exterminators	Public works and public utilities
Feed and seed stores	Public works and public utilities such as transformer stations, pumping stations, water towers and telephone exchanges
Funeral homes and mortuaries	Radio and television stations
Furniture manufacturing	Residential: Single-Family
Group development	Residential: Two-Family
Hotels, inns, and motels	Residential: Multi-Family
Industrial trade schools and research laboratories	Rest and convalescent homes
Kennels	Retail establishments

(d) *Dimensional Requirements.* Within the C-S Community Shopping Type 2 District the following dimensional requirements shall be complied with:

Density	Parking and Loading	Landscaping and Buffering
No yards are required except that where a lot abuts a residential district there shall be a side and rear yard clearance of at least 15 feet.	Off-street loading and unloading. Buildings constructed or converted to commercial use after September 16, 1973 shall provide off-street loading and unloading berths as required in section 54-182.	A densely planted and maintained buffer strip shall be planted on any side or rear yard which abuts a residential area. Such a buffer need not extend nearer to a street right-of-way line than the established building line of the adjoining lot. Buffering may be required on any side or rear yard, which abuts a public street at the discretion of the board. All buildings and apparatus shall be designed and landscaped in such a way as to blend in with the surrounding area.

(Code 1995, § 150.136; Ord. of 2-19-2008)

Sec. 54-153. - Community Shopping Type 3 Zone.

(a) *Purpose.* The Community Shopping Type 3 Zone (C-S 3) is intended to accommodate high density commercial activities along with complementary public uses, and or high-density residential developments concentrated along strategic points of the primary transit system that meet the town's specifications for extraordinary commercial signage.

The purpose of the Community Shopping Type 3 Zone will be to identify and maximize the utility of certain parcels of land that are determined by the town to meet certain criteria that prevent the application of chapter 34 as applied in similarly situated properties within other zoning districts from being effective. Inclusion within the Community Shopping Type 3 Zone is based upon a non-binding determination by staff on the need for such application, a recommendation by the planning board of adjustment of the town after a duly called public hearing and an independent and binding finding by a majority of the board of aldermen meeting at a duly called public hearing on such a matter. In the event of a successful protest petition then a super majority of the board of aldermen would be required to enact such a zoning as outlined within the town land use ordinance.

Parcels contained within C-S Type 3 Zone will necessarily be adjacent to major transportation corridors alternately known as primary arterial roads as defined by and adopted by the board of aldermen of the town as they should see fit. Further such parcels will lend themselves to large scale and/or high-density commercial enterprise due to: location, access to major transportation, visibility, lot size, or topography. Application for inclusion within C-S Type 3 Zone may be made by any property holder owning title to property which he believes meets any one of the criteria for inclusion, however, a property owner application is not required in order for staff to recommend a site for inclusion within the C-S Type 3 Zone.

The mixture of acceptable uses within the C-S Type 3 Zone may include everything from normally accepted commercial applications to light industry to high-density residential. In addition, to reducing stress upon our local transportation system, the revised C-S Type 3 Zone is designed to allow large scale commercial investment within the town to be achieved along designated strategic corridors. It is the intention of the board of aldermen that the C-S Type 3 Zone enhances opportunities for desirable commercial, light industrial and high-density residential development along the town's strategic corridors and to permit commercial, residential and industrial uses that are compatible with the long-range development goals of the town. Further it is the intention of this article to limit the potential negative impacts of such development by regulating their location within the municipality to a higher degree than the traditional Community Shopping Type 3 Zoning designation currently allows.

The proposed definition will read as follows: Community Shopping Zoning (C-S Type 3). The following mixed-use district is established:

The purpose of the Community Shopping Type 3 (C-S Type 3) Zone is to provide for the economic development of the town with a focus on areas of intense commercial value located adjacent to primary arterial roads as designated by the board of aldermen of the town. This zone will allow maximum latitude for potential development along strategic corridors in close proximity to major transportation corridors. In addition to opening designated sections of the town for high value controlled development, the mixture of uses contained within the C-S Type 3 Zone is expected to enhance opportunities for large scale commercial investment within the corporate limits of the town. Further, it is the intent of this article to encourage development of commercial, light industrial and or high density residential development in a manner that will best serve the citizens of the town by enhancing tax base, limiting stress on municipal services and infrastructure, and creating opportunities for employment and investment that are deemed in the best interest of and to meet the needs of the citizens of the town as may change from time to time and are best interpreted in zoning matters by their elected officials.

1. The C-S Type 3 Zone is intended to provide for commercial, light industrial, and limited high-density residential uses in specific areas that are adjacent to primary arterial corridors.
2. Properties located within the C-S Type 3 Zone will be subject to the chapter 34 regulations laid out within chapter 34 for this standalone district. Within said district, should a conflict arise between chapter 34's general requirements and the C-S Type 3 Zone requirements, then the C-S Type 3 Zone requirements shall be deemed the defining regulations.
3. Suitable development of a residential nature will be allowed only as a special use within the C-S Type 3 Zone, within the confines as approved by the board of aldermen. Typically, residential developments allowed within this district will be apartment and/or condominium complexes of a high density nature.

4. Suitable development of certain light industrial applications will be allowed as a special use within the confines approved by the board of aldermen. Property owners seeking inclusion within the C-S Type 3 Zone will need to specifically identify why their proposed use should be included within the C-S Type 3 Zone classification unless recommendation for inclusion within said district comes from staff or independent action by the board of aldermen. This article will allow for the specific prohibition of certain residential and light industrial applications within the Community Shopping Type 3 Zone.
5. Significant change in use without obtaining prior approval from the board of aldermen or discontinuation of use of any commercial, light industrial or residential use operating under a special use permit within the C-S Type 3 Zone shall be deemed grounds for the planning board of adjustment to begin review of the property in question for a change in zoning status to traditional C-S.

- b. *Uses.* The chart below indicates the uses generally permitted in the C-S Community Shopping Type 2 zoning district.

Any form of agriculture or horticulture	Funeral homes and mortuaries
Assembly halls, coliseums, armories, ballrooms	Furniture manufacturing
Automobile parts and supplies, retail	Game and amusement rooms, including pool halls
Automobile repair garages, excluding body works and open storage of wrecked cars	Glass, ceramic and tile manufacturing
Automobile sales, new and used	Group development
Bakeries and other establishments manufacturing prepared food products for wholesale distribution	Libraries, museums and art galleries
Bakeries, retail	Locksmiths and gunsmiths
Banks and other financial institutions	Meat markets, retail only
Barber and beauty shops	Medical and dental clinics
Boat and trailer sales	Miniature golf
Bowling alleys and skating rinks	Newspaper offices
Business colleges, barber and beauty colleges, music and dance studios	Office supplies and equipment, sales and service
Car wash	Offices, businesses, professional and public
Catalogue sales	Opticians and optical goods
Customary incidental home occupation	Photographic studios and camera supply
Dairy bars and ice cream manufacturing for retail sales	Physical culture and reducing salons
Dry cleaning and laundry pickup stations	Printing and reproduction establishments
Floral shops	Printing, engraving and publishing establishments
Furriers and fur storage	Public and private elementary schools
Hotels, inns and motels	Radio and television repair shops
Industrial trade schools and research laboratories	Restaurants, including drive-ins
Jewelry repair and pawn shops	Retail establishments

Launderette and laundromats	Shoe repair and shine shops
Special Uses	Small electric and appliance repair shops
Alcohol and alcohol beverage manufacturing	Tailor, dressmaking and millinery shops
Amusement, recreational and sporting goods manufacturing	Telephone and telegraph offices
Animal hospitals	Theatres, indoors
Apparel and clothing manufacturing, including hosiery	Auction sales, except livestock
Automobile parts and accessories manufacturing	Kindergartens and day nurseries
Automobile repair garages, including body works and open storage of wrecked cars	Leather products, including luggage and shoe manufacturing
Bedding and carpet manufacturing and cleaning establishments	Manufactured home display area
Belting and brake lining manufacturing	Musical instrument manufacturing
Boat and trailer repairs and manufacturing	Noncommercial parks, playgrounds, community centers
Bottling works	Outdoor recreation uses such as go-cart track and riding stables
Building materials storage and sales yards	Paper products and manufacturing
Business machines manufacturing	Plumbing and heating supply houses
Cabinet, caskets and woodworking	Precision instruments manufacturing
Churches and their customary related uses	Printing plants
Clubs and lodges, fraternities, sororities, and social, civic, and other similar organizations	Public safety facilities
Coffee, tea and spices processing	Public works and public utilities such as transformer stations, pumping stations, water towers and telephone exchanges
Contractors' offices with storage yards	Public works and utility facilities, excluding service and storage yards
Drugs, medicines and cosmetics manufacturing	Radio and television stations
Dry cleaning and laundry pickup stations	Residential: Single-Family
Electrical appliances and electronic equipment manufacturing	Residential: Two-Family
Electrical wholesale supply house and repair shops	Residential: Multi-Family
Exterminators	Rest and convalescent homes
Farm machinery, sales and repairs	Service stations
Feed and seed stores	Sheet metal, roofing, plumbing, heating and refrigeration shops
Freezer lockers and ice plants	Taxicab stands
Hardware and housewares manufacturing	Textile and cordage manufacturing

Industrial supplies and equipment, sales and service	Trailer manufacturing
Industrial trade schools and research laboratories	Truck stop
Insulation materials and wall boarding manufacturing	Warehousing, except for storage of dangerous and offensive items such as uncured hides and explosives
Kennels	Wholesale establishments
	Window and door manufacturing

- c. *Dimensional Requirements.* Within the C-S Community Shopping Type 2 District the following dimensional requirements shall be complied with:

Density	Parking and Loading	Landscaping and Buffering
No yards are required except that where a lot abuts a residential district there shall be a side and rear yard clearance of at least 15 feet.	Off-street loading and unloading. Buildings constructed or converted to commercial use after September 16, 1973 shall provide off-street loading and unloading berths as required in section 54-182.	A densely planted and maintained buffer strip shall be planted on any side or rear yard which abuts a residential area. Such a buffer need not extend nearer to a street right-of-way line than the established building line of the adjoining lot. No buffer shall be required on any side or rear yard, which abuts a public street. All buildings and apparatus shall be designed and landscaped in such a way as to blend in with the surrounding area.

(Code 1995, § 150.137; Ord. of 2-19-2008)

Sec. 54-154. - L-I Light Industrial District.

- (a) *Purpose.* The L-I Light Industrial District is established as a district in which the principal use of land is for light industrial and warehousing uses which normally seek locations on large tracts of land where the operations involved do not detract from the development potential of nearby undeveloped properties.
- (b) *Uses.* The chart below indicates the uses generally permitted in the L-1 Industrial District.

Permitted Uses	
Alcohol and alcohol beverage manufacturing	Industrial trade schools and research laboratories
Amusement, recreation and sporting goods manufacturing	Insulation materials and wall board manufacturing
Any form of agriculture or horticulture, including the sale of products on the property where produced	Kennels
Apparel and clothing manufacturing, including hosiery	Launderette and laundromats
Assembly halls, coliseums, armories, ballrooms, and similar structures	Leather products, including luggage and shoe manufacturing
Auction sales, except livestock	Libraries, museums and art galleries
Automobile parts and supplies, retail	Locksmiths and gunsmiths
Automobile parts and accessories manufacturing	Manufactured home display area
Automobile repair garages, but excluding body works and open storage of wrecked cars	Meat markets, retail only, excluding the killing or dressing of any flesh or fowl
Automobile sales, new and uses	Medical and dental clinics
Bakeries and other establishment manufacturing prepared food products for wholesale distribution	Miniature golf
Bakeries, retail	Mini storage warehouses
Bedding and carpet manufacturing and cleaning establishments	Musical instrument manufacturing
Belting and brake lining manufacturing	Newspaper offices
Boat and trailer repairs and manufacturing	Noncommercial public or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools and fishing lakes
Boat and trailer sales	Offices, business, professional and public
Bottling works	Paper products manufacturing
Bowling alleys and skating rinks	Plastic products manufacturing
Business colleges, barber and beauty colleges and schools, music and dance studios	Plumbing and heating supply houses
Business machines manufacturing	Precision instruments manufacturing

Cabinet, caskets and woodworking	Printing and reproduction establishments
Car wash	Printing, engraving and publishing establishments
Clubs and lodges, fraternities, sororities, and social, civic, and other similar organizations operating on a nonprofit basis	Printing plants
Coffee, tea and spices processing	Public and private elementary schools
Contractors offices with interior storage of materials	Public works and utility facilities, excluding service and storage yards
Drugs, medicines and cosmetics manufacturing	Radio and television stations
Dry cleaning and laundry plants	Radio and television repair shops
Electrical appliances and electronic equipment manufacturing	Restaurants, including drive-in restaurants
Electrical wholesale supply house and repair shops	Sheet metal, roofing, plumbing, heating and refrigeration shops
Exterminators	Textile and cordage manufacturing
Felt and sandpaper manufacturing	Theatres, indoor
Freezer lockers and ice plants	Trailer manufacturing
Funeral homes and mortuaries	Truck stop
Furniture manufacturing	Warehousing, except for the storage of dangerous or offensive items such as uncured hides and explosives
Furriers and fur storage	Wholesale establishments
Glass, ceramic and tile manufacturing	Wholesale storage of gasoline and oil products, including bottled gas and oxygen
Hardware and housewares manufacturing	Window and door manufacturing
Hotels, motels and inns	
Special Uses	
Animal Hospitals	Group development
Automobile repair garages, including body works and open storage of wrecked cars	Industrial supplies and equipment, sales and service
Building materials storage and sales yards	Kindergartens and day nurseries
Churches and their customary related uses	Public safety facilities such as fire and police stations and rescue squad headquarters
Contractors' offices with storage yards	Public works and public utilities facilities
Farm machinery, sales and repairs	Public works and public utility facilities such as transformer stations, pumping stations, water towers and telephone exchanges
Feed and seed stores	Rest and convalescent homes
Game and amusement rooms, including pool halls	Service Stations

- (c) **Dimensional Requirements.** Within the L-I Industrial District, as shown on the zoning map, the following dimensional requirements per dwelling unit shall be complied with:

Min. Yard Requirements		Setbacks (feet)		
Lot Size (acres)	Lot Width at Building Line (feet)	Front	Side	Side (from each principle building)
One	200	50	15	25
Coverage	The total ground area covered by the principal building and accessory buildings shall not exceed 40 percent of the total lot area.			
Buffering	A densely planted and maintained buffer strip shall be planted on any side or rear yard which abuts a residential area. Such a buffer need not extend nearer to a street right-of-way line than the established building line of the adjoining lot. No buffer shall be required on any side or rear yard which abuts a public street.			

(Code 1995, § 150.138; Ord. of 9-16-1973)

Sec. 54-155. - H-I Heavy Industrial Districts.

- (a) *Purpose.* The H-I Heavy Industrial District is designed to accommodate all but the most obnoxious industries. However, it is expected that industries permitted here by right, as well as those special uses, will minimize their emission of smoke, dust, fumes, glare, noise and vibrations.
- (b) *Uses.* The chart below indicates the uses generally permitted in the H-1 Industrial District.

Permitted Uses	
Air conditioning and heating equipment manufacturing	Furniture manufacturing
Alcohol and alcohol beverage manufacturing	Furriers and fur storage
Amusement, recreation and sporting goods manufacturing	Glass, ceramic and tile manufacturing
Any form of agriculture or horticulture, including the sale of products on the property where produced	Hardware and housewares manufacturing
Apparel and clothing manufacturing, including hosiery	Insulation materials and wall board manufacturing
Apple packing sheds	Kennels
Assembly halls, coliseums, armories, ballrooms, and similar structures	Leather products, including luggage and shoe manufacturing
Auction sales, except livestock	Manufactured home display area
Automobile parts and supplies, retail	Metal fabricating plants, including boiler and tank works
Automobile parts and accessories manufacturing	Mini storage warehouses
Automobile repair garages, but excluding body works and open storage of wrecked cars	Musical instrument manufacturing

Automobile repair garages, including body works and open storage of wrecked cars	Noncommercial public or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools and fishing lakes
Automobile sales, new and uses	Offices, business, professional and public
Bakeries and other establishment manufacturing prepared food products for wholesale distribution	Outdoor recreation uses such as go-cart track and riding stables
Bedding and carpet manufacturing and cleaning establishments	Paper products manufacturing
Belting and brake lining manufacturing	Plastic products manufacturing
Boat and trailer repairs and manufacturing	Planting works
Boat and trailer sales	Plumbing and heating supply houses
Bottling works	Pottery, porcelain, or vitreous china manufacturing
Bowling alleys and skating rinks	Precision instruments manufacturing
Business machines manufacturing	Printing and reproduction establishments
Cabinet, caskets and woodworking	Printing, engraving and publishing establishments
Car wash	Printing plants
Carbon and battery products manufacturing	Radio and television stations
Clubs and lodges, fraternities, sororities, and social, civic, and other similar organizations operating on a nonprofit basis	Restaurants, including drive-in restaurants
Coffee, tea and spices processing	Sawmills, planing mills, pallet and basket factories
Contractors offices with interior storage of materials	Service stations
Drugs, medicines and cosmetics manufacturing	Sheet metal, roofing, plumbing, heating and refrigeration shops
Dry cleaning and laundry plants	Textile and cordage manufacturing
Electrical appliances and electronic equipment manufacturing	Trailer manufacturing
	Truck stop
Exterminators	Warehousing, except for the storage of dangerous or offensive items such as uncured hides and explosives
Felt and sandpaper manufacturing	Wholesale establishments
Fertilizer manufacturing and sales	Wholesale storage of gasoline and oil products, including bottled gas and oxygen
Flour and feed mills	Window and door manufacturing
Freezer lockers and ice plants	

Special Uses	
Animal Hospitals	Group development
Automobile wrecking and junkyards	Industrial supplies and equipment, sales and service
Building materials storage and sales yards	Kindergartens and day nurseries
Churches and their customary related uses	Public safety facilities such as fire and police stations and rescue squad headquarters
Contractors' offices with storage yards	Public works and public utilities facilities
Farm machinery, sales and repairs	Public works and public utility facilities such as transformer stations, pumping stations, water towers and telephone exchanges
Feed and seed stores	

- (c) *Dimensional Requirements.* Within the H-I Industrial District, as shown on the zoning map, the following dimensional requirements per dwelling unit shall be complied with:

Min. Yard Requirements		Setbacks (feet)		
Lot Size (acres)	Lot Width at Building Line (feet)	Front	Side	Side (from each principal building)
One	200	50	20	25
Setback from Residential Districts and Right of Way	No building shall be less than 50 feet from the right-of-way line of the street or highway. Where the rear of a lot abuts a residential district, there shall be a 50-foot rear yard clearance and where a lot abuts a side yard of a lot zoned residential there shall be a side yard clearance of at least 40 feet.			
Buffering	A densely planted and maintained buffer strip shall be planted on any side or rear yard which abuts a residential area. Such a buffer need not extend nearer to a street right-of-way line than the established building line of the adjoining lot. No buffer shall be required on any side or rear yard which abuts a public street.			

Sec. 54-156. – Conditional Districts.

- (a) *Purpose.* For each general use zoning district, this ordinance authorizes the creation of parallel conditional zoning districts that have the same requirements as the general use district, as modified by one or more site-specific conditions. The conditional zoning district classification allows the Board of Commissioners to consider proposed uses and tailor the zoning to accommodate those uses while addressing anticipated problems that may arise from the establishment of the proposed uses. This section sets forth the types of conditional zoning districts and explains their relationship to the general use districts.
- (b) *District.* Each general use district shall have a corresponding conditional zoning district and shall be indicated on the Official Zoning Map by the initials “CZ” in front of the associated base zoning district designation. The Mountain Village district may only be established through the conditional zoning process in accordance with the provisions of this section.
- (c) *Conditions and Requirements.* The approval for each conditional zoning district shall specify all conditions of development and use of land that differ from the requirements of the corresponding general use district. Specific conditions may be proposed by the petitioner, by staff, or by the Board of Commissioners, but only those conditions approved by the Board of Commissioners and consented to by the petitioner in writing may be incorporated into the zoning regulations. Such conditions must be designed to help the project conform to the Town’s adopted ordinances and plans, and/or mitigate the impacts reasonably expected to be generated by the developer or use of the site. Reclassification of land to a conditional zoning district allows a landowner to propose, and the Board of Commissioners to consider, additional conditions or restrictions on the range of allowable uses, use standards, development intensities, development standards, and other regulations applicable in the parallel general zoning district.

Notwithstanding the foregoing, upon request of the applicant, the Board of Commissioners may waive or vary a specific development standard or requirement if the Board of Commissioners find that such waiver or variance is not contrary to the public interest and not inconsistent with the intent and purposes of this ordinance.

- (d) *Applicant and Property Information.* Conditional zoning districts are intended for voluntary proposals submitted in the names of the owners of all property included in the petition/application. A conditional zoning district shall consist of land under unified control which may be planned and developed as a single development or as an approved programmed series of development phases by multiple developers. The applicant shall be legally capable of providing commitment to the town that the conditional zoning district development will comply with all documents, plans, standards, and conditions ultimately approved by the Town.
- (e) *Approval Process.* The approval process for a conditional zoning district rezoning is as follows:
 - 1. Initial Information Meeting with staff – The applicant may submit a sketch plan to Woodfin Planning Staff and discuss any questions or concerns with the proposed development project in order to ensure the applicant fully understands the review and approval process, submittal requirements, applicable deadlines, fees and overall expectations for the project and application submittal process. The sketch plan, at a minimum, shall address the following:
 - a. The underlying zoning districts and a full list of proposed uses consistent in character in those zoning districts. Such use classifications may be selected from any of the uses, whether permitted by right or with supplemental standards, allowed in the general zoning district upon which the conditional zoning district is based. Uses not otherwise permitted in the general zoning district, shall not be permitted in the conditional zoning district.

- b. General traffic routes to and from the development with major access points identified.
 - c. Tabular data, including the range and scope of proposed land uses, proposed densities, floor area ratios and impervious surface ratios as applicable to development type; and land areas devoted to each type of general land use and phase of development.
 - d. A proposed development schedule if the project is to be phased.
2. *Public Information Meeting* - In connection with all requests for any conditional zoning district Rezoning application for a nonresidential proposed use abutting a residentially zoned district and any proposed development project that meets the traffic thresholds requiring a Traffic Impact Analysis, the applicant shall hold a public information meeting. The purpose is to provide a framework for creating a shared vision with community involvement and is designed to facilitate communication between an applicant and adjacent and surrounding property owners and to alert Town planning staff and the Town Planning board and Board of Commissioners to additional potential issues and concerns with the proposed development project. The applicant shall develop and provide to Town planning staff an agenda, schedule, location and list of participants to answer questions from citizens. The Town may post the public information meeting to its website. Town planning staff may attend the public information meeting but is not required to do so.
 3. *Traffic Impact Analysis* – A Traffic Impact Analysis prepared by a licensed engineer is required only when it is estimated that either peak hour trips from the proposed development project are estimated to exceed two hundred (200) or the total daily trip volume from the proposed development project is estimated to exceed two thousand (2,000). If the project meets NCDOT Traffic Impact Analysis guidelines, a single analysis meeting both NCDOT's requirements and the requirements of this ordinance may be submitted. The traffic impact analysis shall include at a minimum:
 - a. Existing traffic conditions within the study area boundary
 - b. Traffic volumes generated by the existing and proposed development on the parcel, including the morning peak, afternoon or evening peak and average annual daily traffic levels
 - c. The distribution of existing and proposed trips through the street network
 - d. Analyses of the capacities of intersections located within the study area boundary
 - e. Recommendations of improvements designed to mitigate traffic impacts; and
 - f. Other information reasonably requested by the Administrator that is reasonably related to the traffic impact of a proposed development.
 4. *Application Submittal and Acceptance* – This zoning option is intended only for development proposals that are ready to proceed from plan approval to construction in a timely manner. As a result, each project must include a site plan that meets the requirements listed 54-157, as modified by any site-specific conditions, as well as any other plans, drawings, renderings, elevations, maps and documents specifically included as development documents for approval.
 1. *Formal staff review*– Town staff shall review the Master Plan to identify issues with the proposed development and determine compliance with the requirements of this Ordinance. Town staff will provide detailed comments to the applicable reviewing board regarding issues identified and recommend any needed changes or conditions to the Master Plan to bring it into compliance with the requirements of this Ordinance and/or other legal requirements.
 2. *Public Hearing, Planning Board Recommendation, and Board of Commissioners Decision.* The conditional zoning district rezoning approval decision is a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. The conditional zoning application shall be considered and treated as a zoning map amendment. In considering any petition for a conditional zoning district rezoning, the Town shall follow all of the procedures set forth in Sec. 54-46.

Sec. 54-157. *Site Plan*

All applications for conditional zoning shall be accompanied by two sets of plans drawn to scale showing:

- a. The boundary/property lines of the property being developed as well as the location of the property lines which interest the boundaries of the property being subdivided or developed;
- b. Water courses (including all perennial and intermittent streams) and flow paths on the land to be developed;
- c. Location of existing and proposed conveyance systems and concentrated flows such as grass channels, swales and storm drains as well as the location of ponds;
- d. Contour map of two-foot intervals extending one hundred (100) feet beyond the property boundary: Wetland limits (with a copy of appropriate Federal and State permits). If permits have not been obtained, permit applications are to be submitted. Verification to be submitted with Preliminary Plans;
- e. Impervious area calculations;
- f. The location, names and rights-of-way of any existing street(s) on or within three hundred (300) feet of the land to be subdivided or developed;
- g. Rough finished grades and the location of any building restriction flood lines;
- h. The location of proposed streets (include street cross sections), buildings, parking areas and other impervious surfaces as well as the location of parks or other open spaces;
- i. Zoning information for the proposed project site and adjacent properties;
- j. The location and width of required stream and/or lake buffers;
- k. Preliminary selection and location of proposed structural stormwater controls to be installed for compliance with the appropriate Post-Construction Stormwater Ordinance;
- l. Location of undisturbed open space as required by the Ordinance;
- m. The scale of the plan, which shall not be smaller than one hundred (100) feet to the inch, the north point and the date; and
- n. A small scale vicinity map.

Site Analysis Required:

- a. Existing use of land (i.e., single-family, farm or vacant);
- b. Boundaries and description of existing vegetation;
- c. Existing drainage pattern, including the area up to three hundred (300) feet from perimeter of property;
- d. Soil types (if applicable, identify areas suitable for septic field location);
- e. Slope analysis (identification of moderate and steep slopes; e.g., ten (10) percent to twenty-five (25) percent and greater than twenty-five (25) percent);
- f. Existing utility right-of-way (overhead power lines, sewer easements, etc.);
- g. Location and description of environmentally sensitive features or natural resource areas that provide opportunities or constraints for development; and
- h. Existing creek and buffer condition.

Additional Site and Development Specific Information Required:

- a. Proposed limits of clearing and grading;
- b. Description of proposed creek crossings (i.e., method for crossing, materials, permits required to cross);
- c. All proposed and existing landscaping which will remain, including street trees;
- d. Earthen berm detail (i.e., location, height);
- e. Common/Public Open Space (provide acreage and planned improvements);
- f. Required front, rear, side yard setbacks and dimensional lot requirements;
- g. Proposed utility information (public water, sewer, well, septic or community well);

- h. Right-of-way cross section(s), (existing and proposed) and include the cross section identified in the Comprehensive Transportation Plan;
- i. Preliminary architectural renderings with depictions of elevations exposed to the public street, if applicable;
- j. Pedestrian connectivity plan (existing and proposed infrastructure to accommodate pedestrians) and identify pedestrian routes to schools, common areas, commercial areas or proposed greenways, etc.;
- k. Range in lot sizes; and
- l. Cul-de-sac usage requires a description that justifies its use (i.e., to prevent crossing creek, wetland etc.).

Section 54-158. Development Agreements.

- a. *Purpose.* The purpose of this section is to establish standards and procedures for the Town entering into development agreements for long-term, large-scale developments. The intent of development agreements is to allow the town board of commissioners flexibility in managing large projects which may have a variety of uses and purposes included in a master plan, or which would otherwise not be appropriate for a traditional neighborhood development or other zoning district designation available at the time of the development plan approval.
- b. *Authority.* The Town may enter into a development agreement with a developer, subject to the procedures and standards of this section. In entering into such a development agreement, the town may not exercise any authority or make any commitment not authorized by general or local act and may not impose any tax or fee not authorized by otherwise applicable law.
- c. *Vested Rights.* Development agreements are intended to provide assurances of vested rights for a period of up to five years, unless a timeframe is otherwise provided in the development agreement itself, in cases where a project may be constructed over time or in phases.
- d. *Relationship to zoning, subdivision, and other ordinances.* In conjunction with this ordinance all development proposals shall meet any and all local, state, and federal requirements which include but are not limited to the North Carolina Building Code, North Carolina Fire Code, and local stormwater and flood hazard prevention ordinances. To the extent that the development plan does not fall specifically within existing town zoning, the development agreement ordinance will create a new zoning district specifically for the development agreement's planning area. The development agreement may also state that land use intensities, heights, setbacks, floor area, lot sizes and widths, recreation space, parking requirements, impervious surface limitations and other dimensional standards be specified in the agreement.
- e. *Application.* The application shall include a master plan that depicts the general configuration and relationship of the principal elements of the proposed development, including major uses, building types, pedestrian and vehicular circulation, open space, public utilities, and phasing. An application for a development agreement shall include a proposed development agreement that shall, at a minimum, including all of the following:
 - a. A legal description of the property subject to the agreement and the names of its legal and equitable property owners.
 - b. The duration of the agreement.
 - c. A development schedule, including commencement dates and interim completion dates at no greater than five-year intervals.
 - d. The development uses permitted on the property, including population densities and building types, placement on the site, and design.
 - e. A description of public facilities that will service the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development.
 - f. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions to protect environmentally sensitive property.
 - g. A description of all local development permits approved or needed to be approved for the development of the property together with a statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction does not relieve the developer of the

necessity of complying with the law governing their permitting requirements, conditions, terms, or restrictions.

- h. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the local government for the public health, safety, or welfare of its citizens.
- i. A description, where appropriate, of any provisions for the preservation and restoration of historic structures.
- j. An indemnification and "hold harmless" clause whereby the developer/property owner holds the town and its agents harmless from liability for damages, injury or death that may arise from the direct or indirect operations of the owner, developers, contractors, and subcontractors that relate to the project.

f. Procedure

- a. As part of staff review of the application, the Town Administrator may negotiate revisions to the proposed development agreement consistent with the provisions of this section.
- b. Following staff review and preparation of a staff report, the development agreement shall be forwarded to the planning board for public input and planning board comment. Before a development agreement is presented to the planning board, staff shall prominently post a notice of the public hearing on the site of the proposed development agreement not less than ten days no more than 25 days prior to the hearing. Within the same time frame, staff shall provide first class mail to all property owners within 150 feet of the property boundary. For the purpose of this section, properties are abutting even if separated by a street, railroad, or other transportation corridor.
- c. The board of commissioners shall consider the recommendation of the planning board in a legislative hearing. In addition to the notice requirements in section (F)(b), staff shall place notification in a newspaper of general circulation once a week for two successive calendar weeks. The board of commissioners may decide to:
 - i. Enter into the development agreement as submitted.
 - ii. Enter into the development agreement application subject to modifications agreed to by the application in writing,
 - iii. Not enter into the development agreement, or
 - iv. Remand the application back to the planning board for further consideration.

- g. *Recordation.* Within 14 days after entering into a development agreement, the city shall record the agreement with the Buncombe County Register of Deeds.

(Code 1995, § 150.139; Ord. of 9-16-1973

ARTICLE VI -SPECIAL USES

Sec. 54-158 – Special Uses.

Each special use is unique in nature, and needs special consideration and conditions. Section 54-78(2) provides conditions applicable to all uses listed as special in the designated zoning district that the board of adjustment must find to exist. The following special uses have additional specific conditions that the board of adjustment must find to exist before granting the special use permit. These special requirements are not conclusive, in that, the board of adjustment may add or modify such requirements as they deem necessary.

- (1) *Animal hospital.*
 - a. No pens or kennels shall be located closer than 20 feet to any property line.
 - b. All outside facilities will be screened from sight from adjacent properties.
- (2) *Auction sales, except livestock.* All auction sales in C-S must be in an enclosed area.
- (3) *Automobile repair garages, but excluding body works and open storage of wrecked cars.* Add Conditions.
- (4) *Automobile wrecking and junkyards.*
 - a. All motor vehicles stored or kept in such yards shall be so kept that they will not catch and hold water in which mosquitoes may breed and so that they will not constitute a place in which rats, mice, or other vermin may be harbored, reared, or propagated.
 - b. Because of the tendency for salvage yards to promote the breeding of vermin, no such operation shall be permitted closer than 200 feet from any established residential zone.
 - c. All outdoor storage of salvage and wrecking operations shall be conducted entirely within an enclosed opaque fence, screen, or wall, excepting driveway areas, from eight to 12 feet in height. Storage between the road or street and such fence, screen, or wall for screening purposes shall be properly painted or otherwise maintained in good condition.
 - d. All such yards shall be so maintained as to be in a sanitary condition and so as not to be a menace to the public health or safety.
 - e. The number of vehicular access driveways permitted on any single street frontage shall be limited to:
 1. One driveway where the parcel to be used has a maximum road street frontage of 100 feet or less.
 2. Two driveways where the road or street frontage exceeds 100 feet.
 - f. Driveways used for ingress and egress shall be limited to 25 feet in width.
- (5) *Building materials storage and sales yard.* All open storage shall be fenced by a solid fence not less than six feet in height.
- (6) *Churches and their customary related uses.*
 - a. All buildings shall be set back at least 40 feet from any property line.
 - b. A vegetative buffer, as defined in section 54-5, shall be placed in any yard which abuts a residential zone.
- (7) *Contractor's office and storage yard.* All open storage shall be fenced by a solid fence not less than six feet in height.
- (8) *Farm machinery, sales and repairs.* All open storage shall be fenced by a solid fence not less than six feet in height.
- (9) *Feed and seed stores.* All open storage shall be fenced by a solid fence not less than six feet in height.

(10) *Game and amusement rooms including pool halls.*

- a. The hours of operation shall be limited to 10:00 a.m. through 12:00 midnight.
- b. There shall be no alcohol sold or consumed on the premises.

(11) *Group developments.*

As a special use, in the case of two or more buildings to be constructed on a plot of ground of at least two acres not subdivided into the customary streets and lots and which will not be so subdivided, the application of this article may be varied by the planning board of adjustment in a manner that will be in harmony with the character of the neighborhood, provided:

- (1) Such uses are limited to those permitted within the zoning district in which the project is located. In no case shall the planning board of adjustment authorize a use prohibited in the district in which the project is to be located.
- (2) The distance of every building from the nearest property line shall meet the front yard setback and side yard requirements of the district in which the project is located.
- (3) A proposed group development project should be designed by a licensed architect. It shall be so designed that the overall intensity of land use shall be no greater than that permitted in the zoning district in which the project is located. Furthermore, the design should guarantee permanent retention of open space and ensure its care and maintenance.
- (4) Group developments shall follow the review procedures for special uses as outlined in section 2-71. (See bylaws of the planning board of adjustment set forth in chapter 2, article III.)
- (5) The procedure for approval of group development plans shall include the submission of a design plan showing the proposed layout, including the location of buildings, driveways, street parking spaces, and recreation areas, to the planning board of adjustment for study prior to final approval. Where applicable, the design plan package shall include approvals for the proposed sanitary sewer and water distribution systems from the appropriate state and local agencies. An approved project must be started within 12 months and be completed within a reasonable time after its approval.

The following checklist shall be completed by the applicant. The applicant shall infer that all information is required at the public hearing, unless prior arrangements have been made.

SPECIAL USE GROUP DEVELOPMENT SITE PLAN REVIEW CHECKLIST

Site plans for special use permits for group developments require the following:

(A) GENERAL REQUIREMENTS.

- ___ 1) Submission of at least three sets of site plans prepared by an appropriate registered professional.
- ___ 2) Identification of property by street address and tax map reference.
- ___ 3) Site plans shall also contain the following general information:
 - a) North arrow, legend, and seal of registered professional;
 - b) A vicinity map showing relative location of project to surrounding area;
 - c) Adjoining property liens, ownership, and land use;
 - d) Existing and proposed topography at contour intervals of no greater than two feet; and
 - e) The plan shall not be drawn to a scale of less than one inch to 100 feet.
- ___ 4) Name and location of project and contact information of applicant or owner

(B) LAND AND LANDSCAPING, RECREATION AND OPEN SPACE PLAN. The following requirements shall be provided on a single detached plan:

- ___ 1) If the proposed development is to be located in a designated flood hazard area. All base flood elevation data shall be provided by the developer.
- ___ 2) Location of wooded areas and all trees of 12 inches or more in diameter.
- ___ 3) Amount of wooded area to be removed.
- ___ 4) Existing and proposed contours at intervals of no less than two feet.
- ___ 5) Streams, ponds, drainage ditches shall be illustrated.
- ___ 6) Location of existing and proposed utilities.
- ___ 7) Area to be covered by structures, parking, and streets and the like.
- ___ 8) Buffering shall be illustrated, and meet the standards as found in section 54-5.
- ___ 9) Location and heights of all fences, walls, and hedges.
- ___ 10) Type and location of proposed plantings.
- ___ 11) A minimum of 20 feet of open space between individual and unattached buildings in a residential development.
- ___ 12) Areas intended for open space and common areas.

(C) STRUCTURE AND UTILITY SYSTEM PLAN. The following requirements shall be provided on a single detached plan:

- ___ 1) Location and dimension of all existing and proposed structures, including gross floor area and number of stories.
- ___ 2) Location of entrances and loading points.
- ___ 3) Proposed schedule of development including stages likely to be followed.
- ___ 4) Existing and proposed use of all structures. If multifamily use, list number of bedroom units proposed: 1 bedroom ___ 2 bedroom ___ 3 bedroom ___ 4 bedroom ___.
- ___ 5) Water and sewer system.
 - a) Location and size of all existing and proposed lines.
 - b) Letter from the Woodfin Water and Sewer District or the City of Asheville Water and Sewer Department stating availability of water and sanitary sewer. The letter shall state the results of a flow and pressure test for water lines and the volume of capacity/current flow for sewer lines.
 - c) Estimated daily and peak demand for water consumption and waste water discharge.
 - d) Location and size meters.
 - e) Rights-of-way and easements.
- ___ 6) Underground utility lines including electrical power, telephone, gas, cablevision, fire alarm system and exterior area lighting.

___ 7) Fire protection system.

- a) Location of nearest fire hydrant and proposed fire hydrant.
- b) Letter of adequacy of water pressure from the Woodfin Fire Department.
- c) Hydrants shall be placed on six-inch water lines and be located within 100 feet of the development.
- d) A 15-foot area around the hydrant shall be kept clear of all obstructions.
- e) Only the Woodfin Fire Chief may suggest a change from these standards.

___ 8) Stormwater drainage system as described in part ___.

___ 9) Seal and signature of registered professional engineer.

(D) STREET, PARKING, AND LOADING AREA PLAN. The following requirements shall be provided on a single detached plan:

___ 1) An approved North Carolina Department of Transportation (N.C.D.O.T.) Driveway Permit for any driveway or other curb cut on a state system street or highway.

___ 2) Curb design and material.

___ 3) Street plans and profiles.

___ 4) Rights-of-way and pavement widths.

___ 5) Existing and proposed storm drainage facilities including pipes, drop inlets, catch basins, junction boxes, man holes, etc.

___ 6) Location of traffic control devices.

___ 7) Street lighting. The developer is advised that there is a charge by Carolina Power and Light for each pole required for street lighting utilizing underground wiring. This is a one-time service fee and the Town will not assume responsibility for this payment.

___ 8) Adequate parking spaces shall be provided in accordance with section 54-176 and illustrated on plan.

___ 9) Parking spaces shall be no less 8.5 feet by 18 feet (Handicapped spaces shall be 12.5 feet wide).

___ 10) Type of surfacing and curbing in all parking and loading areas.

___ 11) An illustration of the interior flow of vehicular and pedestrian traffic.

___ 12) Fire lanes for commercial development.

___ 13) Location of dumpsters, illustrating access areas.

(E) STORMWATER DRAINAGE PLAN. The following requirements shall be provided on a single detached plan:

___ 1) The developer should be familiar with Buncombe County's Soil Erosion Control Ordinance.

___ 2) The stormwater plan shall illustrate the outline of all areas to be cleared, graded, or otherwise disturbed, outline of areas to be cut, and outline of areas to be filled.

___ 3) If on-site cut and fill do not balance, identify location of borrow and/or spoil areas.

___ 4) Show approximate location of proposed silt fences and similar work to be installed to protect the site and adjacent property during construction.

- ___ 5) Show, by flow lines, direction of runoff of stormwater.
- ___ 6) Provide estimate of stormwater runoff rates both before and after development and approximate size and location of retention walls.
- ___ 7) Existing and proposed storm drainage facilities including pipes, drop inlets, catch basins, junction boxes, manholes, etc.
- (12) *Industrial supplies and equipment, sales and services.* All open storage shall be fenced by a solid fence not less than six feet in height.
- (13) *Kindergartens and day nurseries.*
- a. There shall be not less than:
 1. 25 square feet of building floor area per child.
 2. 75 square feet of open playing area per child.
 - b. A chain link fence shall surround the entire playing area. Such a fence shall be at least four feet in height and its access shall be controlled by a childproof gate.
 - c. A copy of the approved state license shall be submitted to the town.
 - d. A site plan of the child day care center shall be submitted to and approved by the planning board of adjustment. The required site plan shall include:
 1. All building locations and dimensions;
 2. Delineation of parking areas with the required amount of spaces as found in section 54-176;
 3. Traffic flow patterns which are designed to maximize child safety;
 4. A vegetative buffer, as defined in section 54-5, shall be placed in any yard which abuts a residential zone;
 5. Any other criteria deemed necessary by the planning board of adjustment.
- (14) *Public safety facilities such a fire and police stations and rescue squad headquarters.*
- a. All vehicles and equipment shall be stored indoors.
 - b. All buildings shall be setback at least 20 feet from all property lines;
 - c. Shall be designed and landscaped in such a way as to blend in with the surrounding area; and
 - d. A vegetative buffer, as defined in section 54-5, shall be placed in any yard which abuts a residential zone.
- (15) *Public works and public utility facilities.* All open storage shall be fenced by a solid fence not less than six feet in height.
- (16) *Public works and public utilities such as transformer stations, pumping stations, water towers and telephone exchanges.*
- a. No vehicles or materials shall be stored on the premises;
 - b. All buildings and apparatus shall be set back at least 20 feet from all property lines;
 - c. Shall be designed and landscaped in such a way as to blend in with the surrounding area; and
 - d. A vegetative buffer, as defined in section 54-5, shall be placed in any yard which abuts a residential zone.
- (17) *Rest and convalescent homes.* See section 54-240.
- (18) *Service stations.*

- a. All gasoline pumps and other stationary equipment shall be located at least 12 feet from any property line.
- b. All sides where such stations abut residential districts, a six-foot-high fence and suitable landscaping shall be provided. No such fence, however, is required upon any yard which abuts a public street.

(19) *Upholstery and trim shop*. See section 54-240.

(20) *Warehousing, except for the storage of dangerous or offensive items such as uncured hides and explosives*. See section 54-240.

(Code 1995, § 150.141; Ord. of 9-16-1973)

1995, § 150.142; Ord. of 3-20-2012)

Secs. 54-160—54-175. - Reserved.

ARTICLE VII. - PARKING REQUIREMENTS

Sec. 54-176. - Off-street parking, storage and access.

Off-street automobile parking or storage space shall be provided on every lot on which any of the following uses are hereafter established. At the time of the erection of any building or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, or before conversion from one type of use to another, permanent off-street parking space in this article shall be provided. Such parking space may be provided in a parking garage or properly graded open space.

(Code 1995, § 150.060; Ord. of 9-16-1973)

Sec. 54-177. - Certification.

Each application for a certificate of zoning compliance submitted to the zoning administrator shall include information as to the location and dimension of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the zoning administrator to determine whether the requirements of this section are met.

(Code 1995, § 150.061; Ord. of 9-16-1973)

Sec. 54-178. - Combination of required parking space.

The required parking space for any number of separate uses may be combined in one lot, but the required space assigned to the use may not be assigned to another use, except that half of the parking space required for churches, theaters or assembly halls whose peak attendance will be at night or on Sundays may be assigned to uses which will be closed at night or on Sundays.

(Code 1995, § 150.062; Ord. of 9-16-1973)

Sec. 54-179. - Remote parking space.

If the off-street parking space required by this article cannot reasonably be provided on the same lot on which the principal use is located, such space may be provided on any land within 500 feet of the main entrance to such principal use, provided such land is in the same ownership as the principal use. The land shall be used for no other purpose so long as other adequate provisions for parking for the principal use are not available.

(Code 1995, § 150.063; Ord. of 9-16-1973)

Sec. 54-180. - Requirements in residential districts.

Where parking lots for more than five automobiles are permitted or required in residential districts, the following provisions shall be complied with:

- (1) The lot may be used only for parking and not for any type of loading, sales, repair work, dismantling or servicing.
- (2) All entrances, exits, barricades at sidewalks, and drainage works shall be approved by the zoning administrator prior to construction.
- (3) A densely planted and maintained buffer strip shall be planted on any side or rear yard which abuts a residential area. Such buffer need not extend nearer to a street right-of-way line than the established building line of the adjoining lot. No buffer shall be required on any side or rear yard which abuts a public street.
- (4) Only two signs, not larger than four square feet in area may be erected at each entrance or exit. No other signs shall be permitted.

(Code 1995, § 150.064; Ord. of 9-16-1973)

Sec. 54-181. - Minimum parking requirements.

The required number of off-street parking spaces specified below for each use shall be provided:

- (1) *Automobile sales and repair garages.* One space for each two employees at maximum employment on a single shift, plus two spaces for each 300 square feet of repair or maintenance space.
- (2) *Car washes.* One space for each two employees. Reserve spaces equal to three times the capacity of the facility at the location of ingress and egress.
- (3) *Bowling alleys.* Two spaces for each lane, plus one additional space for each two employees.
- (4) *Churches and funeral homes.* One space for each four seats in the main chapel.
- (5) *Elementary schools and junior high schools, both public and private.* One space for each classroom and administrative office for every elementary and junior high school, both public and private.
- (6) *Hospitals.* One space for each two rooms, plus one additional space for each staff or visiting doctor, plus one space for each four employees.
- (7) *Hotels.* One space for each two rooms, plus one additional space for each five employees.
- (8) *Kindergartens and nurseries.* One space for each employee and four spaces for off-street drop-off and pick-up.
- (9) *Libraries.* One space for each four seats provided for patron use.
- (10) *Medical offices and clinics.* Four spaces for each doctor practicing at the clinic, plus one space for each employee.
- (11) *Motels, tourist homes, and tourist courts.* One space for each accommodation, plus one additional space for each two employees on the shift with greatest employment.
- (12) *Offices, business, professional or public, including banks.* One space for each 400 square feet of gross floor area.
- (13) *Places of public assembly, including private clubs and lodges, auditoriums, dance halls, pool rooms, theaters, stadiums, gymnasium, amusement parks, community centers, and all similar places of public assembly.* One space for each 100 square feet of floor or ground area used for amusement or public assembly but not containing fixed seats.
- (14) *Rescue squads and armories.* Parking space equivalent to three times the floor space in the main building.
- (15) *Residential dwellings, single-family and two-family dwellings.* Two spaces for each dwelling and two-family unit.
- (16) *Residential dwellings, multifamily.* One and one-half spaces for each dwelling unit.
- (17) *Restaurants, drive-in.* Parking space equivalent to five times the floor space in the main land use.
- (18) *Restaurants, indoor.* One space for each three seats or stools, plus one space for each two employees on the shift of largest employment.
- (19) *Retail business and consumer service outlets.* One space for each 200 square feet of gross floor area.
- (20) *Sanitariums, rest and convalescent homes for the aged, and similar institutions.* One space for each patient bed, plus one space for each staff or visiting doctor, plus one space for each four employees.
- (21) *Senior high schools and colleges, both public and private.* One space for each ten students for whom the school was designed, plus one space for each classroom and administrative office.

(22) *Service stations.* Five spaces for each grease rack or similar facility.

(23) *Shopping centers.* One parking space for each 200 feet of gross floor area.

(24) *Wholesaling and industrial uses.* One space for each two employees at maximum employment on a single shift.

(Code 1995, § 150.065; Ord. of 9-16-1973; Ord. of 5-5-2003)

Sec. 54-182. - Off-street loading and unloading.

Every building or structure used for business, trade, or industry hereafter erected shall provide space as indicated herein for the loading and unloading of vehicles off the street or public alley, or if there is no alley, to a street. For the purposes of this section, an off-street loading space shall have a minimum dimension of 12 feet by 40 feet and an overhead clearance of 14 feet in height above the ally or street grade.

(1) *Retail operations.* One loading space for each 20,000 square feet of gross floor area or fraction thereof.

(2) *Industrial and wholesale operation.* One loading space for each 50,000 square feet of gross floor area or fraction thereof.

(Code 1995, § 150.066; Ord. of 9-16-1973)

Secs. 54-183—54-202. - Reserved.

ARTICLE X. - FLOODWAY DISTRICT REGULATIONS

Sec. 54-203. - Statutory authorization, finding of fact, purpose and objective.

(a) *Finding of fact.*

- (1) The flood hazard areas of the town are subject to periodic inundation which potentially can result in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood hazard areas by uses vulnerable to floods or hazardous to other properties which are inadequately elevated, floodproof or otherwise protected from flood damages.

(b) *Statement of purpose.* It is the purpose of this section 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:

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

(c) *Objectives.* The objectives of this section are:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money for costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize long business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, and street and bridges located in floodplains;
- (6) To help maintain a stable tax base by providing the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
- (7) To ensure that potential home buyers are notified that property is in a flood area.

(Code 1995, § 150.150; Ord. of 9-16-1973)

Sec. 54-204. - Definitions.

The following definitions are directly related to the flood management regulations and shall supplement the definitions listed in section 54-5. 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:

Addition (to an existing building) means any walled or 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 in new construction.

Appeal means a request for a review of the local administrator's interpretation of any provision of section 54-278 or a request for a variance.

Area of shallow flooding means a designated AO or VO Zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within a community subject to a 15 percent or greater chance of being equaled or exceeded in any given year.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Basement means the lowest level or story which has its floor below grade on all sides.

Breakaway wall means a wall that is not part of the structural support of the building and is intended, through its design and construction, to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system. A breakaway wall shall have a design safe loading resistance of not less than ten or no more than 20 pounds per square foot and requires an architecture professional engineer's certificate.

Building means any structure built for support shelter or enclosure for any occupancy or storage.

Development means any manmade 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.

Elevated building means 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), shear walls, or breakaway walls.

Existing manufactured home parks or manufactured home subdivision means 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, whether final site grading or the pouring of concrete pads, or the construction of streets) is completed before September 16, 1973.

Flood, 100-year recurring interval means a hypothetical flood anticipated to be reached or exceeded on the average of once during a 100-year period. For the purpose of section 54-278, the 100-year recurring interval flood shall be as shown on the flood insurance rate maps.

Flood fringe areas means those areas outside the F-1 Floodway District that lie below the elevation of the 100-year recurring interval flood.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as Zone A.

Flood insurance rate map (FIRM) means the most recent adopted version of an official map of a community, 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.

Flood insurance study means the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters;
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.

Flood profile means a graph showing the relationship of the floodwater surface elevation for a flood event of a specific recurrence interval to the streambed and other significant natural and manmade features along a stream.

Flood stage means the elevation of the floodwater surfaces above an officially established datum plane.

Floodway means the channel of a river that other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floor means 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 "floor" does not include the floor of a garage used solely for parking vehicles.

Functionally-dependent facility means 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 "functionally-dependent facility" does not include long-term storage, manufacture, sales, or service facilities.

Habitable floor means any floor useable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a habitable floor.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed wall of the structure.

Levee means a manmade 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 means a flood protection system which consists of a levee and associated structures, such as closure and drainage devices, which are reconstructed and operated in accordance with sound and engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including basement). An unfinished or floor resistant enclosure, unable 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 such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of section 54-278.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term "manufactured home" also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means the average height of the sea for all stages of the tide. Mean sea level is used as a reference for establishing various elevations within the floodplain. For purposes of section 54-278, the term "mean sea level" is synonymous with National Geodetic Vertical Datum (NGVD).

National Geodetic Vertical Datum (NGVD), as corrected in 1929, means a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means structures for which the start of construction commenced on or after September 16, 1973.

Remedy a violation means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance ways that impacts may be reduced, substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

Start of construction means substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, 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 the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of street 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 of the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building that is principally above ground. A manufactured home, a gas or liquid storage tank, or other manmade facilities or infrastructures.

Substantial improvement means:

- (1) Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure, either:
 - a. Before the improvement or repair is started; or
 - b. If the structure has been damaged and is being restored, before the damage occurred.
- (2) For the purposes of this definition, the term "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. The term "substantial improvement" does not, however, include either:
 - a. Any project for improvement of a structure to comply with existing state and local health, sanitary, or safety code specifications which are solely necessary to ensure safe living conditions; or
 - b. Any alterations of a structure listed on the National Register of Historic Places or a state inventory of historic place.
- (3) The term "substantial improvement" shall be cumulative for the life of the structure.

Variance means a grant of relief to a person from the requirements of this article which permits construction in a manner otherwise prohibited by this article where specific enforcement would result in unnecessary hardship.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in sections 54-4 and 54-119 through 54-122 is presumed to be in violation until such time as that documentation is provided.

(Code 1995, § 150.151; Ord. of 9-16-1973)

Sec. 54-205. - General provisions.

- (a) *Lands to which this article applies.* This article shall apply to all areas of special flood hazard within the jurisdiction of the town.
- (b) *Basis for establishing the areas of special hazard.* The areas of special flood hazard identified by the Federal Insurance Administration in its flood hazard boundary map (FHBM) 370380 1 and 2, dated February 1, 1980 and any revisions thereto are adopted by reference and declared part of this article.

- (c) *Establishment of development permit.* A development permit shall be required in conformance with the provisions of this article prior to the commencement of any development activities.
- (d) *Compliance.* No structure or land shall hereafter be located, or extended, converted, or structurally altered without full compliance with the terms of this article and other applicable regulations.
- (e) *Abrogation and greater restrictions.* This article is not intended to repeal, abrogate, or impair any existing easements, covenants or deeds restrictions. However, where this article and another law conflict or overlay, whichever imposes a more stringent restriction shall prevail.
- (f) *Interpretation.* In the interpretation and application of this article, all provisions shall be:
 - (1) Considered as minimum requirements;
 - (2) Liberally construed in favor of the board of alderman; and
 - (3) Deemed neither to limit nor repeal any other powers granted under state statutes.
- (g) *Warning and disclaimer of liability.* The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article 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 article 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 article or any administrative decision lawfully made thereunder.

(Code 1995, § 150.152; Ord. of 9-16-1973)

Sec. 54-206. - Administration.

- (a) *Designation of local administrator.* The zoning administrator is hereby appointed to administer and implement the provisions of this article.
- (b) *Permit procedures.* Application for a development permit shall be made to the local administrators on forms furnished by him prior to any development activities, and may include, but not be limited to, the following plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:
 - (1) Elevation in relation to mean sea level of the proposed lowest floor (including basement) of all structures;
 - (2) Elevation in relation to mean sea level to which any nonresidential structure will be floodproof;
 - (3) A certificate from a registered professional engineer or architect that the nonresidential floodproof structure meets the floodproofing criteria in this article;
 - (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
 - (5) A floor elevation or floodproofing certification after the lowest floor is completed, or floodproofing by whatever construction means, or upon placement of the horizontal structural members of the lowest floor, whichever is applicable, it shall be the duty of the permit holder to submit to the local administrator certification of the elevation of the lowest floor, floodproof elevation, or the elevation of the bottom of the horizontal structural members of the lowest floor, whichever is applicable, as built, in relation to mean sea level. 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 for a particular building, the certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. Any work done within the 21-day calendar period and prior to submission of the certification shall be at the permit holder's risk. The local administrator shall review the holder's risk. The local administrator shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be

corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make the corrections required hereby, shall be caused to issue a stop work order for the project.

(Code 1995, § 150.153; Ord. of 9-16-1973)

Sec. 54-207. - Local administrator.

Duties of the zoning administrator shall include, but not be limited to:

- (1) Review of all development permits to ensure that the permit requirements of this article have been satisfied.
- (2) Advise permittee that additional federal or state permits may be required, and if specific federal or state permits are known, require that copies of such permits be provided and maintained on file with the development permit.
- (3) Notify adjacent communities and the state department of crime control and public safety, division of emergency management, state coordinator for the National Flood Insurance Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (4) Ensure that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- (5) Prevent encroachments within flood fringes unless the certification and flood hazard reduction provisions of chapter 14 are met.
- (6) Verify and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, in accordance with section 54-281(b).
- (7) With assistance from the county building inspector verify and record the actual elevation (in relation to mean sea level) to which the new or substantially improved structures have been floodproofed, in accordance with section 54-281(b).
- (8) When floodproofing is utilized for a particular structure, the local administrator shall obtain certifications from a registered professional engineer or architect in accordance with section 54-281(b).
- (9) Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions the local administrator shall make the necessary interpretation). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this article.
- (10) When base flood elevation data has not been provided in accordance with section 54-281 then the local administrator shall obtain, review and reasonably utilize any base flood elevation data available from a federal, state, or other source, including data, floodway data and preliminary map developed in order to administer the provisions of this article.
- (11) All records pertaining to the provisions of this article shall be maintained in the office of the local administrator and shall be open for public inspection.

(Code 1995, § 150.154; Ord. of 9-16-1973)

Sec. 54-208. - Variance procedures.

- (a) The board of adjustment, as established by the town, shall hear and decide appeals and requests for variances from the requirements of this article.
- (b) The board of adjustment shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the local administrator in the enforcement or administration of this article.
- (c) Any person aggrieved by the decision of the zoning adjustment board or any taxpayer may appeal such decision to superior court, as provided in G.S. Ch. 7A.
- (d) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places without regard to the procedures set forth in the remainder of this section.
- (e) In passing upon such applications, the planning board of adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this article, and:
 - (1) The danger that materials may be swept onto other lands to the injury of others;
 - (2) The danger to life and property due to flooding or erosion damage;
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) The importance of the services provided by the proposed facility to the community;
 - (5) The necessity to the facility of a waterfront location, where applicable;
 - (6) The availability of alternative locations, not subject to flooding or erosion damage for the proposed use;
 - (7) The compatibility of the proposed use with existing and anticipated development;
 - (8) The relationship of the proposed use to comprehensive plan and floodplain management program for that area;
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (f) Upon consideration of the factors listed above and the purposes of this article, the planning board of adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this article.
- (g) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (h) Conditions for variances.
 - (1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (2) Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- (3) Any applicant to whom a variance is granted shall be given written notification of the difference between the 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.
- (4) The local administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(Code 1995, § 150.155; Ord. of 9-16-1973)

Secs. 54-209—54-314. - Reserved.

ARTICLE IX. - EXCEPTIONS AND MODIFICATIONS

Sec. 54-315. - Front yard setback.

The front yard setback requirements of this article for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as such lot is less than the minimum required front yard depth. In such case the setback on such lots may be less than the required setback but not less than the average of the existing setbacks of the aforementioned lots, or a distance often ten feet from the street right, whichever is greater.

(Code 1995, § 150.170; Ord. of 9-16-1973)

Sec. 54-316. - Height limitations.

The height limitations of this article shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy, monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, television towers, masts, aerials, and similar structures, except as otherwise provided in the vicinity of airports.

(Code 1995, § 150.171; Ord. of 9-16-1973; Ord. of 3-21-2006)

Sec. 54-317. - Fences, retaining walls.

In any residential district fences or walls may be erected in a required rear or side yard adjacent to a side lot line, provided such wall or fence does not exceed six feet in height. For retaining walls, the height limitations specified herein shall apply only to the height above the top of the soil retained by such wall. In addition, all fences shall be erected and maintained in accordance with the following requirements and restrictions:

- (1) Inside the property lines and shall not encroach upon a public right-of-way;
- (2) In a safe, sound and upright condition, and present a uniform appearance;
- (3) Such that all supporting members of a fence shall be located on the inside of the fence, and if erected or maintained along or adjacent to a property line, the supporting members of the fence shall face the principal portion of the tract of land of the property upon which the fence is erected or maintained. The finished side of fences and walls shall face adjacent properties;
- (4) No fence shall block the vision from any street, roadway, and/or driveway; nor shall it be erected or maintained in such a fashion as to present a hazard to life or property regardless of the height, material, construction and/or location.

(Code 1995, § 150.172; Ord. of 9-16-1973; Ord. of 6-21-2005)

Sec. 54-319 – Administrative Minor Modifications

1. *Minor Modifications.* The Planning Director is authorized to review and approve administratively a minor modification to subsequent plans and permits for a development within a conditional zoning district or approved by special use permit.
 - a. *General Limitations.* The minor modification shall not involve a change in uses permitted or the density of the overall development or increase the impacts generated by the development on traffic, stormwater runoff, or similar impacts beyond what was projected for the original development. The modification shall meet all other ordinance requirements.
 - b. *Site Design.* Site design minor modifications are limited adjustments to the terms or design of an approved development plan or plat, including a site plan attached as a condition to a

conditional zoning or special use permit. In addition to the general limitations for minor modifications, a site design minor modification must:

1. Comply with underlying zoning standards and other applicable conditions of the approval;
 2. Be limited to a minor change such as, without limitation, a minor adjustment to road configuration or internal circulation, a minor adjustment to building location, or a minor adjustment to utility alignment.
- c. Dimensional Standards. Dimensional standard minor modifications are adjustments to the dimensional standards of the zoning ordinance. Dimensional standards may only be modified upon a finding by the planning director, based on evidence from the permit holder, that the modification is needed to address a site characteristic or technical design consideration not known at the time of initial approval. In addition to the general limitations for minor modifications, dimensional standard minor modifications are limited to:
- a. An adjustment to parking requirements up to the greater of 5 spaces or 20 percent.
 - b. An adjustment to setback requirements up to greater of 24 inches or 10 percent.
 - c. An adjustment to building floor areas up to greater of 20 percent.
 - d. An adjustment to building or structure heights up to greater of 10 percent.
- d. Appeals and Variances. A decision on a minor modification may be appealed to the Board of Adjustment as an administrative determination. An application for a minor modification does not preclude an applicant from seeking a variance from the Board of Adjustment.

Secs. 54-320—54-339. - Reserved.

ARTICLE X. - NONCONFORMING USES

Sec. 54-340. - Definition.

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:

Nonconforming use means any building, structure, sign or use of land existing at the time of the enactment of this article or any amendment thereto not permitted in the zoning district in which it is located. However, any existing nonconforming use may be changed to another nonconforming use of the same or higher classifications provided that the other conditions in the section are complied with. For the purpose of this article, the rank, order or used form, high to lower, shall be: residential, public, commercial, and industrial.

(Code 1995, § 150.185; Ord. of 9-16-1973)

Sec. 54-341. - Limitation on nonconforming use.

When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use. A nonconforming use may not be extended or enlarged; nor shall a nonconforming structure be altered except as follows:

- (1) Structural alterations as required by law or ordinance as ordered by the zoning administrator to secure the safety of the structure are permissible.
- (2) Maintenance and repair necessary to keep a nonconforming building, structure or sign in sound condition are permissible, provided that the costs do not exceed 40 percent of the current replacement costs of the building, structure or sign or portion of the structure being repaired.
- (3) Existing single-family residential structures in business or industrial districts may be enlarged, extended, or structurally altered, provided that no additional dwelling units result therefrom. However, any such enlargement, extension or alteration shall comply with the dimensional requirements of the R-7 Residential District.
- (4) Any existing nonconforming use which ceases to exist at any time for any reason, on any particular piece of property may not be reestablished or replaced after a period of 180 days.
- (5) Any manufactured home park may be allowed to continue to operate as a nonconforming use as long as they are not increased in number of units beyond the permitted number by the county health department (enlarged) or increase the geographical boundaries of the park (extended).

(Code 1995, § 150.186; Ord. of 9-16-1973; Ord. of 6-15-1993)

Sec. 54-342. - Continuance.

It is the intent of this chapter to recognize that the elimination as expeditiously as is reasonable, uses that are not in conformity with the provisions of this chapter is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this chapter.

(Code 1995, § 150.187; Ord. of 9-16-1973)

Sec. 54-146. - Preexisting substandard lot.

These regulations shall not prohibit the erection of a single-family dwelling in a residential district on any lot which was a lot of record on July 23, 1974, and which does not meet the width or area requirements of the applicable residential district, provided that:

- (1) Such lot does not abut one or more unoccupied lots in the same ownership at any time since September 16, 1973, with which it could be combined. This provision of common ownership shall not apply to lots in a duly recorded and accepted subdivision existing prior to September 16, 1973.
- (2) All yard requirements in the applicable residential district are met. No zoning permit shall be issued for a principal use located on a lot of record which does not abut a public street unless an access easement of not less than 25 feet shall be provided to connect said lot to said public street. The access easement shall be recorded in the office of the register of deeds.
- (3) For accessory buildings on preexisting substandard lots of record, as defined in this section, the side yard setback shall be computed as five percent of the average lot width, but not less than five feet.

(Code 1995, § 150.053; Ord. of 9-16-1973; Ord. of 6-20-1989)

APPENDIX A – PERMITTED USES TABLE

The following table establishes what permitted uses will be allowed in a particular zoning district within the Town of Woodfin. The uses in this table will be permitted as indicated by the letter “P” and shall conform to all regulations of the applicable zoning district. When shown with an “S”, the use is permitted only as a special use permit and will be approved in accordance with Section 54-157 of this ordinance.

Uses not listed. The zoning administrator shall determine whether or not an unlisted use is part of an existing use category or is substantially similar to an already defined use type. Where a particular use type is not specifically listed in the Permitted Uses Table, the zoning administrator may permit the use upon due consideration to the purpose and intent statement in this ordinance concerning the base zoning district involved, the character of the uses specifically identified, and the character of the use(s) in question.

Use Category	Permitted Uses										
	R43	R21	R10	R7	CS	CS2	CS3	MV	TR	LI	HI
Residential											
Single-family dwellings	X	X	X	X		S	S	X	X		
Two-family dwellings			X	X		S	S	X	X		
Multi-family dwellings			X	X		S	S	X	X		
Double-wide manufactured homes			X	X							
Business											
Animal hospitals					S	S	S			S	S
Auction sales, except livestock					S		S			X	X
Automobile parts and supplies, retail					X		X			X	X
Automobile repair garages, but excluding body works and open storage of wrecked cars					X		X			X	X
Automobile repair garages, including body works and open storage of wrecked cars							S			S	X
Automobile sales, new and used					X		X			X	X
Bakeries, retail					X	S	X	S		X	
Banks and other financial institutions, including loan and finance companies					X	X	X		X		

Barber and beauty shops					X	X	X	S	X		
Boat and trailer sales					X		X			X	X
Car wash					X	S	X			X	X
Catalogue sales					X	X	X		X		
Dairy bars and ice cream manufacturing for retail sales on the premises only					X	S	X		X		
Dry cleaning and laundry pickup stations					X	S	X				
Electrical wholesale supply house and repair shops							S			X	
Exterminators						S	S			X	X
Feed and seed stores						S	S			S	S
Floral shops					X	X	X		X		
Funeral homes and mortuaries					X	S	S			X	
Game and amusement rooms, including pool halls					S		S			S	
Jewelry repair and pawn shops					X	X	X				
Kennels					S	S	S			X	X
Launderette and laundromats					X	S	X			X	
Locksmiths and gunsmiths					X	X	X			X	
Manufactured home display area							S			X	X
Meat markets, retail only, but excluding the killing or dressing of any flesh or fowl					X	X	X			X	
Medical and dental clinics					X	X	X		X	X	
Miniature golf					X	X	X			X	
Newspaper offices					X	X	X			X	
Office supplies and equipment, sales and service				X	X	X	X		X		
Offices, business, professional and public					X	X	X	S	X	X	X

[illegible]

Automobile parts and accessories manufacturing							S			X	X
Bakeries and other establishments manufacturing prepared food products for wholesale distribution						S	X			X	X
Bedding and carpet manufacturing and cleaning establishments							S			X	X
Belting and brake lining manufacturing							S			X	X
Boat and trailer repairs manufacturing							S			X	X
Bottling works							S			X	X
Bowling alleys and skating rinks					X		X			X	X
Business machines manufacturing							S			X	X
Cabinet, caskets and woodworking							S			X	X
Carbon and battery products manufacturing											X
Coffee, tea and spices processing							S			X	X
Drugs, medicines, and cosmetics manufacturing							S			X	X
Dry cleaning and laundry plants							S			X	X
Electrical appliances and electronic equipment manufacturing							S			X	X
Felt and sandpaper manufacturing							S			X	X
Fertilizer manufacturing and sales											X
Furniture manufacturing						S	S			X	X
Furriers and fur storage					X		X			X	X
Glass, ceramic and tile manufacturing							S			X	X
Hardware and housewares manufacturing							S			X	X
Hotels, inns and motels					X	S	X			X	
Insulation materials and wall board manufacturing							S			X	X

Leather products, including luggage and shoe manufacturing							S			X	X
Musical instrument manufacturing						S	S			X	X
Paper products manufacturing						S	S			X	X
Plastic products manufacturing										X	X
Pottery, porcelain, or vitreous china manufacturing											X
Precision instruments manufacturing							S			X	X
Printing Plants						S	S			X	X
Textile and cordage manufacturing							S			X	X
Trailer manufacturing							S			X	X
Window and door manufacturing							S			X	X
Civic, Educational, and Governmental											
Assembly halls, coliseums, armories, ballrooms, and similar structures					X		X			X	X
Business colleges, barber and beauty colleges and schools, music and dance studios					X	X	X	S	X	X	
Churches and their customary related uses	S	S	S	S	S	S	S	S	S	S	S
Clubs and lodges, fraternities, sororities, and social, civic, and other similar organizations operating on a nonprofit basis					X	S	S	S		X	X
Industrial trade schools and research laboratories					X	S	S			X	
Kindergartens and day nurseries			S	S	S	S	S	S	X	S	S
Libraries, museums and art galleries					X	X	X	X	X	X	
Noncommercial, public or private parks, playgrounds, community centers, clubs and lodges, golf courses, swimming pools and fishing lakes	X	X	X	X	X	S	S	X		X	X

Public elementary schools and private schools having curricula approximately the same as ordinarily given in public schools	X	X	X	X	X	S	X	S		X	
Public safety facilities such as fire and police stations and rescue squad headquarters	S	S	S	S	S	S	S	X	X	S	S
Public works and public utility facilities						S		S	X	S	S
Public works and public utility facilities such as transformer stations, pumping stations, water towers and telephone exchanges	S	S	S	S	S	S	S	S	S	S	S
Public works and utility facilities, but excluding service and storage yards					X	S	S	S		X	
Other											
Any form of agriculture or horticulture, including the sale of products on the property where produced	X	X	X	X	X	X	X	X	X	X	X
Customary incidental home occupation	X	X	X	X		X	X	S			
Group Development			S	S	S	S	S		S	S	S